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# SENATE CONCURRENT RESOLUTION

REQUESTING THE UNIVERSITY OF HAWAII TO CONVENE A TASK FORCE TO  
EXAMINE AND ASSESS ITS ARRANGEMENT FOR SERVICES WITH THE  
RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII.

1           WHEREAS, the University of Hawaii is established as the  
2 state university and a body corporate pursuant to the  
3 Constitution of the State of Hawaii and state law and is  
4 currently the sole provider of public higher education for the  
5 State; and  
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7           WHEREAS, the Research Corporation of the University of  
8 Hawaii (RCUH) is a body corporate established pursuant to  
9 section 304A-3001, Hawaii Revised Statutes, as a public  
10 instrumentality of the State that is a part of the University of  
11 Hawaii for administrative purposes; and  
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13           WHEREAS, the mission of the RCUH is to support and enhance  
14 research, development, and training in Hawaii, with a focus on  
15 the University of Hawaii; and  
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17           WHEREAS, to carry out its purposes and objectives, the RCUH  
18 is granted flexibility in the hiring of its personnel and in the  
19 handling and disbursement of monies, by being exempted from  
20 certain state laws, including:  
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22           (1) Obligations to reimburse the state general fund for  
23 central service and administrative expenses under  
24 sections 36-27 and 36-30, Hawaii Revised Statutes;  
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26           (2) Chapter 103D, Hawaii Revised Statutes, the Hawaii  
27 Public Procurement Code, relating to the advertisement  
28 for bids and purchases to be made in Hawaii whenever  
29 public monies are expended;



- 1           (3) The Hawaii Public Procurement Code with respect to
- 2           construction contracts; provided that the exemption
- 3           does not apply where state funds are used and
- 4           compliance with the code is required by a bill enacted
- 5           by the Legislature;
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- 7           (4) Chapter 76, Hawaii Revised Statutes, the Civil Service
- 8           Law;
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- 10          (5) Section 78-1, Hawaii Revised Statutes, relating to
- 11          public employment; and
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- 13          (6) Laws relating to collective bargaining in public
- 14          employment under chapter 89, Hawaii Revised Statutes,
- 15          with regard to services provided to the University of
- 16          Hawaii pursuant to section 304A-112, Hawaii Revised
- 17          Statutes; and
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19           WHEREAS, the RCUH has utilized its exemptions from the  
 20 Hawaii Public Procurement Code as a pass-through for various  
 21 projects, including the construction of the University of Hawaii  
 22 West Oahu campus; and

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24           WHEREAS, under section 304A-112, Hawaii Revised Statutes,  
 25 when the University of Hawaii determines that neither the  
 26 University nor another state agency can more effectively or  
 27 efficiently accomplish the purposes of sponsored research and  
 28 training activities, the University must contract with the RCUH  
 29 to receive management and other services to support such  
 30 research and training activities; and

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32           WHEREAS, the support services provided by the RCUH to the  
 33 University of Hawaii pursuant to section 304A-112, Hawaii  
 34 Revised Statutes, may include procurement of goods and services,  
 35 employment of personnel, and provision of advance funding for  
 36 research and training contracts and grants; and

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38           WHEREAS, when the University of Hawaii contracts out  
 39 sponsored research and training activities to the RCUH, the  
 40 University retains portions of the extramural funds and grants  
 41 it receives, as internal costs computed by using internal cost  
 42 rates; and



1 WHEREAS, the terms and conditions of the services provided  
2 by the RCUH to the University of Hawaii, including the factors  
3 and method by which fees charged by the RCUH are computed, are  
4 set forth in a service agreement between the two parties; and  
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6 WHEREAS, concerns have been raised over the transparency of  
7 the RCUH's operations and its handling of expenses, as well as  
8 the increasing amount of fees it charges and collects from the  
9 University of Hawaii; and  
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11 WHEREAS, the University of Hawaii and RCUH are public  
12 corporations, and therefore, their board members and officers  
13 occupy fiduciary positions under which they owe duties of care  
14 and loyalty to their respective entities; and  
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16 WHEREAS, section 6 of article X of the Hawaii State  
17 Constitution, which grants the Board of Regents of the  
18 University of Hawaii exclusive jurisdiction over the internal  
19 structure, management, and operation of the University,  
20 specifically provides that the power of the Legislature to enact  
21 laws of statewide concern shall not be limited and that the  
22 Legislature shall have the exclusive jurisdiction to identify  
23 laws of statewide concern; and  
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25 WHEREAS, it is a matter of statewide concern to ensure that  
26 the fees committed and paid by the University of Hawaii to the  
27 RCUH for its support services are reasonable and commensurate  
28 with, and balanced against, the needs, priorities, and other  
29 demands placed on the University's limited resources; and  
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31 WHEREAS, it would benefit the State to have the terms and  
32 conditions of the service agreement between the University of  
33 Hawaii and RCUH examined and assessed, considering the  
34 University's existing research needs, research priorities,  
35 limited resources, anticipated opportunities for extramural  
36 sponsored research, the State's current economic and financial  
37 situation due to the disruptions caused by the coronavirus  
38 disease 2019 (COVID-19) pandemic, and predicted increase in fees  
39 charged by the RCUH; now, therefore,  
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41 BE IT RESOLVED by the Senate of the Thirty-first  
42 Legislature of the State of Hawaii, Regular Session of 2021, the



1 House of Representatives concurring, that the University of  
2 Hawaii is requested to convene a task force to examine and  
3 assess its arrangement for services with the Research  
4 Corporation of the University of Hawaii, including the terms and  
5 conditions of the service agreement between the parties and  
6 whether amendments are warranted; and  
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8 BE IT FURTHER RESOLVED that the task force is requested to  
9 include the following as members:

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- 11 (1) Vice President for Research and Innovation of the  
12 University of Hawaii, who is requested to serve as the  
13 chairperson of the task force;  
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  - 15 (2) Executive Director of the RCUH;  
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  - 17 (3) Director of Finance of the RCUH;  
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  - 19 (4) Chairperson of the Board of Regents of the University  
20 of Hawaii or the Chairperson's designee; and  
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  - 22 (5) Three members representing the University of Hawaii  
23 System, to be appointed by the President of the  
24 University of Hawaii; and  
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26 BE IT FURTHER RESOLVED that the Office of the Vice  
27 President for Research and Innovation is requested to provide  
28 the task force with administrative support as the Office's  
29 resources may permit; and  
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31 BE IT FURTHER RESOLVED that the task force is requested to  
32 submit a report of its findings and recommendations, including  
33 any proposed legislation, to the Legislature no later than  
34 twenty days prior to the convening of the Regular Session of  
35 2022; and  
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37 BE IT FURTHER RESOLVED that the report is requested to  
38 address:  
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- 40 (1) The history of the relationship between the University  
41 of Hawaii and the RCUH and an itemization of the



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services the University received or is receiving from the RCUH, including:

- (A) Descriptions of the projects for which RCUH provides services;
  - (B) Types of services received or being received from the RCUH;
  - (C) Duration of RCUH's services;
  - (D) Breakdowns of the fees paid or being paid by the University to the RCUH; and
  - (E) Breakdown of the extramural funds and grants received by the University, including:
    - (i) Total amount of extramural funds and grants received by the University;
    - (ii) Amount of extramural funds retained by the University as internal costs, the formulae and rates used to compute the amount of internal costs, and an explanation of the basis for the formulae and rates;
    - (iii) Amount of extramural funds and grants contracted out to the RCUH; and
    - (iv) Accounting items for which the internal costs retained by the University were spent;
- (2) An assessment of the terms and conditions of the service agreement, including but not limited to:
- (A) A summary of the terms and conditions; and
  - (B) The reasonableness, necessity, and feasibility of each of the terms and conditions from the University's standpoint, in consideration of the University's existing research needs, research priorities, limited resources, anticipated



1 opportunities for extramural sponsored research,  
2 the State's current economic and financial  
3 situation due to the disruptions caused by the  
4 COVID-2019 pandemic, and predicted increase in  
5 fees charged by the RCUH;  
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7 (3) A determination of whether amendments to the terms and  
8 conditions of the service agreement are suggested; and  
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10 (4) Any proposed amendments to the terms and conditions  
11 the service agreement with an explanation of the basis  
12 of the amendments for terms including but not limited  
13 to the:  
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15 (A) Term of the agreement and whether there should be  
16 a provision requiring the parties to periodically  
17 review and revise its terms and conditions;  
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19 (B) Scope of the RCUH's services, including an  
20 exclusion of projects supported by funds  
21 appropriated by the Legislature;  
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23 (C) Fees paid by the University to the RCUH and its  
24 structure, including but not limited to the:  
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26 (i) Method and factors used to compute the  
27 amount of fees;  
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29 (ii) Means to index;  
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31 (iii) Maximum amount of fees, if placing one is  
32 deemed appropriate by the task force; and  
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34 (iv) Predicted increases of fees in the future;  
35 and  
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37 (D) The University's means to fund its payment of  
38 fees to the RCUH; and  
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40 BE IT FURTHER RESOLVED that the task force is requested to  
41 dissolve on July 1, 2022; and



1 BE IT FURTHER RESOLVED that certified copies of this  
2 Concurrent Resolution be transmitted to the Chairperson of the  
3 Board of Regents of the University of Hawaii, President of the  
4 University of Hawaii, Chairperson of the Board of Directors of  
5 the Research Corporation of the University of Hawaii, and  
6 Executive Director of the Research Corporation of the University  
7 of Hawaii.

