

**Notice of Meeting
UNIVERSITY OF HAWAI'I
BOARD OF REGENTS**

Board business not completed on this day will be taken up on another day and time announced at the conclusion of the meeting.

Date: Thursday, August 20, 2020

Time: 8:45 a.m.

Place: Virtual Meeting

In light of the evolving COVID-19 situation, protecting the health and welfare of the community is of utmost concern. As such, this will be a virtual meeting and written testimony and oral testimony will be accepted in lieu of in-person testimony. Meetings may be monitored remotely via the livestream pilot project. See the Board of Regents website for information on accessing the livestream: www.hawaii.edu/bor. Mahalo for your consideration.

AGENDA

- I. Call Meeting to Order**
- II. Approval of the Minutes of the July 16, 2020 Meeting**
- III. Public Comment Period for Agenda Items:**

All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Written testimony may be submitted via the board's website through the testimony link provided on the [Meeting Agendas, Minutes and Materials](#) page. Testimony may also be submitted via email at bor.testimony@hawaii.edu, U.S. mail, or facsimile at (808) 956-5156. All written testimony submitted are public documents. Therefore, any testimony that is submitted for use in the public meeting process is public information and will be posted on the board's website.

Those wishing to provide oral testimony for the virtual meeting may register [here](#). Given constraints with the online format of our meetings, ***individuals wishing to provide oral testimony must register no later than 7:00 a.m. on the day of the meeting in order to be accommodated.*** It is highly recommended that written testimony be submitted in addition to registering to provide oral testimony. Oral testimony will be limited to three (3) minutes per testifier.

- IV. Report of the President and COVID-19 Update**
- V. Committee Reports**

- A. Report from the Committee on Budget and Finance
- B. Report from the Committee on Independent Audit
- C. Report from the Committee on Personnel Affairs and Board Governance
- D. Report from the Committee on Research and Innovation
- E. Affiliate Reports

For disability accommodations, contact the Board Office at 956-8213 or bor@hawaii.edu.
Advance notice requested five (5) days in advance of the meeting.

VI. Agenda Items

A. Consent Agenda

1. Approval of New Regents Policy 12.211, Ethical Guidelines in the Conduct of Technology Transfer Activities
2. Approval of an Indemnification and Hold Harmless Provision for AccessLex Institute (ALI) in a Grant Agreement between the University of Hawai'i and AccessLex Institute

B. Approval of Revised Internal Restructuring Plan for Management Operations of Maunakea Lands (*continued from May 21, 2020*)

C. Board Resolution 20-03 Proclaiming an Emergency and Directing Action by the University Administration (*continued from July 16, 2020*)

D. Fiscal and Financial Parameters for Fiscal Year (FY) 2020-2021

E. Repositioning the University of Hawai'i for FY 2022 and Beyond

F. Methodology for Evaluation of the President

VII. Executive Session (closed to the public):

A. Labor Negotiations and Legal Matters: (*To deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations, and to consult with the board's attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, pursuant to Sections 92-5(a)(3) and 92-5(a)(4), Hawai'i Revised Statutes*)

1. Collective Bargaining Negotiations Update

VIII. Announcements

A. Next Meeting: September 17, 2020, location to be determined

IX. Adjournment

Attachment A – Personnel actions posted for information only

Attachment A: Pursuant to §89C-4, Hawai'i Revised Statutes, the following proposed compensation actions for excluded Executive/Managerial are disclosed for purposes of public comment.

Executive/Managerial

Campus	Last Name	First Name & Middle Initial	Proposed Title	Unit	Nature of Action	Monthly Salary	Effective Date
UH Hilo	Holland	Christopher	Associate Vice Chancellor	Office of the Vice Chancellor for Student Affairs	Appointment	\$9,850	September 8, 2020
UH Hilo	Mike	James	Dean	College of Natural and Health Sciences	Appointment	\$14,167	December 14, 2020

UNIVERSITY OF HAWAII
BOARD OF REGENTS

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UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

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DISCLAIMER – THE FOLLOWING ARE DRAFT MINUTES AND ARE SUBJECT TO FURTHER REVIEW AND CHANGE UPON APPROVAL BY THE BOARD

MINUTES

BOARD OF REGENTS MEETING

JULY 16, 2020

Note: On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern, subsequently declaring it a pandemic on March 11, 2020. On March 16, 2020, Governor David Y. Ige issued a supplementary proclamation that temporarily suspended Chapter 92, Hawaii Revised Statutes, relating to public meetings and records, “to the extent necessary to enable boards to conduct business in person or through remote technology without holding meetings open to the public.”

I. CALL TO ORDER

Chair Ben Kudo called the meeting to order at 9:08 a.m. on Thursday, July 16, 2020. The meeting was conducted with regents participating from various locations.

Quorum (11): Chair Ben Kudo; Vice-Chair Jan Sullivan; Vice-Chair Wayne Higaki; Regent Simeon Acoba; Regent Kelli Acopan; Regent Eugene Bal; Regent Randy Moore; Regent Alapaki Nahale-a; Regent Michelle Tagorda; Regent Robert Westerman; and Regent Ernest Wilson.

Others in attendance: President David Lassner; Vice President (VP) for Administration Jan Gouveia; VP for Community Colleges Erika Lacro; VP for Legal Affairs/University General Counsel Carrie Okinaga; VP for Academic Planning and Policy Donald Straney; VP for Research and Innovation Vassilis Syrmos; VP for Information Technology/Chief Information Officer Garret Yoshimi; VP for Budget and Finance/Chief Financial Officer Kalbert Young; UH Mānoa (UHM) Provost Michael Bruno; UH Hilo (UHH) Chancellor Bonnie Irwin; UH West O’ahu (UHWO) Chancellor Maenette Benham; Executive Administrator and Secretary of the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

II. APPROVAL OF THE MINUTES OF THE JUNE 18, 2020 MEETING

Vice-Chair Higaki moved to approve the minutes of the June 18, 2020, meeting, seconded by Regent Nahale-a and the motion carried, with all members present voting in the affirmative.

III. ELECTION OF OFFICERS

Chair Kudo requested that Vice-Chair Sullivan conduct the election of officers, as he is interested in being considered for one of the positions.

Vice-Chair Sullivan explained the process that would be used for the election of board officers and began the election by opening the nominations for chair of the board.

Regent Wilson nominated Chair Kudo to continue as board chair. The nomination was seconded by Vice-Chair Higaki. Vice-Chair Sullivan asked if there were any further nominations. There were none stated. Vice-Chair Sullivan closed the nominations and requested that a roll-call vote be conducted. With all members present voting in the affirmative, Chair Kudo was elected as chair of the board.

Vice-Chair Sullivan proceeded with the election of the first vice-chair and opened the floor for nominations. Chair Kudo nominated Regent Moore and the nomination was seconded by Regent Wilson. Vice-Chair Sullivan asked if there were any further nominations. There were none stated. Vice-Chair Sullivan closed the nominations and requested that a roll-call vote be conducted. With all members present voting in the affirmative, Regent Moore was elected as first vice-chair.

Vice-Chair Sullivan then proceeded with the election of the second vice-chair and opened the floor for nominations. Vice-Chair Higaki nominated Regent Nahale-a, which was seconded by Chair Kudo. Vice-Chair Sullivan asked if there were any further nominations. Regent Acoba nominated Regent Westerman. Vice-Chair Sullivan asked if there was a second for the nomination of Regent Westerman. Regent Moore stated that nominations for board officers did not require a second. Vice-Chair Sullivan asked both Regent Nahale-a and Regent Westerman if they were willing to serve as second vice-chair if elected. Regent Westerman declined the nomination and indicated his support for Regent Nahale-a to serve as second vice-chair. Vice-Chair Sullivan asked if there were any additional nominations. Hearing none, she declared the nominations closed and requested a roll-call vote. With all members present voting in the affirmative, Regent Nahale-a was elected second vice-chair.

Chair Kudo thanked Vice-Chair Sullivan and Vice-Chair Higaki for their service as first and second Vice-Chair, respectively, and applauded their work over the past year.

IV. PUBLIC COMMENT PERIOD

Board Secretary Oishi announced that the Board Office received written testimony as follows:

Written testimony in opposition to the waiver of recruitment and appointment of a permanent dean to the Outreach College was received from the UHM Faculty Senate.

Written testimony pertaining to Resolution 20-03 was submitted by the Kapiolani Community College Staff Council; Manoa Staff Senate; Ka Leo O Hawai'i; UHM Faculty Senate; UHM Student Media Board; Hawaii Review Editorial Board; Executive Council of the Graduate Student Organization; Student Activity and Program Fee Board; and numerous individuals.

Written testimony pertaining to the letter to the Governor requesting deferral of public employee salary increases was submitted by numerous individuals.

Written testimony in opposition to both Resolution 20-03 and the letter to the Governor was submitted by the University of Hawaii Professional Assembly (UHPA),

Hawaii Government Employees Association (HGEA), Americans for Democratic Action Hawaii; and numerous individuals.

Written testimony pertaining to international students was submitted by a number of individuals.

Late written testimony pertaining to Resolution 20-03 was submitted by the Campus Center Board and numerous individuals.

Late written testimony regarding the letter to the Governor was submitted by numerous individuals.

Late written testimony in opposition to both Resolution 20-03 and the letter to the Governor was submitted by the United Public Workers (UPW) AFSCME Local 646 and several individuals.

Late written testimony pertaining to international students was submitted by several individuals.

Late written testimony regarding the legislative update was submitted by several individuals.

Written testimony may be viewed at the Board of Regents website as follows:

[Written Testimony Comment Received](#)

[Late Written Testimony Comment Received](#)

Oral testimony in opposition to both Resolution 20-03 and the letter to the Governor was provided by Christian Fern on behalf of UHPA; Randy Perreira on behalf of HGEA; Cynthia Franklin; S. Shankar; Mari Yoshihara; Donavan Albano; Kahea Faria; Thomas Conway; Alex Miller; Ashley Maynard; Joe Ramos; Tina Tauasosi; Jaret Leong; Candace Fujikane; Noel Kent; Michelle Kerklo; Jinzeng Yang; Maura Stephens-Chu; and Tara Rojas.

Oral testimony pertaining to international students was received from Sarah Hamid; Alex Miller; Anna Chua; and Tom Iwanicki.

V. REPORT OF THE PRESIDENT AND COVID-19 UPDATE

President Lassner updated the board on the university's current situation with regard to the COVID-19 pandemic stating that the university has established initial interim guidelines that provide a pathway for the reopening of all ten campuses of the University of Hawai'i System in the fall. Each campus is currently determining the methodology in which to implement these guidelines to meet their unique needs. The guidelines focus primarily on areas of personal safety practices; institutional safety practices; facilities and spaces; scheduling of classes; housing, services, and events; office spaces and staffing; and wellness and mental health. Given the dynamic nature and uncertainty associated with the pandemic, he noted that it may become necessary to adapt these guidelines to any changes made to COVID-19 guidelines established by

the Centers for Disease Control and Prevention, the State, and the counties and the university must maintain flexibility in this regard.

The university has reshaped its fall class schedules to meet the requirements of the initial interim guidelines. Flexible instructional modalities, including solely online or classroom-based instruction, or a hybrid of both, that are able to nimbly adapt to changing circumstances have been developed and will be implemented on each campus to ensure the educational mission of the university is fulfilled. President Lassner provided a breakdown of the modalities of course offerings at the university's three four-year campuses. He stated that UHM plans to offer 54 percent of its courses online, 23 percent in-person, and 23 percent in a hybrid format. UHH plans to offer its students the flexibility to choose the modality of instruction they are most comfortable with, including a hybrid modality, by providing access to 84 percent of all courses in an entirely or partially online format, with 75 percent of courses also offering optional in-person instruction. UHWO, which has always been the leading campus in the provision of online instruction, plans to provide 72 percent of its classes solely online and 27 percent of its classes in a hybrid format with only 3 course sections being offered with solely in-person instruction. Barring any drastic changes to the projected effects of the pandemic, the university is planning for the spring 2021 semester to be similarly conducted.

The university is experiencing varying degrees of summer semester enrollment among its academic units. Some academic units, such as UHM and the community colleges, have witnessed significant increases in summer enrollment of 23 percent and 32 percent respectively, when compared to last year, while other academic units, such as UHH and UHWO, have experienced flat enrollment for the summer semesters. President Lassner mentioned that the Next Steps to Your Future (Next Step) program, which is specifically designed to engage public high school graduates on all islands with higher education and career options and provides free online courses to Next Step students through the community colleges, was a major factor in the increase in summer enrollment realized by the community colleges.

Fall enrollment continues to remain a point of uncertainty for the university as students and families, both in Hawai'i and abroad, continue to weigh their options and delay their higher education decisions. While enrollment applications have increased, actual student registrations for the fall semester remain lower than the same period last year although registration trends continue to move in a positive direction and the gap is closing. As the educational plans for many individuals continue to evolve due to a number of factors caused by the pandemic, such as declines in the current job market, the university continues its efforts in encouraging students to pursue a post-secondary education and has taken actions such as extending admissions deadlines to be as welcoming and accommodating as possible to students seeking this opportunity.

Extramural awards received by the university have exceeded expectations with the university obtaining over \$400 million in awards for the second year in a row. President Lassner reported that, overall, the university received \$456.6 million dollars in extramural funding which is a 7.1 percent increase over last year's total and is the second highest amount ever received by the university. He noted that these figures do

not include the \$44.9 million in Coronavirus Aid, Relief, and Economic Security (CARES) Act funding for institutional and student support received by the university. Three recent awards, as well as several funding prospects expected to be received by the university over the next year, were highlighted as follows:

- The National Cancer Institute (NCI) will add a fifth year to the P30 cancer center support grant in recognition of the continued progress made by the University of Hawai'i Cancer Center (Cancer Center) over the past several years. This will not only provide approximately \$1 million in increased extramural funding but will also extend the Cancer Center's certification as an NCI-designated cancer center which will qualify it to remain at the elite tier of competition for the billions of dollars awarded by the federal government for cancer research.
- The Pacific Island Ocean Observing System in the School of Ocean and Earth Science and Technology received \$4.2 million for the National Oceanic and Atmospheric Administration to deploy additional ocean sensors to observe and monitor ocean conditions such as sea levels, tides, currents, waves, and temperatures, and provide data to improve forecasts for severe weather events as well as their impacts.
- The National Science Foundation (NSF) provided a \$5 million grant for the University of Hawai'i's Laboratory for Advanced Visualization and Applications (LAVA Lab) to lead the development of Scalable Amplified Group Environment version 3 (SAGE3), which is the next generation of the most prominent global visualization software environment that enables groups to work in front of large shared displays in order to solve problems that required juxtaposing large volumes of information in ultra-high-resolution. LAVA Lab will work in partnership with the University of Illinois-Chicago and Virginia Tech to essentially add artificial intelligence to SAGE1, the current version of the software, which will provide a smart "co-pilot" to aid users working with complex visualizations and data.
- A \$20 million, five-year grant for improving research program competitiveness is expected to be received from the NSF's Established Program to Stimulate Competitive Research (EPSCoR). The grant involves researching microbiomics integrated with data analytics to advance sustainability. The university will be leveraging its strengths in data science with its experiences in artificial intelligence and machine learning to accelerate UHM's world-class leadership in understanding the microbiome in the land and sea environment. Chaminade University in Honolulu will partner with the university on this grant.
- A \$3 million project in partnership with the United States Navy that will use the technical and engineering expertise of the university to address corrosion and groundwater issues with regard to the Red Hill fuel storage facility.

- A \$3 million indigenous health project involving the John A. Burns School of Medicine working in partnership with the federal Department of Health and Human Services.
- A \$3 million project involving Pacific Islander veterans' health which will be conducted in partnership with the Veteran's Administration.
- A \$3 million project on coastal resilience in partnership with the Department of Defense that will utilize the university's expertise in environmental sustainability and resilience to examine the projected impacts sea-level rise will have on beach erosion, groundwater inundation, drainage failure, and seasonal high-wave over-wash, as well as other flood-related impacts to coastal areas, and their effects on military installations located along coastlines, as well as infrastructure impacts to the general public.

VI. AFFILIATE REPORTS

Maunakea Management Board (MKMB): Regent Nahale-a reported that MKMB and Kahu Kū Mauna continue to meet to develop recommendations for the restructuring of the management and stewardship of Maunakea. He stated that discussions have been healthy and positive. Vice-Chair Higaki added that MKMB and Kahu Kū Mauna have taken it upon themselves to committing to meet regularly.

VII. AGENDA ITEMS

A. Legislative Update

VP Young stated that the Legislature adjourned on July 10, 2020, after several prolonged recesses brought about by the COVID-19 pandemic. He reported that the administration was initially tracking 548 of the 2,336 measures introduced this legislative session and that 29 bills having either direct or indirect impacts to the university were among the 82 bills passed by the Legislature. VP Young reviewed actions taken on a number of measures of interest to the university including budget-related bills, bills contained in the university's legislative package, and other measures that affected the university or involved the board.

While the Legislature passed both the operating and capital improvement projects supplemental budgets in March of this year and both were enacted, VP Young noted that the Legislature passed legislation to further amend the operating budget to address additional economic impacts caused by the COVID-19 pandemic. The Legislature also passed measures that appropriated funds designated to the State by the CARES Act; replaced general fund appropriations deposited into the Emergency and Budget Reserve Fund with proceeds from the sale of general obligation bonds; deferred the implementation of scheduled salary increases for executive, judicial, and legislative personnel; and funded salary increases for several collective bargaining units. All of the measures passed by the Legislature have been sent to the Governor for review and are awaiting final approval.

Although other legislation that would have affected the university such as a bill regarding criminal history record checks for prospective university employees in certain fields; bills addressing technology, innovation, and commercialization at the university; and a bill requiring public meetings of the board to be recorded and broadcast, were progressing through the legislative process, VP Young reported that the COVID-19 pandemic caused the Legislature to refocus its attention to more pressing matters which resulted in the demise of these measures.

He noted that, prior to the start of the 2020 legislative session, the board submitted a supplemental operating budget request of \$28.1 million in general funds. However, due to the decrease in State tax revenues and the uncertainty of Hawai'i's economic recovery, statewide fiscal reductions were implemented and none of the board's requests were approved by the Legislature. Additionally, the Legislature eliminated 625 full-time equivalent (FTE) positions from the university's position inventory. While the vast majority of the eliminated FTE positions were vacant, some currently filled positions were affected.

Regent Ernest Wilson and Regent Kelli Acopan were nominated by the Governor to serve an additional term on the board and both were confirmed by the Senate.

Noting that the Legislature has already appropriated funds for pay increases for the various collective bargaining units, Regent Acoba asked whether the Governor had the authority to defer these appropriations or use this funding for purposes other than the approved pay increases. VP Young responded that \$186.68 million in general funds were appropriated by the Legislature to fund the pay increases. Although the Governor cannot use these funds for purposes other than to fund the negotiated pay increases, he can defer payment of these increases if the requisite amount of general funds necessary to fund them does not materialize.

Regent Acoba questioned whether the Legislature or Governor was required to produce a balanced budget. VP Young responded that the Hawai'i State Constitution contains a balanced budget requirement.

Stating that testimony submitted to the board asserted that the operating budget recently passed by the Legislature and submitted to the Governor for approval was a balanced budget that included the funding necessary to address negotiated pay increases, Regent Acoba asked if these assertions were incorrect. VP Young replied that the Legislature presents a balanced budget to the Governor that is based on a number of factors, including revenue projections made by the Council on Revenues (COR). However, if the revenue projections do not materialize and actual revenues generated are lower than anticipated, the Governor is obligated to balance the budget through other means such as imposing budget restrictions on the various departments of the Executive Branch. Regent Acoba continued, asking if there was a legal obligation to fund the pay increases, and if so, whether there was a mechanism to ensure these pay increases were funded. VP Young replied that pay increases negotiated through the collective bargaining process will take effect and that it was incumbent upon the Governor and the departments to determine how to fund the increases should the necessary revenues not materialize.

Regent Acoba inquired if the Governor's negotiating team represented the university in the collective bargaining negotiation process. VP Young replied that it was his belief that the university was represented by the State as an employer in negotiations involving the collective bargaining agreements. Regent Acoba inquired further as to whether the university could negotiate an agreement separately from the State. President Lassner replied that the university cannot negotiate a collective bargaining agreement separate from the State.

Chair Kudo requested clarification as to whether the budget crafted by the Legislature is based on estimates and revenue projections made by COR. VP Young responded in the affirmative noting that multiple economic projections are used when crafting the operating budget but that the COR forecast is a major component of this process. Chair Kudo then continued stating that it was his understanding that COR makes certain assumptions with regard to its revenue forecast and if those assumptions are incorrect, the budget passed by the Legislature may not be balanced. VP Young stated that, in essence, this occurs every year as revenue projections are inexact. He reiterated that the Legislature passes a budget that is balanced based on revenue projections including projections made by COR. If these projections are incorrect, the Governor, in consultation with the Director of the Department of Budget and Finance, must decide how to balance the budget based on actual revenues. Consideration may be given to a variety of methodologies to balance the budget including imposing funding restrictions on departments and deferring or reducing appropriated funding for department, programs, and projects. VP Young remarked that the budget process for the next fiscal year was further complicated by the fact that tax revenue projections are projected to be \$1.5 billion less than they were last fiscal year due to the pandemic. To cover much of this shortfall, the State is contemplating borrowing money from the municipal facilities lending provision contained in the CARES Act and using monies from certain special funds.

Given this information, Regent Acoba asked for clarification as to whether the means the Governor has to balance the budget while providing funding for the negotiated collective bargaining increases mentioned in the written testimony included approaches such as borrowing money, using the Hawai'i Hurricane Relief Fund, or issuing general obligation (GO) bonds. VP Young responded in the affirmative except that the State is prohibited from issuing GO bonds to fund operations. However, the municipal facilities lending provision contained in the CARES Act affords jurisdictions the opportunity to sell GO bonds and ultimately use those proceeds to supplant tax revenues that would have been used to pay for operations. He cautioned that the issuance of GO bonds to generate funding to cover operational costs did have risks as these funds are obtained through a process that amounts to a loan and the funds would have to be repaid with interest.

The meeting recessed at 11:41 a.m.

The meeting reconvened at 11:50 a.m.

B. Collective Bargaining Update

VP Gouveia provided a broad overview of the general constructs of public employee bargaining units (BU) affiliated with the university. She stated that eight of the 14 BUs currently in existence in Hawai'i have a presence at the university and are represented by three public employee labor unions. BU 1 and BU 10 are represented by the United Public Workers; BU 2, BU 3, BU 4, BU 8, and BU 9 are represented by HGEA; and BU 7 is represented by UHPA. She noted that BU 1, BU 7, and BU 10 already have active, four-year collective bargaining agreements in place through 2021 and that these agreements have re-opener clauses that would allow for the renegotiation of salaries within a specific range during the 2020 and 2021 fiscal years. However, all of the collective bargaining agreements affecting BUs represented by HGEA expired on June 30, 2019.

Although proposals for a new collective bargaining agreement were exchanged between the State and HGEA throughout 2018, impasses were declared by the Hawai'i Labor Relations Board for each HGEA unit in November 2018 and the matters proceeded to the binding arbitration stage. After an arbitration decision was issued for BU 9, the remaining units settled, and all settlements were ratified by the respective HGEA members in late 2019 and early 2020. Funding for these collective bargaining agreements was approved by the Legislature and is currently awaiting action by the Governor.

Chair Kudo asked VP Gouveia to clarify whether board members were privy to, or actively participated in, ongoing collective bargaining negotiations between the State and the public employee representatives. VP Gouveia replied that although the board is briefed on already negotiated collective bargaining agreements, it has not historically been involved or participated in the collective bargaining negotiations process.

VIII. EXECUTIVE SESSION (closed to the public)

Vice-Chair Higaki made a motion to convene in executive session, seconded by Regent Nahale-a.

Regent Acoba requested that Board Resolution 20-03 and the draft letter from the board to the Governor requesting deferral of public employee salary increases be removed from the executive session agenda as it was his belief that discussions on these two items should take place in the public realm. Discussions were held on the appropriateness and necessity of considering these items in executive session.

Regent Moore stated that he concurred with Regent Acoba and also requested the removal of the two items from the executive session agenda. He further remarked that any information regarding collective bargaining issues that pertained to Board Resolution 20-03 or the draft letter to the Governor could be discussed in executive session under the purview of the collective bargaining agenda item.

After further consideration and discussion, Chair Kudo stated that the two items would be removed from the executive session agenda and discussions on these matters would continue on the regular agenda at the conclusion of the executive session.

There having been a motion that was made and seconded, and with the concurrence of all members present on removing the aforementioned items from the executive session agenda, the board approved convening in executive session to consider the hire, evaluation, dismissal, or discipline of an officer or employee, where consideration of matters affecting privacy will be involved, pursuant to Section 92-5(a)(2), Hawai'i Revised Statutes (HRS) and to deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations, and to consult with the board's attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, pursuant to Sections 92-5(a)(3) and 92-5(a)(4), HRS, with all members present voting in the affirmative.

The meeting recessed at 12:06 p.m.

Vice-Chair Higaki left at 2:08 p.m.

The meeting reconvened at 2:09 p.m.

IX. AGENDA ITEMS (continued)

A. Personnel Actions (A-1 for Approval)

President Lassner requested approval of the simultaneous appointment of Dr. William Chismar as Dean of the Outreach College at UHM and Interim Dean of the Myron B. Thompson School of Social Work at UHM (School of Social Work). He provided a brief background of Dr. Chismar's record in higher education, specifically noting his leadership as Interim Dean of the Outreach College over the past 10 years, years of service as a faculty member, and role as Associate Dean of Academics at the Shidler College of Business. It was noted that Dr. Chismar has agreed to accept the responsibilities of a second deanship and serve as the Interim Dean of the School of Social Work until such time that a permanent Dean can be appointed. President Lassner remarked that Dr. Chismar received the endorsement from the faculty of the School of Social Work and has consented to taking on the responsibilities of both deanships at his current salary.

Addressing concerns regarding the waiver of recruitment for the position of the Dean of the Outreach College that were raised in submitted testimony, President Lassner noted that Executive Policy 9.212 provides the President with the authority to waive the open search and recruitment process under certain circumstances. He noted that the university does not always conduct an open recruitment for every executive and managerial position, although national recruitment is often conducted for non-interim deans of a college. He further stated that, while the President of the university is authorized to waive an open search and recruitment process for positions that are not direct reports to the President under certain circumstances, the board retains authority to approve initial salaries for appointments above the maximum salary ranges for certain positions. Even though Dr. Chismar will not receive a salary increase for his appointment to both deanships, his current salary is higher than the salary ranges for those positions and as such, board approval of this appointment was required.

Regent Acoba asked whether the waiver of the recruitment process was something extraordinary and not something that regularly occurred as part of the university's standard operating procedures. President Lassner responded that the waiver of the recruitment process was rare particularly for the appointment of deans to the university's instructional units and is not part of the university's standard process.

Chair Kudo remarked that, while he was not opposed to the appointment of Dr. Chismar on the merits of the issue, he had concerns regarding the timing of this appointment given the current fiscal situation and asked if board members had any thoughts of possible deferral of this appointment.

Although he shared similar concerns as Chair Kudo regarding the timing, Regent Nahale-a expressed his desire to move forward with this appointment, especially after learning about the exceptional work of Dr. Chismar and in light of the cost-savings the university would realize by having one individual serving in two deanships without any salary increase.

Regent Wilson remarked that he also supported moving forward with this appointment particularly in light of Dr. Chismar's experience and the cost-savings to the university.

Regent Moore reiterated the views expressed by Regents Nahale-a and Wilson and supported moving ahead with this appointment.

Regent Acoba stated that he would be supporting the appointment of Dr. Chismar as Dean of the Outreach College at UHM and Interim Dean of the School of Social Work since the waiver of the recruitment process in this particular instance was extraordinary and does not set a precedent for future appointments. He also noted the cost-savings that will be realized by this appointment as a single individual would be essentially performing two jobs without an increase in salary.

Regent Wilson moved to approve the appointment of Dr. William Chismar as Dean of the Outreach College at UHM and Interim Dean of the School of Social Work, seconded by Regent Nahale-a, and noting the excused absence of Vice-Chair Higaki, the abstention of Chair Kudo, the recusal of Regent Tagorda, and the no vote of Vice-Chair Sullivan, the motion carried with all other members present voting in the affirmative.

B. Approval of Board Resolution 20-03 Proclaiming an Emergency and Directing Action from the University Administration

Chair Kudo remarked that, after speaking with various board chairs, university presidents, and administrative personnel from across the country, it was evident that the fiscal and operational challenges and uncertainties facing universities as a result of the COVID-19 pandemic are unprecedented. There is concern among both board chairs and university presidents that these challenges and uncertainties could threaten the survival, or even the existence, of universities across the nation if bold action is not taken in a timely manner.

He clarified that the resolution was not intended to grant the university administration extraordinary authority as much of the administrative actions contained within the resolution can already be used by the administration under its currently existing authority. Furthermore, this resolution does not eliminate the necessity for the administration to work collaboratively with various university stakeholders. It was merely an attempt to bring awareness to the administration and other university stakeholders of the board's concern with the seriousness of pandemic's impacts on the university and of actions that should be given careful consideration by the administration using already existing management tools to mitigate some of these impacts. Chair Kudo stated that if this was unclear in the resolution as it was currently worded, he would be open to amending the resolution to clarify these points and also suggested that language be added to the effect that the administration would follow all legal requirements, including requirements contained in collective bargaining agreements.

Chair Kudo stated that the situation currently facing universities across the country, including the University of Hawai'i, is not something that is common and is of crisis proportions. He opined that difficult and unpopular, though necessary, decisions will need to be made over the next year to simply maintain the viability of the university as an institute of higher learning and that this resolution was not premature. The university, along with the State, is currently facing a fiscal crisis. The economic impacts of the pandemic will be significant and will only worsen the longer the pandemic continues. Although there are still numerous uncertainties associated with the pandemic which has hampered the university's ability to plan for its future, Chair Kudo remarked that the university must develop short-term and long-term plans that are flexible and adaptable using assumptions that are based on currently available information and that this resolution was an attempt to move the discussions in the right direction.

Regent Moore noted that a number of testifiers spoke on the issue of the university declaring itself a sanctuary campus and requested the administration to research this issue and report back to the board at a later date with any proposed recommendations.

Regent Moore left at 2:43 p.m.

Regent Acoba believed that the board should defer action on the resolution at this time noting that he did not have issues with the general intent of the resolution. Rather, he was concerned that, as currently drafted, the resolution appeared to be attempting to implement measures to address concerns and challenges that will undoubtedly affect the university in ways that may have unintended consequences. While it is necessary to expeditiously address the challenges, particularly the fiscal challenges, that the university will face as a result of the pandemic, care must be taken that the resolution can achieve this goal in such a way that it is not problematic for issues such as collective bargaining agreements; administrative and faculty consultations; and evaluations and oversight of administrative actions by the board. Additionally, testimony received on this issue makes it evident that faculty, staff, and students are devoted to the efficacy of the university, and that the sacrifices made by these individuals, as well as the difficult work being done by the administration, to support the viability of the university should be recognized in the resolution. He stated that it would be his

preference that the resolution be deferred and redrafted to address these concerns while maintaining its initial intent.

Discussion ensued on the issues raised by Regent Acoba. While many Regents noted the urgency of the fiscal situation facing the university and the necessity to take quick and decisive action and were generally supportive of the intent of the resolution, concerns were raised regarding the clarity of the resolution's language in conveying this intent. Regents ultimately supported deferral of the resolution to the next board meeting with the opportunity to provide feedback on, as well as amendments to, its current language.

Chair Kudo stated that the Board Resolution 20-03 was deferred to the next board meeting and requested Regents to submit suggested language and amendments to the Board Office.

C. Approval of Letter from the Board to the Governor Requesting Deferral of Public Employee Salary Increases

Chair Kudo stated that he would be withdrawing the request to approve the letter from the board to the Governor requesting deferral of public employee salary increases as it was his opinion that the letter was no longer necessary since discussions between the Governor and public employee union representatives regarding these salary increases will most likely take place given the fiscal crisis facing the State.

Regent Acoba remarked that sending a letter to the Governor urging him to re-engage in negotiations with collective bargaining units might be perceived as the board interfering in the collective bargaining process. While the pandemic has caused a fiscal crisis in the state, he stated that the board's ultimate responsibility is in developing university policies and overseeing the internal management of the university and that the overall concerns with the State budget were not within the board's purview. As such, he did not believe that the board, as a whole, should be expressing specific opinions on salary increases that have already been negotiated, especially when this action might impact personnel in positions not associated with the university and that withdrawal of the letter was the most prudent action at this time.

X. ANNOUNCEMENTS

Chair Kudo announced that the next board meeting was scheduled for August 20, 2020, at a location to be determined.

XI. ADJOURNMENT

There being no further business, Regent Wilson moved to adjourn, seconded by Regent Westerman, and noting the excused absences of Vice-Chair Higaki and Regent Moore, the motion carried, with all members present voting in the affirmative, and the meeting was adjourned at 3:02 p.m.

Respectfully Submitted,

Kendra Oishi
Executive Administrator and Secretary
of the Board of Regents

Item IV.

Report of the President and
COVID-19 Update

**NO MATERIALS
ORAL REPORT**

Agenda Items:

A. Fiscal Year (FY) 2019-2020 Fourth Quarter UBS Legacy Endowment Fund Investment Performance Report

UBS representatives provided a report on the investment performance of the Legacy Endowment Fund (Fund). It was noted that the markets continue to experience volatility as a result of the COVID-19 pandemic but that overall, the asset allocation and financial performance of the Fund is on par with established benchmarks. There were no material changes or weaknesses in the management of the Fund. UBS has increased the Fund's equity asset allocation to 66.98 percent to the benefit of the Fund and continues to advocate for the keeping the Fund's allocation in equities near this level for the foreseeable future. It is anticipated that the markets will remain volatile particularly due to fears about the economic impacts of COVID-19, trade issues with China, and the upcoming elections in the United States. UBS will continue to closely monitor the financial markets and adjust its investment strategies as more information becomes available with the ultimate goal of maintaining long-term investment strategies.

B. Financial Outlook for FY 2020-2021

A report on the fiscal impacts of the COVID-19 pandemic was presented by VP Young who noted that the both the State and university would face unprecedented economic challenges in the near future and the most financially difficult situation since statehood. The COVID-19 pandemic will have significant fiscal impacts to the university's operations, particularly in light of an expected decline in revenues from all of the university's funding sources, including its two predominant revenue sources - the state general fund and Tuition and Fees Special Fund. The university expects severe fiscal shortfalls in all non-research, special, revolving, and enterprise funds which will also have impacts on university operations. Fiscal mitigation measures for FY 2021 were discussed. However, the university is anticipating the financial impacts of the COVID-19 pandemic to be prolonged, requiring mitigation into the next fiscal biennium and beyond.

Discussions occurred on specific fiscal impacts expected to be incurred by the university, cost saving and other measures being considered to help the university address anticipated budget shortfalls, and planning the university is undertaking to address anticipated severe financial impacts.

C. Budget Planning Schedule

President Lassner and VP Young reviewed the administration's budget planning timetables that included milestones and anticipated dates for the administration to update the committee and the board on the university's fiscal situation and longer term budget plans. An overview of the schedule for both the university's short-term plan, which addresses issues that will allow the university to get through FY 2021 with maximum preservation of capital, and long-term plans to reposition the university for FY 2022 and beyond, including the necessity to make organizational and programmatic changes to enable the university to thrive, was presented.

Election of Committee Chairperson: Regent Moore was selected as the committee chair in accordance with Section 304A-321, Hawaii Revised Statutes.

Agenda Items:

A. Committee Work Plan

Chair Moore referenced the Committee Work Plan (Work Plan) which is based upon what the committee has historically done, as well as work it is required to complete under HRS and board bylaws, and stated that it was his intent to use the Work Plan as an outline to guide the work to be performed by the committee during the coming year. It was also noted that the projects in the Internal Audit Work Plan for 2020-2021 were included in the committee's Work Plan.

B. Review of Internal Audit Work Plan for 2020-2021

Chair Moore noted that the Internal Audit Work Plan for 2020-2021 which outlined the work to be performed by the Office of Internal Audit (OIA) during the coming year was presented to the committee at its June 4, 2020, meeting, and that the committee had approved the work plan at that time. Issues may need to be added to OIA's Work Plan as the year progresses and the committee will appropriately address those issues should it become necessary.

C. Review and Acceptance of the OIA Report on the Status of Corrective Action Related to Sodexo Food Service Contracts

Glenn Shizumura, Director of OIA, reported that OIA reviewed the university's monitoring of, and Sodexo's compliance with, the terms and conditions of four separate food service contracts the university has with Sodexo to provide food services for the University of Hawai'i at Mānoa (UHM), the University of Hawai'i at Hilo, the UHM Athletics Department, and the University of Hawaii Maui College during the year ended June 30, 2019. He noted that OIA identified minimal and no significant instances of noncompliance for three of the four food service contracts. He stated that all the issues identified in the evaluation have been addressed and that all suggested corrective actions have been implemented to the satisfaction of OIA.

Action: The Committee voted to accept the report.

D. Review and Acceptance of the OIA Report on the Implementation Status of Government Accounting Standards Board Statement No. 87 (GASB 87), Leases

Internal Auditor Shizumura reported that GASB 87 was issued in June of 2017. He noted that GASB 87 replaces the current operating and capital lease categories required by historical governmental accounting rules with a single lease accounting model and that the university will be required to apply GASB 87 to leases for the year ended June 30, 2021, for presentation in the university's Consolidated Financial Statements for the year ended June 30, 2022. OIA's preliminary review of an initial listing of university leases created by the university's General Accounting Office (GAO) noted a number of inconsistencies, errors, and incomplete information. OIA recommended that GAO develop a formal GASB 87

implementation plan and develop processes and procedures to ensure that GASB 87 is adopted by the university in a timely fashion and the university remains in compliance.

Action: The Committee voted to accept the report.

Agenda Items:

A. Committee Work Plan

Chair Westerman referenced the Committee Work Plan (Work Plan) that was provided to committee members in the materials packet. He stated that the Work Plan was an outline of the work to be performed by the committee during the coming year.

Discussions occurred on the topics contained in the current Work Plan and whether additional topics, including policy-specific issues to address the COVID-19 pandemic, should be included in the Work Plan. Requests for the committee to receive brief overviews of items under the jurisdiction of the committee that the administration felt was pertinent to the work of the committee were made and also discussed.

B. Review of the Office of the Board of Regents Emergency Response Plan (ERP)

Board Secretary Oishi reviewed the ERP stating that its purpose was to document the Board Office's process in evaluating and formulating a response to manmade and natural disasters and other emergency situations and provide a roadmap for the implementation of this response. Discussions occurred regarding the storage of electronic files, digitization of paper files, any measures taken in response to Hurricane Douglas and checklists for emergencies. A request was also made for the administration to review procedures for emergencies that occur during in-person Board meetings.

Agenda Items:

A. Committee Work Plan

Chair Bal noted that the Committee Work Plan (Work Plan) provided in the materials packet was intended to be used as an outline of the work to be performed by the committee during the coming year. He highlighted the addition of an item to receive periodic briefings on extramural research projects.

B. Recommend Board Approval of New Regents Policy (RP) 12.211, Ethical Guidelines in the Conduct of Technology Transfer Activities

VP Syrmos provided background on the development of proposed new RP 12.211 reporting that the State Legislature enacted Act 38, Session Laws of Hawaii 2017 (Act 38), to allow the university to be more actively and directly engaged in the commercialization of its research products. Act 38 essentially exempted technology transfer activities sponsored by the university from certain sections of the State Ethics Code if specific regulatory frameworks and policies were established by the university. VP Syrmos noted that the new proposed RP 12.211 creates the regulatory framework and compliance programs contemplated by Act 38.

Vice-Chair Sullivan requested that a provision be added to the proposed new RP 12.211 requiring that the Office of the Vice-President for Research and Innovation submit a report to the board at least annually regarding conflicts of interest with regard to technology transfer activities sponsored by the university. Discussions also occurred as to what specific portions of the State Ethics Code were not applicable to technology transfer activities conducted by the university. Committee members recommended that RP 12.211 be amended to clarify these issues before it is considered by the full board.

Action: The committee recommended board approval of RP 12.211 subject to clarifying amendments being presented to the board.

C. Fiscal Year (FY) 2020 Year-in-Review and FY 2021 Extramural Awards Outlook

VP Syrmos reviewed trends, significant awards, and award amounts by campus, as well as award revenues received to date and projected award revenues, and highlighted that the total amount of extramural awards received exceeded \$400 million for the second year in a row, with a total of \$450.4 million being received in FY 2020. VP Syrmos noted that UH received \$139.5 million in award revenues for the fourth quarter of FY 2020, which was 54.2 percent more than the same period last year. He stated that, while growth in extramural funding has shown steady increases over the last three years and the university is cautiously optimistic that this growth will continue in FY 2021, the uncertainty caused by the coronavirus pandemic and its effect on the economy will pose a challenge.

Vice-Chair Sullivan requested that the administration review and update criteria and goals that are used to measure success in fostering innovation.

D. Strategic Directions: Update on Metrics, Extramural Awards Targets vs. Actuals

VP Syrmos stated that last year the administration began reviewing possible changes to metrics used by the university to determine the receipt of extramural awards, particularly

with regard to established extramural funding targets versus actual amounts of extramural funding received by the university. He reviewed the process the administration has been using to determine possible amendments to these metrics including conducting reviews of historical data and the accuracy of assumptions used to establish extramural funding targets and noted some of the changes the administration is proposing for extramural awards and funding targets for FY 2021. The administration will continue to conduct in-depth, internal discussions on this matter going forward and also intends to involve the committee in these discussions.

Item V.E.

Affiliate Reports

**NO MATERIALS
ORAL REPORTS**



Regents Policy Chapter 12, Research
Regents Policy RP 12.211, Ethical Guidelines in the Conduct of Technology Transfer
Activities

Effective Date: August _____, 2020

Prior Dates Amended: N/A

Review Date: August 2023

I. Purpose

The University of Hawai'i encourages the commercialization of appropriate discoveries and new technologies developed at the University and their transfer to the larger society. Technology transfers promote the economic health of the State, diversify workforce opportunities for University graduates, and support the core missions of the University for instruction, research, and community service.

The purpose of this policy is to ensure that ethical conflicts of interest that may arise during the life cycle of University-sponsored technology transfers are identified, mitigated, ~~and properly managed~~, and properly disclosed.

In 2017, with the support of the University and others in the innovation community, the Hawai'i Legislature passed, and the Governor approved, two laws commonly referred to as Act 38 and Act 39, Session Laws of Hawai'i 2017. Act 39 establishes an innovation and commercialization initiative program at the University, and affirms that public resources made available to the University may be used to participate in the private sector commercialization of new technology developed at the University.

Act 38, codified in part as Section 84-10, Hawai'i Revised Statutes, exempts technology transfer activities conducted by University employees from ~~certain requirements~~—Section 84-12 (Confidential Information); Section 84-13 (Fair Treatment); Section 84-14 (Conflicts of Interests); Section 84-15 (Contracts); Section 84-16 (Contracts Voidable); and Section 84-18 (Restrictions on Post Employment) of the State Ethics Code, so long as the University establishes a regulatory framework and procedures adapted specifically for University technology transfer activities.

This policy, any implementing executive policies, administrative procedures, and internal operating guidelines, are intended to fulfill the requirements of Act 38.

II. Definitions

The following terms have their generally understood meanings, as expressly supplemented by this policy.

“Technology transfer” for purposes of this Regents Policy encompasses the process by which new inventions, discoveries, materials, or technology:

- a) Are developed or discovered by University employees or its students during the course of employment, or academic instruction, or research;
- b) Use University resources to transform the new technology into potentially commercially viable products;
- c) Are subsequently introduced into commerce through partnerships or other arrangements with commercial enterprises or with private individuals; and
- d) Generate economic returns that are shared and distributed among those participating in the commercialization in accordance with applicable contractual arrangements, including collective bargaining agreements with public employees, patent licenses, or lending or equity participation agreements.

“University-sponsored technology transfer activities” encompass, as illustration, activities where University resources are expended to protect University intellectual property through patents, trade and service marks; to transfer the rights to exploit the intellectual property to commercial entities through negotiated sales, assignments, or licenses; to participate in entities commercializing University discoveries or inventions by lending University funds or investing equity into private companies; to provide accelerator or incubator programs of University instruction to university entrepreneurs; to sponsor events, conferences, or workshops to showcase University discoveries; to provide administrative support services for these activities; to make available in-kind assistance to newly-formed companies affiliated with the University, including facility use agreements; and to undertake sponsored research from private companies for purposes of enhancing the commercial potential, viability, and longevity of University products.

“University resources” include all tangible and intangible property under the control of the University, including by way of illustration, University funds; University human resources; and University facilities, equipment, supplies, and real property.

“Conflict of Interest” includes conflicting or competing duties of loyalty; conflicting demands on time and attention commitments for University employees or researchers; and conflict of purposes between public and institutional use and benefit and private use and gain.

III. Policy

The University is the State's sole institution of public higher education. Its core missions include providing instruction to students, expanding the corpus of knowledge through research, and providing service to its supporting community. The University is uniquely positioned to encourage research that may result in inventions and discoveries, and to support the transformation of the new technology into viable commercial products that contribute to the overall quality of life and advancement of society.

Through the development of new commercial enterprises built around University intellectual property, the University can contribute to economic development of the State, can expand and diversify the employment opportunities for its graduates, and can enhance its stature as a comprehensive research university.

To achieve these recognized public benefits, it is University policy that its resources may be used to support, promote, and actively participate in the commercialization of University intellectual property, even where the commercialization generates, in part, economic benefits for individual University employees, for private organizations, and for private investors. Using the public resources available to the University to support technology transfer is appropriate so long as, on considered balance, the commercialization is consistent with the missions of the University, the public interests are adequately protected, and any potential conflicts of interests arising during the course of University-sponsored technology transfer activities are identified, mitigated, and managed.

Specific technology transfer activities undertaken by the University must comport with all ~~other~~ applicable federal regulations or third party research sponsorship requirements specific to the transaction, including federal regulations on conflicts of financial interests, and with ~~other~~ State Ethics Code requirements not affected by Act 38. Nothing in this Regents Policy or any implementing Executive Policy shall be interpreted to supersede any inconsistent federal regulation or collectively bargained for provision with any public employee union at the University.

[The University President shall submit to the Board of Regents at least once a year and upon specific request a written report on the regulatory and compliance program and activities to assure the ethical conduct of technology transfer activities sponsored by the University.](#)

IV. **Delegation of Authority**

The University President is delegated the authority to establish the regulatory framework and executive policies implementing this Regents Policy. The President may further delegate administrative responsibilities to the vice presidents or campus chancellors, as appropriate.

In particular, the President, or the President's designee, shall develop specific ethical guidelines and executive policies to apply to technology transfer activities in

the areas of: (1) use and protection of confidential information; (2) fair use of public resources for private purposes; (3) managing conflicts of interest, including conflicts of purpose, and resource commitments; (4) contracts or other business arrangements with employee-controlled commercial organizations; (5) reviewing and possibly voiding unacceptable contracts; and (6) permissible and restricted post-employment opportunities for University employees engaged in technology transfer.

V. Contact Information

Office of the Vice President for Research and Innovation, (808) 956-5006,
uhovpri@hawaii.edu

VI. References

- Act 38, Session Laws of Hawai'i 2017
- Act 39, Session Laws of Hawai'i 2017
- RP 4.201, Purpose and Mission of University
- EP 12.205, Administration of Patent and Copyright
- EP 12.211, Policy for Responding to Allegations of Research and Scholarly Misconduct
- EP 12.214, Conflicts of Interest and Commitment.

VII. Approved as to Form

Kendra Oishi
Executive Administrator and
Secretary of the Board of Regents

Date



20 AUG 12 P3:14

RECEIVED

UH DTS #20844

August 6, 2020

20 AUG 12 P3:18

MEMORANDUM

TO: Benjamin A. Kudo
Chairperson, Board of Regents

VIA: David Lassner
President

VIA: Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer

VIA: Carrie K. S. Okinaga
Vice President for Legal Affairs and University General Counsel

FROM: Vassilis L. Syrmos
Vice President for Research and Innovation

SUBJECT: Approval of an Indemnification and Hold Harmless Provision for AccessLex Institute (ALI) in a Grant Agreement between the University of Hawai'i and AccessLex Institute

SPECIFIC ACTION REQUESTED:

It is respectfully requested that the University of Hawai'i ("University") Board of Regents ("Board") approve an indemnification and hold harmless provision in favor of AccessLex Institute ("ALI") as set forth in their Grant Agreement being issued from ALI to the University. The request is made pursuant to Hawai'i Revised Statutes Section 304A-110 ("Indemnification"), appended as "Attachment 1" to this memorandum.

RECOMMENDED EFFECTIVE DATE:

The recommended effective date is upon Board approval.

ADDITIONAL COST:

There are no additional costs associated with this request.

PURPOSE:

The purpose of this request is to authorize the University to indemnify and hold ALI harmless, as required by the grant. Hawai'i law requires approval from the Board, before the University may hold harmless a research sponsor that requires a hold harmless clause as a condition for releasing the research funds to the University.

BACKGROUND:

ALI issued an award to the University in April 2020 for \$27,290. The only prior award issued by ALI to the University occurred in 2016 and ended on May 30, 2019. The current award is issued to Liam Skilling, a researcher ("PI") at the William S. Richardson School of Law ("Law School") and the current project is designed to improve the legal analytical skills and bar passage rates of students at the Law School.

Liability Protection for Damages:

ALI has proposed the following language during negotiations. The University was not successful in negotiating a deletion of the indemnification and hold harmless provision. The clause reads as follows:

To the extent allowed by Hawai'i law, Grantee agrees to indemnify, defend and hold harmless ALI, its affiliates, and their respective officers and employees against any claim, proceeding, demand, liability or expenses (including legal expenses and reasonable attorney's fees) arising from the negligent acts or omissions or willful misconduct of Grantee, its affiliates or respective Regents, officers, employees or representatives, except to the extent that any such loss, claim, damage, or other liability arises solely from the negligence or willful misconduct of any officer, agent or employee of ALI or its affiliates. The indemnity provision set forth in this Agreement will survive the termination or expiration of this Agreement.

Risk Analysis:

The indemnification and hold harmless clause requires the University to hold ALI harmless from any damages arising from the negligent actions or omissions or willful misconduct of University personnel. It does not require the University to indemnify or hold harmless ALI if the damages are caused solely by the negligence or willful misconduct of ALI personnel. The

Chairperson Benjamin A. Kudo
August 6, 2020
Page 2

project will collect data from town hall meetings with Law School students, a faculty retreat to identify challenges and solutions to the declining bar passage rate, one three-day bar review course, and an online platform to assist students with a specific section of the bar exam. Since the project is mainly test-taking, data collection, and data analysis, the Office of the Vice President for Research and Innovation and the Office of Research Services assess that the risk of harm befalling a third party is extremely low, and the indemnification and hold harmless clause is unlikely to be invoked.

ACTION RECOMMENDED:

It is recommended that the UH Board of Regents approve an indemnification and hold harmless provision in favor of AccessLex Institute ("ALI") as set forth in their Grant Agreement being issued from ALI to the University.

Attachment (HRS § 304A-110)

c: Executive Administrator and Secretary to the Board of Regents

[\$304A-110] Indemnification.

- (a) Notwithstanding any other law to the contrary, the board of regents may agree in writing to an indemnity provision by which the university agrees to indemnify, defend, and hold harmless any person, corporation, or entity that sponsors research at the university when all of the following conditions are satisfied:
 - (1) The person, corporation, or entity requires an indemnity in writing as a condition for providing a grant, benefit, service, or interest in or right to use property;
 - (2) The president, or the president's designee, following a favorable review by the university general counsel or the counsel's designee, approves the proposed indemnification; and
 - (3) The chief financial officer, pursuant to section 304A-108, has obtained an insurance policy or policies in an amount sufficient to cover the liability of the university that may be reasonably anticipated to arise under the indemnity provision or has determined that it is not in the best interest of the university to obtain insurance.
- (b) Nothing in this section shall be construed to expand the scope of liability of the university beyond that set forth in chapters 661 and 662.
- (c) Nothing in this section shall be construed to waive the immunity of the university from suit in federal courts guaranteed by the Eleventh Amendment to the United States Constitution. An indemnity provision not in strict compliance with this section shall not give rise to a claim against the university under this chapter or chapter 661 or otherwise waive the university's sovereign immunity.



UNIVERSITY
of HAWAII
HILO

UNIVERSITY OF HAWAII
BOARD OF REGENTS

DTS 20549

20 AUG 14 AIO :31

August 20, 2020

RECEIVED

MEMORANDUM

20 AUG 14 AIO :31

TO: Benjamin A. Kudo
Chairperson, Board of Regents

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

VIA: David Lassner
President

VIA: Bonnie D. Irwin
Chancellor

FROM: Gregory Chun, Ph.D.
Executive Director of Maunakea Stewardship

SUBJECT: APPROVAL OF REVISED INTERNAL RESTRUCTURING PLAN FOR MANAGEMENT
OPERATIONS OF MAUNAKEA LANDS PURSUANT TO UNIVERSITY OF HAWAII
BOARD OF REGENTS RESOLUTION 19-03, PARAGRAPH 8

SPECIFIC ACTION REQUESTED:

We request that the Board of Regents approve the revised internal restructuring plan attached hereto as Attachment "A," pursuant to the requirements of Board of Regents Resolution 19-03, Paragraph 8.

RECOMMENDED EFFECTIVE DATE:

Effective immediately upon approval.

ADDITIONAL COSTS:

None.

PURPOSE:

To fulfill the requirements of the University of Hawai'i Board of Regents Resolution 19-03, Paragraph 8, which provides the following:

Following consultation with the Maunakea Management Board, Kahu Kū Mauna, 'Imiloa Astronomy Center, existing Maunakea Observatories, and other community stakeholders, a reorganization and restructuring plan shall be presented to the Board of Regents as to all advisory, operating, and funding bodies involved in the management of Maunakea by April 2020. The purpose of the plan is to improve operations and management and make it more efficient, effective, and transparent. The analysis will include consultation with the Maunakea Management Board, Kahu Kū Mauna, and appropriate members of the Hawaii Island community. The reorganization and restructuring plan shall be embodied into a governance document that is approved by the Board of Regents.

BACKGROUND INFORMATION:

As required by Resolution 19-03, Paragraph 8, Dr. Chun, Executive Director of Maunakea Stewardship, presented an internal restructuring plan to the Board of Regents on April 16, 2020. The elements of the plan were provided in a PowerPoint presentation made available to the Board of Regents and the public, which is posted online at <https://www.hawaii.edu/offices/bor/archive>.

The presentation was for discussion only. A no-action item was listed as agenda item V, in relevant part, as follows:

C. Status Update on Items Relating to Maunakea Management Pursuant to Board of Regents Resolution 19-03 (Discussion Only)

1. Maunakea Management Reorganization and Restructuring Plan

[...]

After discussion among the regents, Chair Kudo stated that, given the language in the Resolution, the proposed internal management restructuring plan would be placed on the agenda for regents' approval at the next BOR meeting in May.

For its regular meeting on May 21, 2020, the BOR placed the following item on its agenda: "Approval of Maunakea Management Restructuring Plan." Before this meeting, the plan entitled, *Center for Maunakea Stewardship: Internal Restructuring Plan for Management Operations of Maunakea Lands*, was submitted to the BOR for its review and consideration. The BOR received several individual testimonies in writing, in addition to hundreds of form testimony based on an online petition. After a presentation by Dr. Chun on the extensive outreach and consultation that resulted in the plan and a brief discussion among the regents, the matter was deferred.

At the BOR's June 18, 2020 meeting, Chair Kudo made the following announcement as reflected in the BOR's minutes:

Prior to commencing with the committee and affiliate reports, Chair Kudo announced that the initial reason for holding a board meeting in June was to continue discussions and consider taking action on an internal Maunakea management restructuring plan (Plan) that addressed the administrative, organizational, and internal restructuring of the various entities of the university that currently are in existence and have oversight and management responsibilities for Maunakea. However, in recent weeks, the board has been in receipt of communications from the Maunakea Management Board (MKMB) and Kahu Kū Mauna requesting additional time for consultation on the Plan. After meeting with MKMB and Kahu Kū Mauna, it was decided that an additional 60 days would be provided for increased consultation with the administration on the Plan.

Attachment "A" to this memorandum is the amended plan considered by the BOR at its May 21, 2020 meeting, with further amendments. The further amendments are based on public testimony provided to the BOR, input from the regents at the previous BOR meetings, two public meetings before the Maunakea Management Board, and several discussions with Kahu Kū Mauna, the Maunakea observatories, the 'Imiloa Astronomy Center, and others identified under the *Consultation and Outreach* section of the attached Plan. Attachment "B" shows redlined changes between the May 21, 2020 version and the current version of the Plan.

As required by Resolution 19-03, Paragraph 8, we offer Attachment "A" for the Board of Regents' approval.¹

ACTION RECOMMENDED:

We recommend that the Board of Regents approve the internal restructuring plan attached hereto as Attachment "A," pursuant to the requirements of Board of Regents Resolution 19-03, Paragraph 8.

Attachment

1. Center for Maunakea Stewardship: Internal Restructuring Plan for Management Operations of Maunakea Lands (Attachment "A").

¹ At the April 16, 2020 meeting, Dr. Chun also presented alternative governance models to fulfill the requirements of Resolution 19-03, Paragraph 9, which asks "whether the management of the Maunakea Science Reserve would be better served if transferred to a governmental authority or other third party entity, or through alternate management mechanisms." Alternative governance is not part of this request.

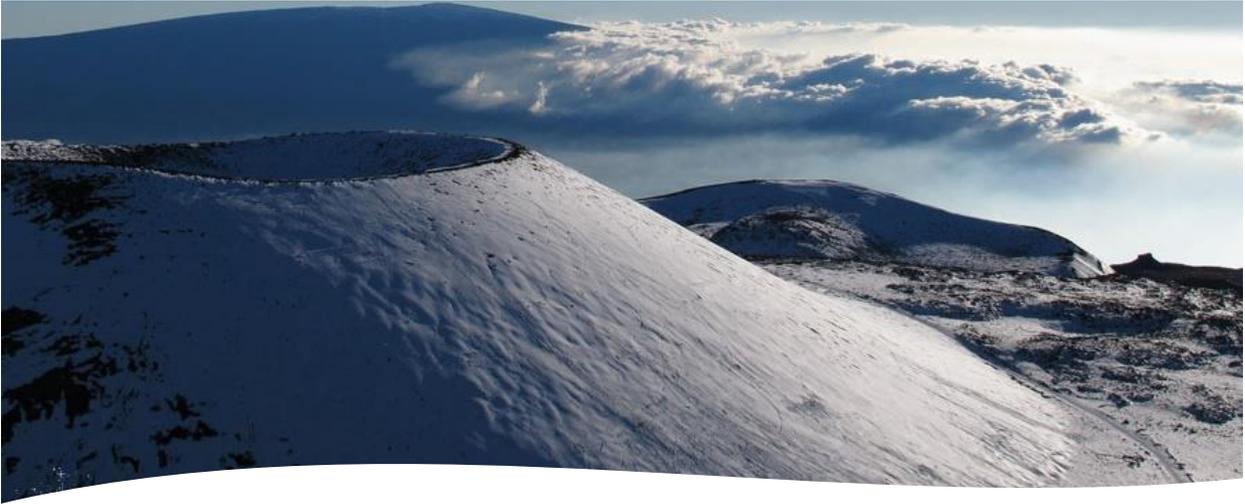
Benjamin A. Kudo

August 20, 2020

Page 4 of 4

2. Redlined Changes – Center for Maunakea Stewardship: Internal Restructuring Plan for Management Operations of Maunakea Lands (Attachment “B”).

Exhibit “A”



Center for Maunakea Stewardship: Internal Restructuring Plan for Management Operations of Maunakea Lands

This report was prepared in response to the University of Hawai'i Board of Regent's Resolution 19-03, Section 8

*Submitted to the Board of Regents on May 21, 2020;
revised and resubmitted, August 20, 2020.*

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Definitions

AR – Hawai‘i Administrative Rules chapter 20-26, *Public and Commercial Activities on Mauna Kea Lands*

BOR – UH Board of Regents

CMP – *Mauna Kea Comprehensive Management Plan (2009)*

CMS - Center for Maunakea Stewardship

DSP – Director of Stewardship Programs

DLNR – Department of Land and Natural Resources

EC – Environment Committee

ED – Executive Director

HP – Hale Pōhaku

IfA – Institute for Astronomy

‘Imiloa – ‘Imiloa Astronomy Center

JCMT – James Clerk Maxwell Telescope

KKM – Kahu Kū Mauna

Maunakea Lands or **Mauna Kea Lands** – as defined under Hawai‘i Revised Statutes section 304A-1901

MKMB – Maunakea Management Board

MKO – Maunakea Observatories

MKSS – Maunakea Support Services

MP – *Mauna Kea Science Reserve Master Plan (2000)*

NELHA – Natural Energy Laboratory of Hawai‘i Authority

OMKM – Office of Maunakea Management

NELHA – Natural Energy of Hawai‘i Authority

NSF – National Science Foundation

TIO – Thirty Meter Telescope International Observatory

UH or **University** – University of Hawai‘i

UHH – University of Hawai‘i at Hilo

UHM – University of Hawai‘i at Mānoa

UKIRT - United Kingdom Infra-Red Telescope

RCUH – Research Corporation of UH

VIS – Maunakea Visitor Information Station

Background

At its regular meeting on April 16, 2020, Dr. Greg Chun, Executive Director of Maunakea Stewardship, presented the BOR with a status update on items relating to Maunakea management according to its Resolution 19-03. Dr. Chun shared his findings and conclusions, based in part on consultation and outreach with stakeholders and public land managers, on how to improve management of Maunakea and more effectively receive and address concerns raised by diverse and sometimes competing interests of the various Maunakea stakeholders. After discussion among the regents, Chair Kudo stated that, given the language in the Resolution, the proposed internal management restructuring plan would be placed on the agenda for regents' approval at the next BOR meeting in May.

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Authority

This document was prepared pursuant to Resolution 19-03, section 8, adopted by the BOR, on November 6, 2019. Section 8, provides as follows:

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Consultation and Outreach

Consultation and outreach for developing the Plan, was the process by which formal and informal discussions were conducted with various stakeholders. This process included (i) presenting concepts and drafts to stakeholders, (ii) listening to feedback, and (iii) incorporating feedback from these discussions into the Plan as appropriate. This process occurred between November 6, 2019 (when the BOR passed Resolution 19-03), and August 10, 2020 (when the MKMB last considered the draft Plan at its public meeting). Comments and input received from this process cumulatively informed and shaped this document.

The executive director of Maunakea stewardship, with the support of UH staff and external consultants, discussed provisions of the Plan and presented drafts to various stakeholders before presenting this document to the BOR. Consultation included meeting with the following:

- Maunakea Management Board
- Kahu Kū Mauna
- ‘Imiloa Astronomy Center
- Existing Maunakea Observatories (individual and group)
- MKSS Staff
- OMKM Staff
- Interested Legislators
- Congressional Staff
- Governor’s Office and Cabinet

- Governor’s Land Authorization Working Group (DLNR, NSF, UH, Governor’s representative)
- TIO Board of Governors
- Pūko‘a Council
- Kūali‘i Council
- Maunakea Kia‘i (through a third-party; kia‘i did not respond to our direct outreach)

In addition, our analysis incorporated lessons learned and feedback from past State audits, testimony received during a multitude of public meetings UH held over the years, contested case proceedings involving Maunakea, and information gathered through desktop research looking at other models of management within State government. In addition, we reviewed the *University of Hawai‘i Review of Maunakea*, conducted by the UH Office of Internal Audit at the direction of the BOR. The *Review* documented the many UH management units involved in Maunakea stewardship and management, as well as the flow of funds between and among them. Finally, we also conducted interviews with the State Office of Planning, DLNR, and NELHA.

Lastly, consultation should not be interpreted as agreement or concurrence with all aspects of this proposal by the groups, organizations, or persons consulted. The feedback received from stakeholders represented various perspectives, and it came at different points in the Plan’s development, sequentially adding to our understanding of how to improve internal processes related to management. The feedback served to identify the diverse issues, interests, and concerns among various stakeholders on how management could or should be organized when dealing with public lands. The Plan evolved as we received new information and ideas, and the input received collectively informed the final product reflecting what we learned.

Restructuring Objectives

Based on our review and the feedback we received, the primary issues regarding UH’s current management are:

- Lack of trust in decision-making
- UH’s regulatory, stewardship, and advocacy roles create confusion and perceived conflicts-of-interest
- Given the current reporting lines of our management units, authority and responsibility are not always clear leading to concerns about transparency
- These independent reporting lines create differences in priorities between management units

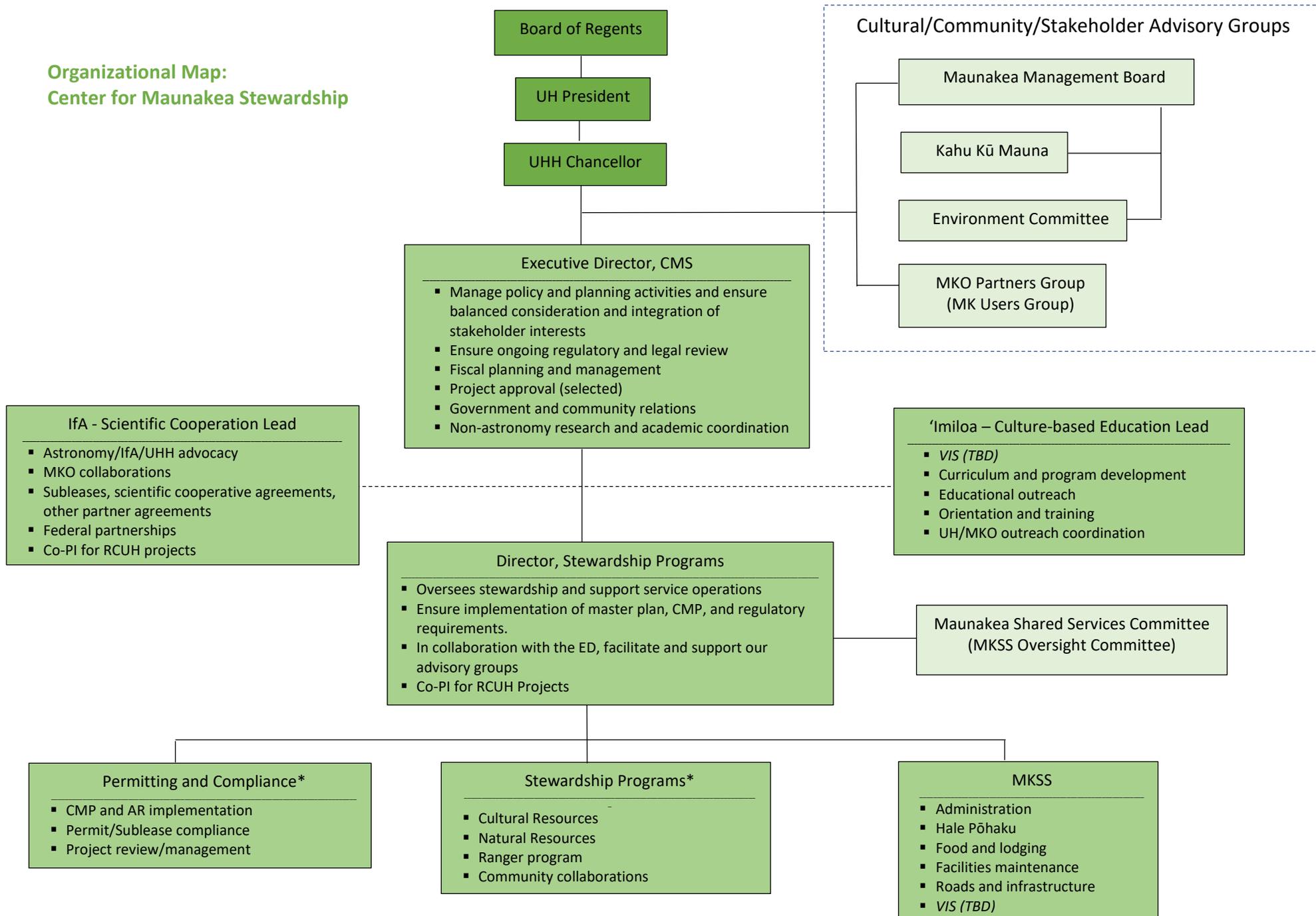
The following objectives for the internal restructuring plan were identified to address the above concerns:

- Improve lines of management accountability and financial transparency
- Organize UH functions around mission-critical activities
- Clarify UH’s regulatory, stewardship, and advocacy roles by separating those functions in our organization
- Leverage and optimize existing networks and partnerships
- Broaden, diversify, and elevate stakeholder input into decision-making
- Maintain governance continuity and minimize disruption as much as possible

Center for Maunakea Stewardship Organization and Description

This section describes the creation of the CMS, which aligns existing units with the restructuring objectives identified in the previous section.

**Organizational Map:
Center for Maunakea Stewardship**



*Shown here for descriptive purposes. Organization of these functions to be finalized by Director of Stewardship Programs. See narrative.

Key Elements of Internal Restructuring

Restructuring activity will include the following elements to be completed upon approval of the Plan:

- Rename to CMS
- Centralize leadership under the Executive Director, CMS
- Organize around mission-central activities
- Optimize existing UH and MKO resources, competencies, and relationships through collaborations and networks
- As vacancies arise, ensure MKMB, KKM, and EC composition reflects changing community interests
- Establish MKO Partners Group
- Integrate advisory groups into strategic planning and policy discussions

Overview of Roles and Responsibilities

This section discusses in greater detail the roles and responsibilities of the various entities and units depicted in the proposed restructuring.

Strategy and Policy Advisors

General Responsibility

With the adoption of the 2000 MP and the formation of UH's current management structure, community input into decision-making was formalized with the creation of the MKMB, KKM, and the EC.

The goal of this restructuring is to refresh those groups by broadening their representation and elevating their engagement in policy and strategy discussions, particularly on matters that are of high interest and importance to the community and key stakeholders.

Functions

Our current advisory bodies include MKMB, KKM, and EC.

MKMB membership would remain at seven (7). The Executive Director would serve as an ex officio voting member on the MKMB. Ex officio non-voting members would include two representatives from the BOR with and the UHH Chancellor.

The MKMB would continue to review and recommend the approval of major projects and transactions. However, improvements to the project review process would be explored in collaboration with the MKMB to streamline review and decision-making that would allow board agendas and discussions to become more strategic in nature, and encourage more exchange with the community, especially for informational purposes.

The current role and structure KKM and the EC would remain unchanged with their input flowing up through MKMB into UH decision-making. However, like the MKMB, it is recommended that both KKM and the EC explore ways to further engage the community in discussions of strategic interest, especially for information exchange and dialogue.

This restructuring refreshes a formal role for the MKOs that, over the years, has lessened for reasons that are not clear. Existing operating agreements between the University and the MKOs established what has been referred to as the Maunakea Users Group led by the IfA Director. This structure was to serve as the primary platform for MKO input into astronomy, policy, and UH decision-making concerning Maunakea. This proposal desires to refresh that structure and formalize the relationship again with the establishment of the MKO Partners Group that would provide independent input into UH decision-making. In partnership with the MKOs, the IfA would lead a process to develop an agreed-upon communication and consultation process that would restore this advisory role of the MKOs.

As vacancies on the MKMB, KKM, and EC arise, we will seek to diversify committee membership and representation to ensure we are reflecting the changing interests of the community. Further, committee charters and by-laws will be reviewed and amended as needed to clarify roles and responsibilities, reflecting the strategic nature of the input we seek from these bodies.

Executive Director

General Responsibility

The ED oversees the integration, coordination, and strategic implementation of the MP, CMP, and AR. A major responsibility of the ED is to manage planning and decision-making processes to ensure that the broad range of issues, interests, and concerns expressed by the community and stakeholders are being heard and that a balancing of interests is attempted. These interests include but are not limited to cultural, environmental, social, economic, legal, and regulatory matters.

The ED provides leadership in building the internal and external partnerships required to engage and weave a cohesive, collaborative management network with stakeholders and the community.

Functions

- Manages policy and planning activities and ensure balanced consideration and integration of stakeholder interests
- Provides oversight of the implementation for all plans, strategy, and operational activities
- Ensures ongoing regulatory and legal review

- Manages revenues and expenses involved in University operations on Maunakea
- Works with other UH offices to secure financial and legal support
- Project approval (selected)
- Government and community relations
- Fosters and coordinates access to Maunakea for non-astronomy research and academic programming across the UH System and with community partners

Director of Stewardship Programs

General Responsibility

The DSP is responsible for the implementation of the programmatic and operational functions required to fulfilling UH’s Maunakea stewardship responsibilities. These responsibilities cover ensuring compliance with approved plans and policy and regulatory requirements, implementation of UH strategy, managing the permitting and programmatic activities of the unit, and in collaboration with the ED support engagement with the MKMB, KKM, and EC.

The DSP is a direct report to the ED and is a key member of the CMS management team. The existing OMKM Director position description would be redescribed to create the DSP.

As depicted in the organizational chart, MKSS functions would remain organized as they currently are with the exception that this unit would now report to the DSP. The clustering of the permitting and stewardship functions depicted under the DSP is for discussion purposes only. A primary task of the DSP will be to finalize the organization of this unit in consultation with staff and the ED especially given the need to garner improved efficiencies in the current fiscal environment we are operating within.

Key to the operation of this unit is the MKOs who fund critical stewardship activities provided by MKSS. Currently, the primary vehicle for decision-making on budget and certain operational matters occurs through the MKSS Oversight Committee (MKSSOC) with IfA serving as Principal Investigator (PI) overseeing implementation under RCUH. The proposed restructuring would rename the MKSSOC to the Maunakea Shared Services Committee with the DSP and IfA serving as Co-PI’s. Further details of this committee are provided below.

Functions

- Oversees all stewardship operations, including permitting and project review processes, cultural/natural resource stewardship programs and activities, and Hale Pōhaku operations.
- Works collaboratively with ED, IfA, ‘Imiloa, and the MKOs to ensure compliance with the master plan, CMP, AR, and regulatory requirements.
- In collaboration with the ED, facilitates and supports our advisory groups

- Establishes and maintains key partnerships with county, state, federal and international stakeholders
- Serves as Co-PI for RCUH Projects

Institute for Astronomy

General Responsibility

The IfA is a world leader in astronomy research and training.

This leadership is the result of the State's commitment to astronomy on Maunakea in conjunction with strong scientific partnerships with Federal agencies and each of the existing MKOs.

Cultivating these relationships is critical to maintaining a sustainable research enterprise for the State, and the IfA is the natural UH unit to lead these efforts in coordination with the ED.

Functions

As an organized research unit at UHM, IfA maintains its administrative and programmatic independence in this management structure and does not formally report to the ED. The dotted lines in the organizational map indicate that communication and coordination of the activities listed will be in collaboration with the CMS management team under the leadership of the ED.

The IfA Director, serving as the Scientific Cooperation Lead, is a key member of the CMS management team. The IfA would provide strategic leadership of the following functions and activities on behalf of the CMS and UH:

- Establishes and maintains a process for ongoing communication and consultation with the MKOs, especially as it pertains to policy, strategy, and applicable operational matters.
- Provides advocacy for astronomy interests statewide, and for UH and the MKOs in particular
- Develops and coordinates UH/MKO operational and programmatic collaborations
- Provides leadership in developing partner agreements for approval by the Executive Director, UHH Chancellor, UH President, or BOR as appropriate based on organizational, legal, or delegated authority (e.g., cooperative agreements, subleases, fiscal agreements, etc.)
- Establishes and maintains key partnerships with county, state and federal agencies, and international organizations.

‘Imiloa Astronomy Center

General Responsibility

‘Imiloa’s mission is to honor Maunakea by sharing Hawaiian culture and science to inspire exploration.

Their vision is to be a place of life-long learning where the power of Hawai‘i’s cultural traditions, its legacy of exploration, and the wonders of astronomy come together to provide inspiration and hope for generations.

‘Imiloa has developed the expertise to create unique culture-based educational experiences for residents and visitors alike that is cross-disciplinary, multi-sensory, and which respond to community interests and needs. As such, they are ideally positioned to develop and provide cultural and educational programming in support of CMS’s mission.

Functions

As an educational unit at UH Hilo, ‘Imiloa maintains its administrative and programmatic independence in this management structure and does not formally report to the ED. The dotted lines in the organizational map indicate that communication and coordination of the activities listed will be in collaboration with the CMS management team under the leadership of the ED.

The Director of ‘Imiloa, serving as the Cultural Education Lead, is a key member of the CMS management team and would provide strategic leadership of the following functions and activities on behalf of the CMS and UH:

- VIS operations - Given current resource constraints, ‘Imiloa will provide content/program development expertise to support the expansion of educational activities at the VIS and HP. They will also support staff training of VIS personnel. As resources allow, responsibility for VIS operations would gradually be assumed by ‘Imiloa.
- Develops and implements new, “high-touch” programs targeting resident and visitor groups using our HP and VIS facilities.
- Continues and expands support for CMS outreach through curriculum/program development that can be deployed across CMS functions.
- In partnership with the MKOs, coordinates and conducts educational outreach on behalf of astronomy and UH.
- Establishes and maintains key partnerships with county, state, federal and international stakeholders.

Maunakea Shared Services Committee (MKSSC)

General Responsibility

Formerly named the Maunakea Support Services Oversight Committee (MKSS-OC), the MKSSC retains its budget setting role for the expenditure of extramural funds the MKOs contribute to support HP and VIS operations and associated administrative functions. The MKSSC will also continue to provide input into operational policies and practices at HP and the VIS. However, since these specific functions (HP and VIS) operate under RCUH, UH (through its role as PI) continues to have an oversight role in ensuring that these operations comply with RCUH and UH policy. The PI role will be shared between the IfA Director (or designee) and the DSP.

In an effort to gain further efficiencies under this proposed restructuring, it is anticipated that administrative functions currently under MKSS would be extended to support Stewardship Program functions whose direct costs are currently covered through UH funds. Administrative services provided to support UH funded activities would be covered by UH through established chargeback procedures. This procedure is already in place with, for example, MKSS administrative services supporting our current Ranger operations and OMKM paying for those services based upon an established and agreed up allocation methodology. This same chargeback process would be followed as needed when VIS operations are eventually transitioned to 'Imiloa.

Next Steps

Given the University's economic and operational challenges as a result of the COVID-19 pandemic, current resource constraints will dictate the pace of implementation of the Plan. In addition, as is being required for all UH operations, we need to use the current environment as an opportunity to evaluate and improve our business systems and processes since work going forward is likely to be dramatically different.

The Plan serves as a framework or basic architecture of where we want to move organizationally, but it is clear that getting there will need to be done in small concrete steps. It is also clear that implementation will necessarily need to be adaptive as we learn what can and cannot be done and in what timeframe. We will also need to adapt as we identify collaboration opportunities and alternative ways to share resources. Nonetheless, it is important that we have a vision of where we want to move, and the Plan provides that direction.

In broad terms, moving the Plan forward will include the following near- and mid-term steps.

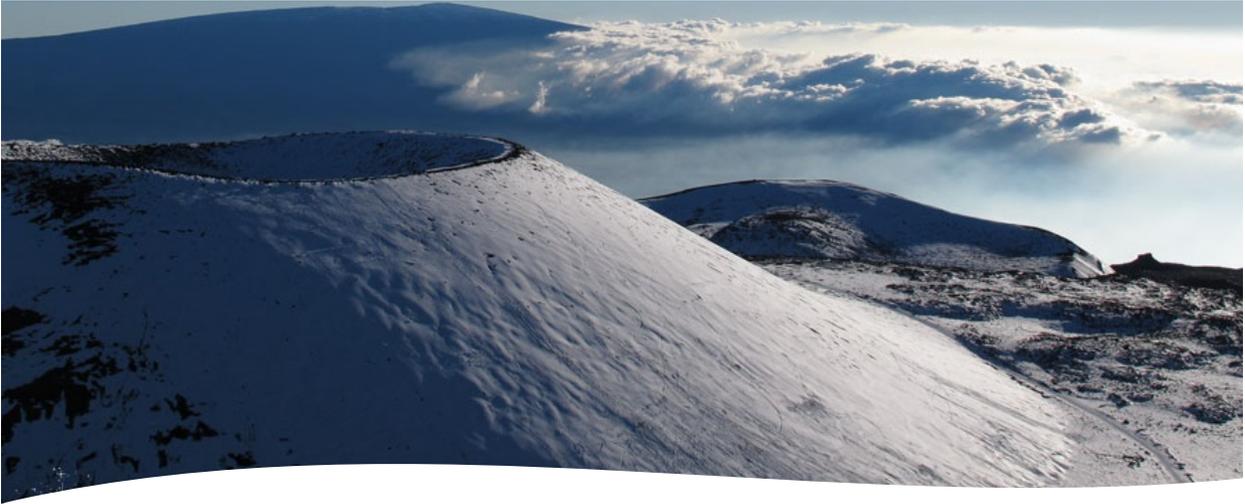
- Assess impacts of COVID 19 budgetary limitations, associated staffing restrictions, and personnel transitions and develop specific next steps based on these assessments.

- Delegation of RCUH/MKSS principal investigator authority to DSP.
- Develop a DSP position description.
- Include this new management structure in the update to the MP.
- Amend applicable MKMB By-laws and UH delegation policies as needed.
- Continue to communicate and clarify the purpose of this internal restructuring to stakeholders and the community.
- Continue to work with the Governor and State on the broader analysis of alternative governance models.

Future Amendments

Any substantive or significant changes or modifications to the Plan will be presented to the BOR before its implementation, consistent with Resolution 19-03, section 8.

Exhibit “B”



Center for Maunakea Stewardship: Internal Restructuring Plan for Management Operations of Maunakea Lands

This report was prepared in response to the University of ~~Hawai'i~~Hawai'i Board of Regent's Resolution 19-03, Section 8

Submitted to the Board of Regents on May 21, 2020

Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

*Submitted to the Board of Regents on May 21, 2020;
revised and resubmitted, August 20, 2020.*

Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

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Definitions

[AR – Hawai‘i Administrative Rules chapter 20-26, Public and Commercial Activities on Mauna Kea Lands](#)

BOR – UH Board of Regents

CMP – *Mauna Kea Comprehensive Management Plan* (2009)

CMS - Center for Maunakea Stewardship

DSP – Director of Stewardship Programs

DLNR – Department of Land and Natural Resources

EC – Environment Committee

[ED – Executive Director](#)

[HP – Hale Pōhaku](#)

IfA – Institute for Astronomy

‘Imiloa – ‘Imiloa Astronomy Center

JCMT – James Clerk Maxwell Telescope

KKM – Kahu Kū Mauna

“Maunakea Lands” or **“Mauna Kea Lands”** – as defined under [section 304A-1901](#), Hawai‘i Revised Statutes [section 304A-1901](#)

MKMB – Maunakea Management Board

MKO – Maunakea Observatories

MKSS – Maunakea Support Services

MP – *Mauna Kea Science Reserve Master Plan* (2000)

NELHA – Natural Energy Laboratory of Hawai‘i Authority

~~[OED – Office of the Executive Director](#)~~

OMKM – Office of Maunakea Management

NELHA – Natural Energy of Hawai‘i Authority

NSF – National Science Foundation

TIO – Thirty Meter Telescope International Observatory

UH or University – University of Hawai‘i

UHH – University of Hawai‘i at Hilo

UHM – University of Hawai‘i at Mānoa

UKIRT - United Kingdom Infra-Red Telescope

RCUH – Research Corporation of UH

VIS – Maunakea Visitor Information Station

Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

Background

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Center for Maunakea Stewardship:
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Center for Maunakea Stewardship:
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- ~~(1)~~ Lack of trust in decision-making

Center for Maunakea Stewardship:
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- ~~;(2)~~ UH's regulatory, stewardship, and advocacy roles create confusion and perceived conflicts-of-interest
- ~~;(3)~~ Given the current reporting lines of our management units, authority and responsibility are not always clear leading to concerns about transparency ~~;~~ ~~and (4)~~
~~These independent reporting lines create differences in priorities between management units.~~
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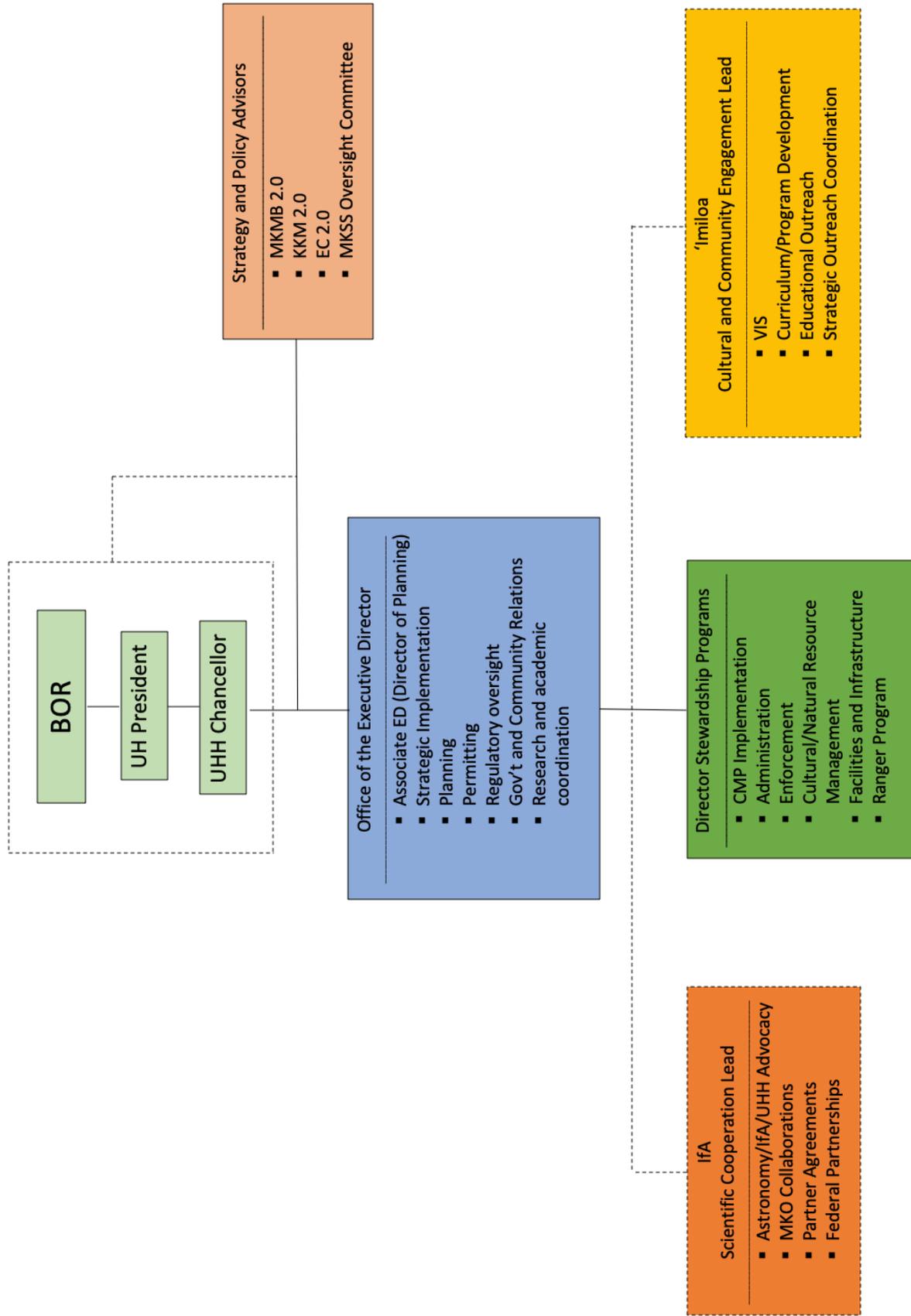
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- Organize UH functions around mission-critical activities
- Clarify UH's regulatory, stewardship, and advocacy roles by separating those functions in our organization
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Center for Maunakea Stewardship Organization and Description

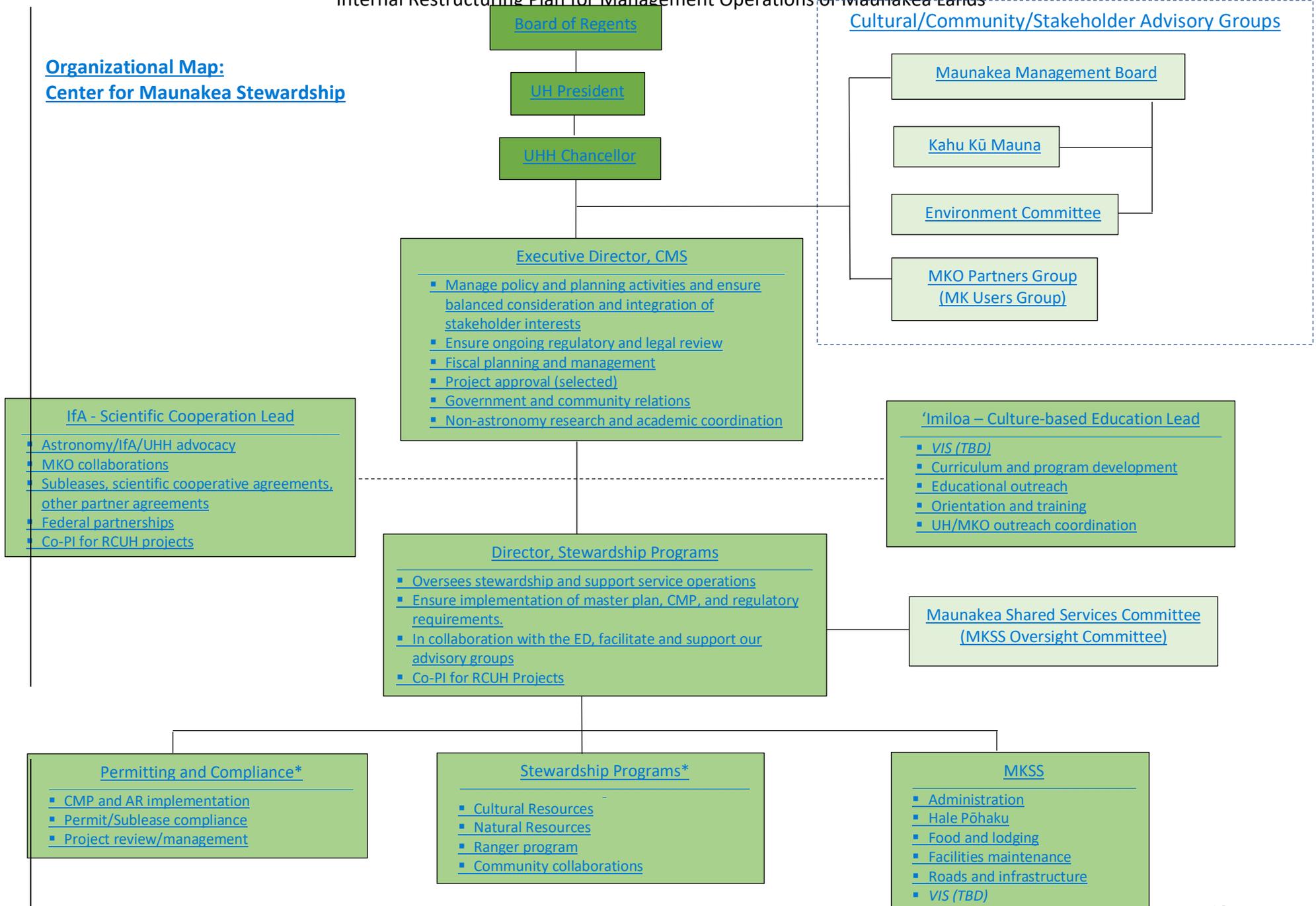
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Organization Chart: Center for Maunakea Stewardship



Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

Organizational Map:
Center for Maunakea Stewardship



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Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

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- ~~Reformulate how~~As vacancies arise, ensure MKMB, KKM, and ~~the EC are comprised to improve stakeholder representation, including: composition reflects changing community interests~~
 - ~~Elevating the~~ MKSS Oversight Committee
- ~~Integrating~~Establish MKO Partners Group
- Integrate advisory groups into strategic planning and policy discussions

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Functions

Our current advisory bodies include MKMB, KKM, and EC.

~~To this group, we will add the MKSS Oversight Committee. The Committee is a group of MKO representatives who approve the MKSS budget and advise MKSS on what have been typically operational matters. The MKOs determine membership on the Committee.~~

Center for Maunakea Stewardship:
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MKMB membership would remain at seven (7). The Executive Director would serve as an ex officio voting member on the MKMB. Ex officio non-voting members would include two representatives from the BOR with and the UHH Chancellor.

The MKMB would continue to review and recommend the approval of major projects and transactions. However, improvements to the project review process would be explored in collaboration with the MKMB to streamline review and decision-making that would allow board agendas and discussions to become more strategic in nature, and encourage more exchange with the community, especially for informational purposes.

The current role and structure KKM and the EC would remain unchanged with their input flowing up through MKMB into UH decision-making. However, like the MKMB, it is recommended that both KKM and the EC explore ways to further engage the community in discussions of strategic interest, especially for information exchange and dialogue.

This restructuring refreshes a formal role for the MKOs that, over the years, has lessened for reasons that are not clear. Existing operating agreements between the University and the MKOs established what has been referred to as the Maunakea Users Group led by the IfA Director. This structure was to serve as the primary platform for MKO input into astronomy, policy, and UH decision-making concerning Maunakea. This proposal desires to refresh that structure and formalize the relationship again with the establishment of the MKO Partners Group that would provide independent input into UH decision-making. In partnership with the MKOs, the IfA would lead a process to develop an agreed-upon communication and consultation process that would restore this advisory role of the MKOs.

As vacancies on the MKMB, KKM, and EC arise, we will seek to diversify committee membership and representation to ensure we are reflecting the changing interests of the community. Further, committee charters and by-laws will be reviewed and amended as needed to clarify roles and responsibilities, reflecting the strategic nature of the input we seek from these bodies.

Office of the Executive Director

General Responsibility

~~OED directs~~The ED oversees the overall integration, coordination, and strategic implementation of the MP, CMP, and the administrative rules entitled, *PublicAR*. A major responsibility of the ED is to manage planning and *Commercial Activities on Mauna Kea Lands (HRS chapter 20-26)* decision-making processes to ensure that the broad range of issues, interests, and concerns expressed by the community and stakeholders are being heard and that a balancing of interests

Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

is attempted. These interests include but are not limited to cultural, environmental, social, economic, legal, and regulatory matters.

~~OED~~The ED provides leadership in building the internal and external partnerships required to engage and weave a cohesive, collaborative management network with stakeholders and the community.

Functions

- Manages policy and strategyplanning activities and ensure balanced consideration and integration of stakeholder interests
- Provides oversight of the implementation for all plans, strategy, and operational activities
 - —Planning
 - —Permitting
- Ensures ongoing regulatory and compliance oversightlegal review
- Manages revenues and expenses involved in University operations on Maunakea
- Works with other UH offices to secure financial and legal support
- Project approval (selected)
- Government and community relations
 - Fosters and coordinates access to Maunakea for non-astronomy research and academic program coordination
- As resources allow, OED would be staffed in programming across the future UH System and with an associate executive director and appropriate administrative support. In the interim, the professional and technical leadership sought in an associate executive director, and the required administrative support needed to staff this office, will be explored through collaborative partnerships with other UH units.community partners

Director of Stewardship Programs

General Responsibility

The DSP is responsible for the implementation of the programmatic and operational functions required to fulfillfulfilling UH's Maunakea stewardship responsibilities. These responsibilities cover ensuring compliance with approved plans and policy and regulatory requirements, implementation of UH strategy, managing the permitting and programmatic activities of the unit, and in collaboration with the ED support engagement with the MKMB, KKM, and EC.

This unit would be headed by a newly created DSP who would be responsible for developing and implementing the restructuring and integration of current OMKM and MKSS functions.

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The DSP is a direct report to the ~~executive director~~ED and is a key member of the CMS management team. [The existing OMKM Director position description would be redescribed to create the DSP.](#)

[As depicted in the organizational chart, MKSS functions would remain organized as they currently are with the exception that this unit serves as the would now report to the DSP. The clustering of the permitting and stewardship functions depicted under the DSP is for discussion purposes only. A primary task of the DSP will be to finalize the organization of this unit in consultation with staff and the ED especially given the need to garner improved efficiencies in the current fiscal environment we are operating within.](#)

[Key to the operation of this unit is the MKOs who fund critical stewardship activities provided by MKSS. Currently, the primary vehicle for decision-making on budget and certain operational and implementation arm of the policy, strategy, programmatic, and stakeholder/community engagement responsibilities of the CMS matters occurs through the MKSS Oversight Committee \(MKSSOC\) with IfA serving as Principal Investigator \(PI\) overseeing implementation under RCUH. The proposed restructuring would rename the MKSSOC to the Maunakea Shared Services Committee with the DSP and IfA serving as Co-PI's. Further details of this committee are provided below.](#)

Functions

- ~~▪ CMP Implementation~~
- ~~▪ Administrative and fiscal management services to support the CMS.~~
- ~~▪ Enforcement of plans, permits, leases, administrative rules, and other relevant UH policies.~~
- ~~▪ Development and implementation of Oversees all stewardship operations, including permitting and project review processes, cultural/natural resource management stewardship programs including current community outreach and potential future resource management collaborations with community stakeholders.~~
- [and activities, and Hale Pōhaku operations, facility maintenance, and infrastructure maintenance.](#)
- ~~▪ Ranger program~~
- ~~▪ VIS operations—Given current resource constraints, 'Imiloa will provide content/program development expertise to support the expansion of educational activities at the VIS and Hale Pōhaku. They will also support staff training of VIS personnel. As resources permit, responsibility for VIS operations would gradually be assumed by 'Imiloa.~~

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- [Works collaboratively with ED, IfA, 'Imiloa, and the MKOs to ensure compliance with the master plan, CMP, AR, and regulatory requirements.](#)
- [In collaboration with the ED, facilitates and supports our advisory groups](#)
- [Establishes and maintains key partnerships with county, state, federal and international stakeholders](#)
- [Serves as Co-PI for RCUH Projects](#)

Institute for Astronomy

General Responsibility

The IfA is a world leader in astronomy research and training.

This leadership is the result of the State's commitment to astronomy on Maunakea in conjunction with strong scientific partnerships with Federal agencies and each of the existing MKOs.

Cultivating these relationships is critical to maintaining a sustainable research enterprise for the State, and the IfA is the natural UH unit to lead these efforts in coordination with the ~~OEDED~~.

Functions

As an organized research unit at UHM, IfA maintains its administrative and programmatic independence in this management structure and does not formally report to the ~~CMS-ED~~. [The dotted lines in the organizational map indicate that communication and coordination of the activities listed will be in collaboration with the CMS management team under the leadership of the ED.](#)

[The IfA Director, serving](#) as the Scientific Cooperation Lead, [is a key member of the CMS management team](#). The IfA would provide strategic leadership of the following functions and activities on behalf of the CMS and UH:

- [Establishes and maintains a process for ongoing communication and consultation with the MKOs, especially as it pertains to policy, strategy, and applicable operational matters.](#)
- [Provides](#) advocacy for astronomy interests statewide, and for UH and the MKOs in particular
- [Develops and coordinates](#) UH/MKO operational and programmatic collaborations
- [Provides leadership in developing](#) partner agreements [for approval by the Executive Director, UHH Chancellor, UH President, or BOR as appropriate based on organizational, legal, or delegated authority](#) (e.g., cooperative agreements, subleases, fiscal agreements, etc.)

Center for Maunakea Stewardship:
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- Establishes and maintains key partnerships with county, state and federal agencies, and international organizations.

‘Imiloa Astronomy Center

General Responsibility

‘Imiloa’s mission is to honor Maunakea by sharing Hawaiian culture and science to inspire exploration.

Their vision is to be a place of life-long learning where the power of Hawai‘i’sHawai‘i’s cultural traditions, its legacy of exploration, and the wonders of astronomy come together to provide inspiration and hope for generations.

‘Imiloa has developed the expertise to create unique culture-based educational experiences for residents and visitors alike that is cross-disciplinary, multi-sensory, and which respond to community interests and needs. As such, they are ideally positioned to develop and provide cultural and educational programming in support of CMS’s mission.

Functions

As an educational unit at UH Hilo, ‘Imiloa maintains its administrative and programmatic independence in this management structure and does not formally report to the CMS-ED. The dotted lines in the organizational map indicate that communication and coordination of the activities listed will be in collaboration with the CMS management team under the leadership of the ED.

The Director of ‘Imiloa, serving as the Cultural and Community Engagement Education Lead, ‘Imiloa is a key member of the CMS management team and would provide strategic leadership of the following functions and activities on behalf of the CMS and UH:

- VIS operations - Given current resource constraints, ‘Imiloa will provide content/program development expertise to support the expansion of educational activities at the VIS and Hale PōhakuHP. They will also support staff training of VIS personnel. As resources allow, responsibility for VIS operations would gradually be assumed by ‘Imiloa.
- DevelopDevelops and implementimplements new, “high-touch” programs targeting resident and visitor groups using our Hale PōhakuHP and VIS facilities.
- ContinueContinues and expandexpands support for CMS outreach through curriculum/program development that can be deployed across CMS functions.

Center for Maunakea Stewardship:
Internal Restructuring Plan for Management Operations of Maunakea Lands

- In partnership with the MKOs, ~~coordinate~~coordinates and ~~conduct~~conducts educational outreach on behalf of astronomy and UH.
- Establishes and maintains key partnerships with county, state, federal and international stakeholders.

Maunakea Shared Services Committee (MKSSC)

General Responsibility

Formerly named the Maunakea Support Services Oversight Committee (MKSS-OC), the MKSSC retains its budget setting role for the expenditure of extramural funds the MKOs contribute to support HP and VIS operations and associated administrative functions. The MKSSC will also continue to provide input into operational policies and practices at HP and the VIS. However, since these specific functions (HP and VIS) operate under RCUH, UH (through its role as PI) continues to have an oversight role in ensuring that these operations comply with RCUH and UH policy. The PI role will be shared between the IfA Director (or designee) and the DSP.

In an effort to gain further efficiencies under this proposed restructuring, it is anticipated that administrative functions currently under MKSS would be extended to support Stewardship Program functions whose direct costs are currently covered through UH funds. Administrative services provided to support UH funded activities would be covered by UH through established chargeback procedures. This procedure is already in place with, for example, MKSS administrative services supporting our current Ranger operations and OMKM paying for those services based upon an established and agreed up allocation methodology. This same chargeback process would be followed as needed when VIS operations are eventually transitioned to 'Imiloa.

Next Steps

WhileGiven the University's economic and operational challenges as a result of the COVID-19 pandemic, current resource constraints will dictate the pace of implementation of the Plan. In addition, as is being required for all UH operations, we need to use the current environment as an opportunity to evaluate and improve our business systems and processes since work going forward is likely to be dramatically different.

The Plan serves as a framework or basic architecture of where we want to move organizationally, but it is clear that getting there will need to be done in small concrete steps. It is also clear that implementation will necessarily need to be adaptive as we learn what can and cannot be done and in what timeframe. We will also need to adapt as we identify collaboration

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opportunities and alternative ways to share resources. Nonetheless, it is important that we have a vision of where we want to move, and the Plan provides that direction.

In broad terms, moving ~~this~~the Plan forward will include the following near- and mid-term steps.

- Assess impacts of COVID 19 budgetary ~~and human resource restrictions~~limitations, associated staffing restrictions, and personnel transitions and develop specific next steps based on these assessments.
- Delegation of RCUH/MKSS principal investigator authority to ~~ED~~DSP.
- Develop a DSP position description.
- Include this new management structure in the update to the MP.
- Amend applicable MKMB By-laws and UH delegation policies as needed.
- Continue to communicate and clarify the purpose of this internal restructuring to stakeholders and the community.
- Continue to work with the Governor and State on the broader analysis of alternative governance models.

Future Amendments

Any substantive or significant changes or modifications to ~~this~~the Plan will be presented to the ~~Board of Regents~~BOR before its implementation, consistent with Resolution 19-03, section 8.

Center for Maunakea Stewardship: Internal Restructuring Plan for Management Operations of Maunakea Lands

*Prepared in response to the
University of Hawai'i Board
of Regent's Resolution 19-
03, Section 8*



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HILO

To Be Reviewed

- ❑ Consultation process
- ❑ Purpose and objectives of the restructuring
- ❑ What has changed since May 16, 2020?
- ❑ How does this restructuring align with our objectives?
- ❑ Final Comments and Questions

Consultation

Should not be interpreted as agreement or concurrence with all aspects of this proposal by the groups, organizations, or persons consulted.

- Both informal and formal
- Individual contacts and group meetings
- Iterative and cumulative
- Nov 9, 2019 – August 10, 2020
- 128 individual contacts and group meetings
 - MKMB – 15
 - KKM – 9
 - MKOs - 28
- Testimony submitted during six (6) rule-making hearings and multiple BOR meetings also considered as input

Purpose

Issues

- Lack of trust in UH decision-making
- UH's regulatory, stewardship, and advocacy roles create confusion and perceived conflicts-of-interest
- Given the current reporting lines of our management units, authority and responsibility are not always clear leading to concerns about transparency
- These independent reporting lines create differences in priorities between management units

Objectives

- Improve lines of management accountability and financial transparency
- Organize UH functions around mission-critical activities
- Clarify UH's regulatory, stewardship, and advocacy roles by separating those functions in our organization
- Leverage and optimize existing networks and partnerships
- Broaden, diversify, and elevate stakeholder input into decision-making
- Maintain governance continuity and minimize disruption as much as possible

Maunakea Management

Current State

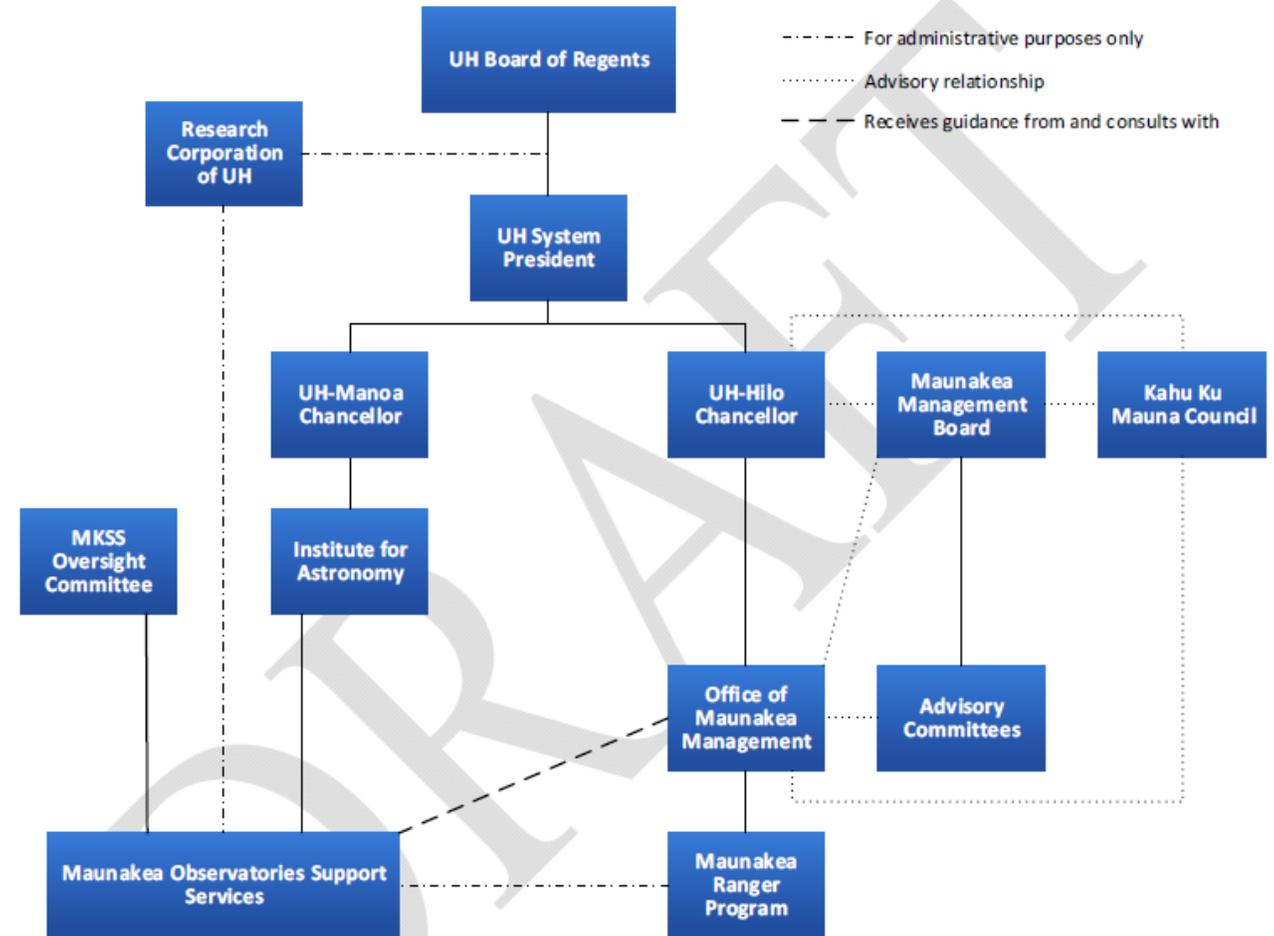
Committee on
Independent Audit
December 2018

III. Observations and Analysis

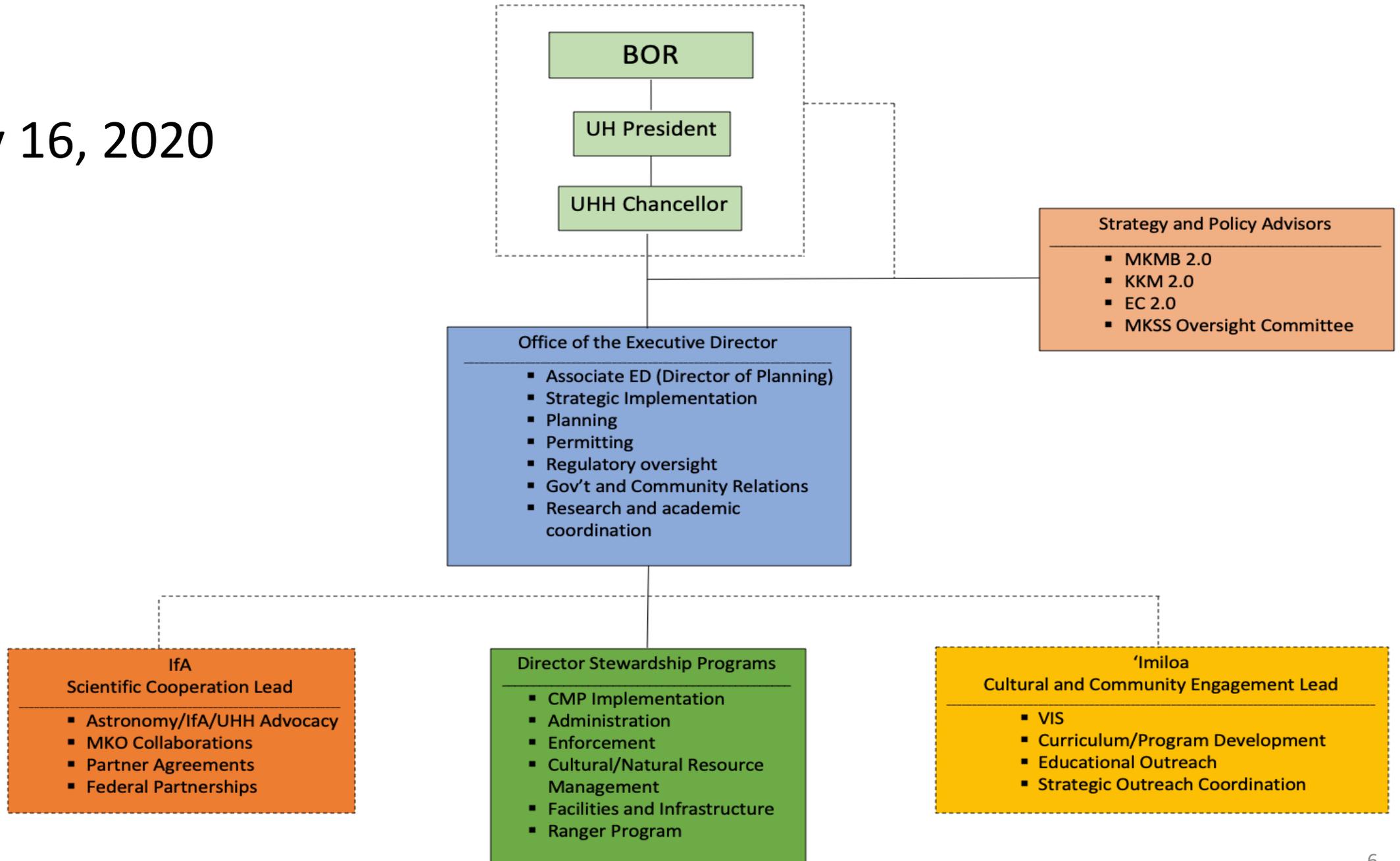
A. Overview

1. Entities Governing Maunakea

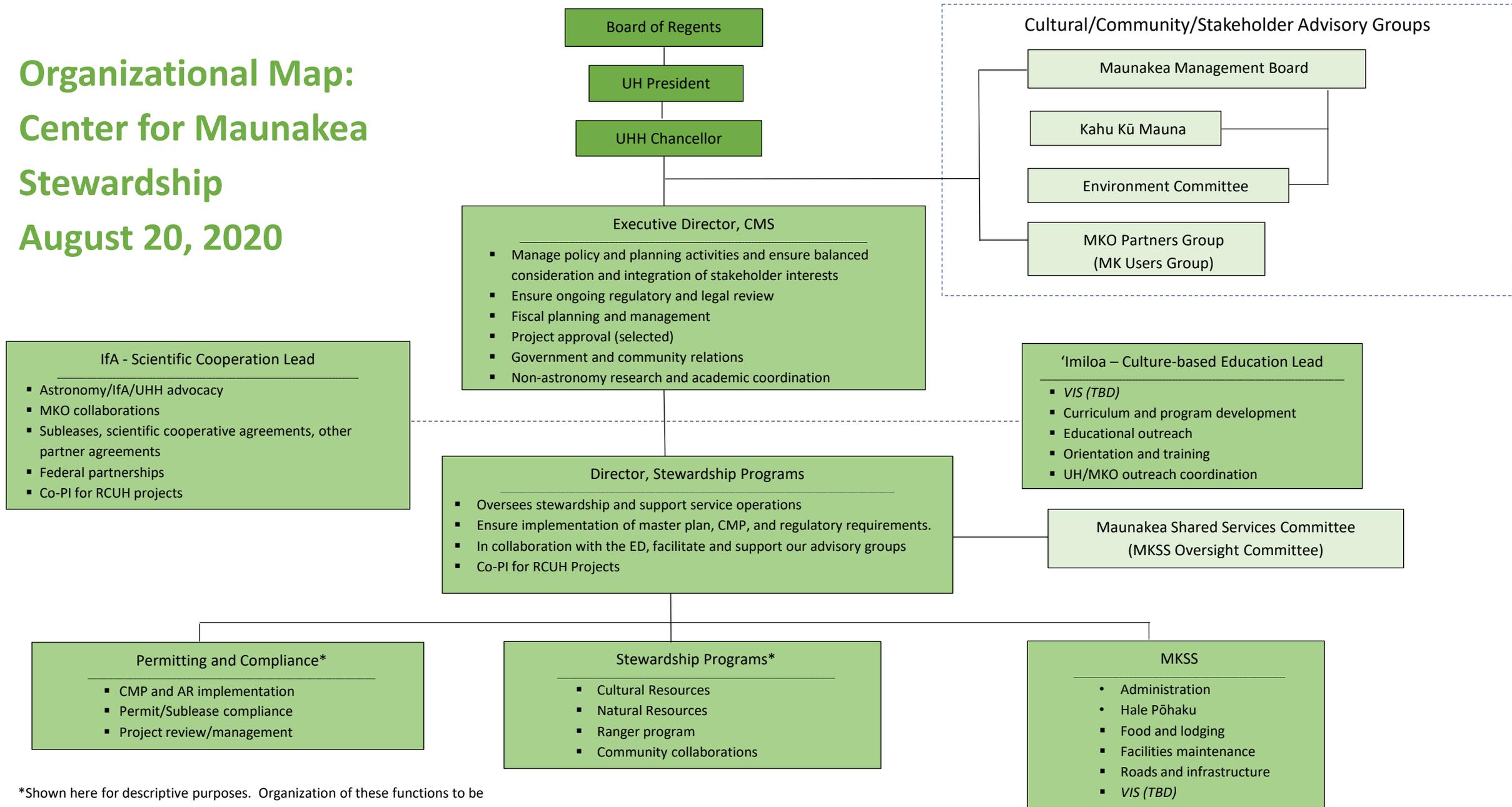
An overall organizational chart of the entities related to the governance and management of Maunakea is as follows:



May 16, 2020



Organizational Map: Center for Maunakea Stewardship August 20, 2020



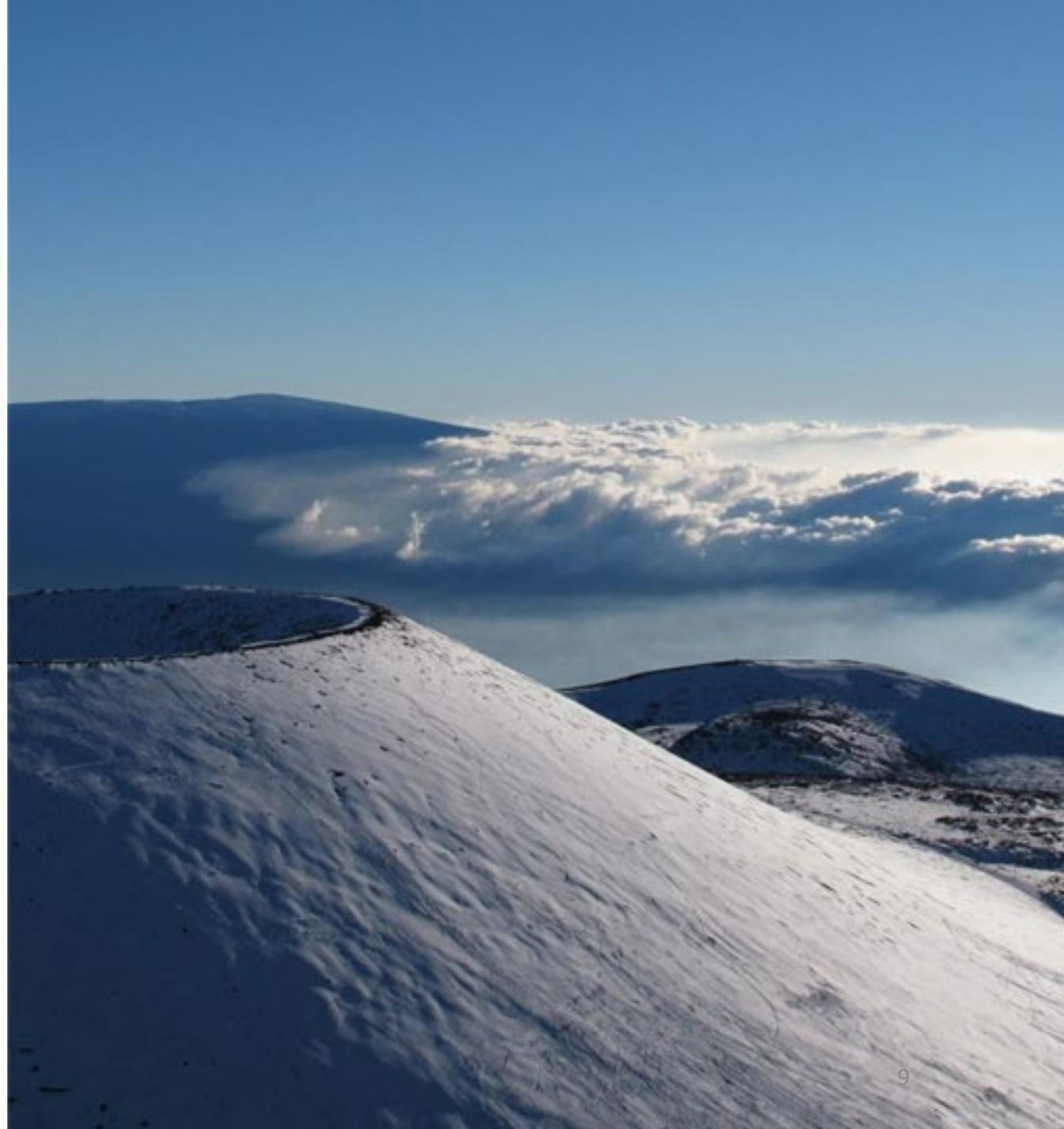
*Shown here for descriptive purposes. Organization of these functions to be finalized by Director of Stewardship Programs. See narrative.

Alignment with Objectives

- Improves accountability and transparency by centralizing coordination and responsibility for decision-making with UHH serving as home-base
- Aligns organization around mission-critical activities, clarifies and separates UH's multiple stewardship roles, and improves setting priorities for all:
 - Stewardship and MKSS roles remain separate but under a unified leadership (DSP)
 - IfA and 'Imiloa perform critical roles tied to our stewardship but which are within their respective missions
 - In particular, separates advocacy for astronomy from our regulatory role
 - UH PI role for MKSS is made explicit
- Appropriately elevates the placement and role of our advisory bodies in the organization

Final Comment Questions

Stewardship is an ethic that embodies the responsible planning and management of resources, especially the careful and responsible management of something entrusted to one's care.





August 14, 2020

MEMORANDUM

TO: Board of Regents
University of Hawai'i

FROM: Benjamin Kudo
Chair, Board of Regents

SUBJECT: Revised Resolution 20-03 Regarding COVID-19 Impacts

SPECIFIC ACTION REQUESTED:

It is respectfully requested that the Board of Regents (“Board”) consider and approve the *revised* Board Resolution 20-03, Proclaiming an Emergency and Directing Action by the University of Hawai'i (“University”) Administration as pertains to the impacts of the COVID-19 pandemic.

BACKGROUND:

On July 16, 2020, the Board considered the first iteration of Board Resolution 20-03 and received numerous written testimonies and heard verbal testimony from various stakeholders. The Board and University Administration subsequently engaged in lengthy discussion on the fiscal and operational challenges and uncertainties facing universities across the country, as well as our University.

As a result of the testimony, discussions, and other feedback, the resolution was revised (see attached) for your review and consideration.

ACTION RECOMMENDED:

It is respectfully requested that you approve the attached revised Resolution 20-03.

Attachments:
Board of Regents Resolution 20-03

Proclaiming an Emergency and Directing Action by the University of Hawai‘i Administration

WHEREAS, the recent onset of the COVID-19 (“COVID”) pandemic has engendered major and significant adverse challenges to institutions of higher education in the United States, and has correspondingly generated severe negative effects and extraordinary uncertainty upon the economy of the nation and Hawai‘i;

WHEREAS, the Administration has and continues to develop, research, monitor, and adopt safety and health protocols to protect faculty, students, staff, and visitors from the COVID contagion;

WHEREAS, in light of the foregoing implementation of safety and health protocols, the University of Hawai‘i system (“University”) had to abruptly shift to an online learning and a predominantly work-from-home modality since March 2020;

WHEREAS, the impact to the economy of the State of Hawai‘i has been significant and will result in a steep reduction of general fund support for the continued operation of the University, which may be compounded by an overall decline in student enrollment and associated tuition and fee revenues;

WHEREAS, the duration of the foregoing adverse financial impacts to the University, its faculty, students, and staff is anticipated to be for at least several years or longer, and will have direct impact on all aspects of continuing University operations including but not limited to its academic programs; course offerings; repair and maintenance of facilities; and utilization of residence halls, auxiliaries, classrooms, and laboratories;

WHEREAS, the University must play a vital role in assisting the State of Hawai‘i in pivoting to recover from the adversities caused by the pandemic through growing university research, education, and service focused on community needs, including workforce and economic development in sectors necessary for the economic and social recovery of our State;

WHEREAS, in light of the unknown duration and depth of the pandemic’s impact, the Board of Regents (“Board”) urgently desires that the University Administration expedite the development of a short-term plan to deal with the immediate financial challenges facing the University beginning this fall, and a long-term University plan to incorporate a future vision of what the University will be, and must do to pursue its mission through a long-term financial crisis, and to help the State recover and serve Hawai‘i for a decade and beyond;

WHEREAS, the University Administration, faculty, staff, and student groups have worked diligently, cooperatively, and respectfully in preparing for and implementing changes to deal with the present and future anticipated effects of the pandemic;

WHEREAS, the Administration has undertaken systemwide efforts to unite the University community in protecting and in advancing the best interests of the University system in the face of the pandemic;

WHEREAS, due to the exigency of the current financial shortfall, the Board desires that the Administration implement management measures, in a timely manner, in order to mitigate against the adversities presented by the COVID pandemic;

WHEREAS, in light of such adverse impacts, the Board declares that a state of emergency exists for the University, and recognizes that time is of the essence and that immediate strategic decisions and actions are necessary to maintain the continued viability of the University as an ongoing concern;

WHEREAS, the Board acknowledges that the emergency response of the University to adopt online academic services last semester is a tribute to the resilience, intellectual capacity, public service, and dedication of our faculty and staff; and

WHEREAS, the Board, once again, calls upon the University community of students, faculty, staff, and stakeholders to come together and to work with all involved in keeping and maintaining the enduring values and continued public service of the University to Hawai‘i and its citizens.

NOW, THEREFORE, BE IT RESOLVED that the Administration be directed to take expeditious but measured action in the best interest of and for the welfare of the University community, as set forth below:

1. Administration shall work with faculty, students, and staff to seek the broadest possible consensus for the greater good in order to maintain the integrity and continued functioning of the University. The Administration is authorized to provide budgetary restrictions and targets to all units, to utilize whatever available means it has to reduce the operating costs and expenses of the University, including but not limited to, operating expenses, purchases, and personnel costs, in accordance with applicable University policies and procedures, including RP 9.203.
2. Correspondingly, the Administration is encouraged to invest in and accelerate the development of revenue-generating activities and facilities to offset some of the anticipated reduction in current funding sources.
3. The University of Hawai‘i is established as a higher education system, incorporating multiple campuses and levels of educational programs, degrees, and services. Therefore, the Administration’s systemwide authority is affirmed for the purpose of managing units and campuses, revenues, reserves, programs, facilities, and vacant personnel positions for reallocation of those assets for the benefit of the University as a whole with due regard for the interests, rights, privileges, and agreements belonging to those affected.

4. In addition, it is acknowledged, that the Administration’s purview extends to the necessary and proper use, deployment and freezing of operating funds, on the hiring of new employees, discretionary pay increases, out-of-state travel, major equipment purchases and new contracts, and any other activity or expense subject to University policies and contractual obligations.
5. In concert with the short-term and long-term plans, the Administration should consider, as appropriate, the temporary or permanent closure, consolidation, reorganization, restructuring and/or merger of physical plant facilities, academic programs, departments, colleges, campuses, and education centers to achieve additional financial and administrative efficiencies, academic effectiveness, focus on the highest needs of the state, and continued viability and health of the public higher education enterprise in Hawai‘i.
6. The Administration will prepare an immediate short-term plan for fiscal year (FY) 2020-2021 to be presented to the Board at the earliest practicable time prior to October 1, 2020, which will outline the measures taken beginning in the fall semester, and how the financial shortfall for FY 2020-2021 will be addressed. The short-term plan shall be subject to the review and approval by the Board as to its proposed strategy and approach. It is expected that reserves shall not be expended in a manner that results in a balance below the minimum (5%) level.
7. The Administration will also prepare a long-term plan, which will incorporate a future vision of what the University must do to help the state recover and serve Hawai‘i for the next decade and beyond. The long-term plan will re-envision how the University will achieve its diverse statewide mission while achieving greater focus, effectiveness, and efficiencies in operations and in the use of its facilities. The plan shall contain the priorities of the University along with the criteria used to identify such priorities, and a public outreach plan to obtain input from the broader community and stakeholders.
8. Recognizing the exigency of the crisis and the need for significant change to achieve structural (not one-time) savings, notwithstanding any Regent Policies or Executive Policies to the contrary, the Administration is encouraged to utilize highly expedited processes for developing proposals for change and consultation on any measures proposed.
9. Any management actions taken by Administration to mitigate the impacts of the pandemic shall comply with Regents Policy RP 9.203.

Adopted by the Board of Regents
University of Hawai‘i
_____, 2020



Fiscal and Financial Parameters for Fiscal Year 2020-2021

August 20, 2020

Board of Regents



Overview

- This presentation sets the framework for the Fiscal Year 2020-2021 (FY21) expenditure plan that will be presented to the B&F Committee of the Board on September 3rd.
- FY21 expenditure plans could differ from these estimates, as assumptive factors clarify and as provided by additional management or Board directives.
- These parameters represent Administration's best estimates given the current fiscal situation of the State and the University.
- Progress follows the budget planning schedule presented at B&F Committee on August 6th and will be deliberative and expedient.



Assumptions

- General Fund restriction of 16% imposed by Governor/B&F from Act 9, SLH 2020 (budget bill).
- Tuition and Fees (TFSF) revenues decreased by minimum -5% from FY20. Individual campuses may have different assumptions that show a larger decline.
- This presentation only considers the General Fund and TFSF, the two largest components of UH's operations.
- Additional detail, including all other funds under UH purview, will be presented as part of the expenditure plan at the September 3rd B&F Committee meeting.



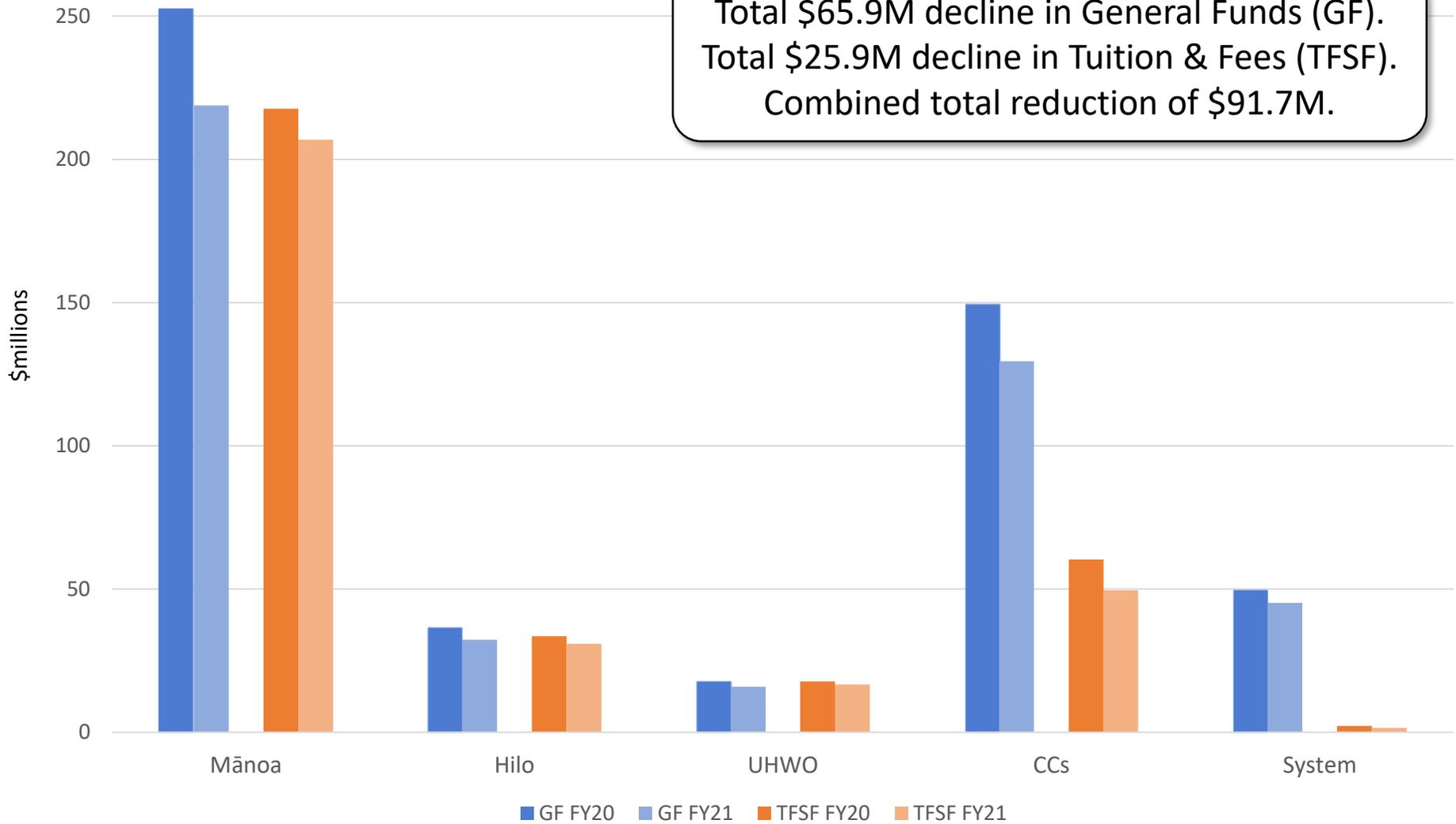
Considerations

- There was a 12% restriction on discretionary General Fund appropriations in FY20. This translated to roughly 2% of the entire University appropriation, varying by campus.
- Actual TFSF Net Income for FY20 was better than forecasted to start that fiscal year. Revenues were 1% below projections but expenditures were 15% below projections.
- Sentiment on outlook has improved slightly from two weeks ago but remains challenging.
- Use of reserves nearly certain for FY21. But, use will have to be managed. Previous analysis has illustrated that some campuses are more at risk of depleting TFSF fund balances sooner.



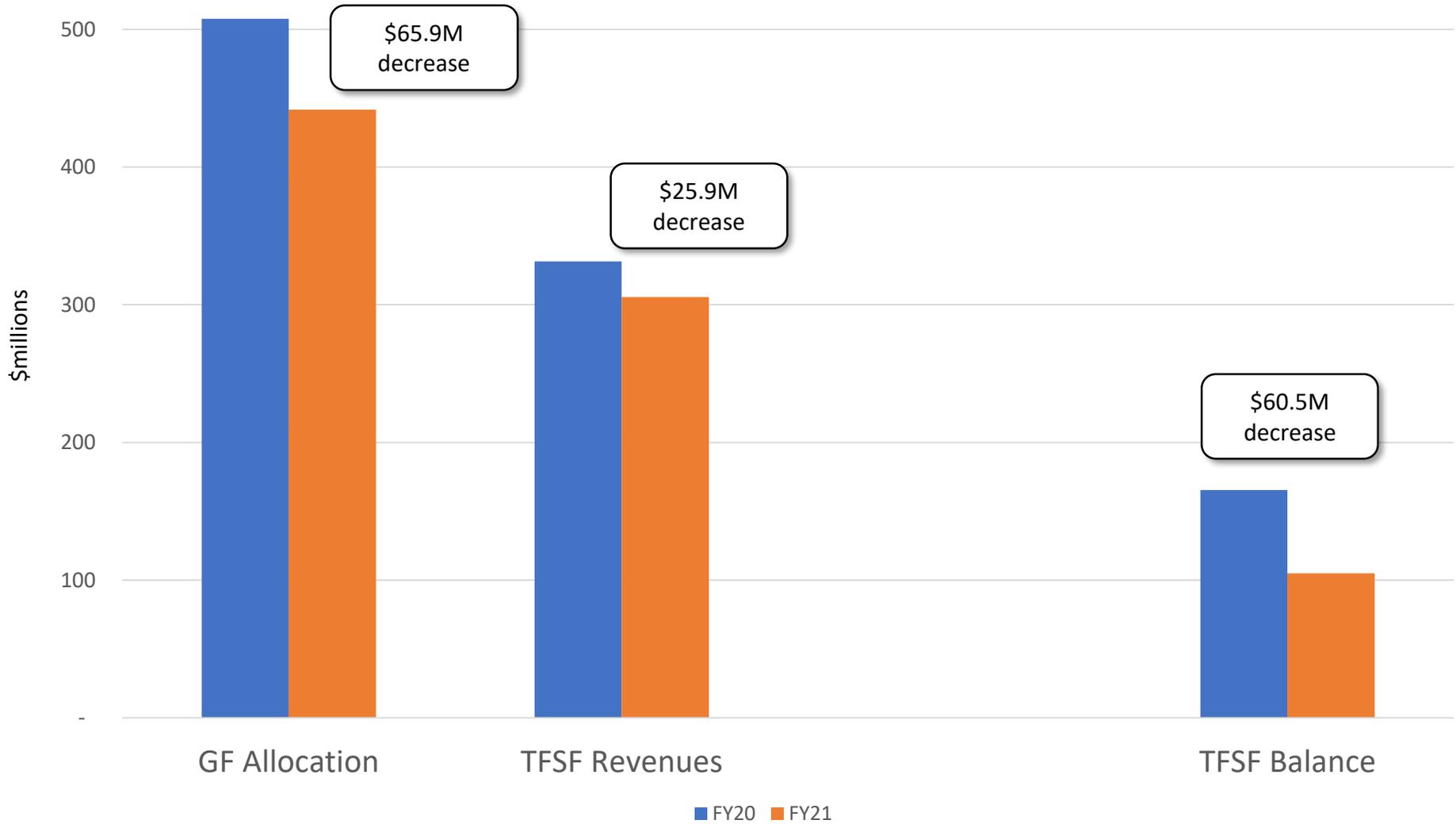
Revenue Loss (FY20->FY21)

Total \$65.9M decline in General Funds (GF).
Total \$25.9M decline in Tuition & Fees (TFSF).
Combined total reduction of \$91.7M.



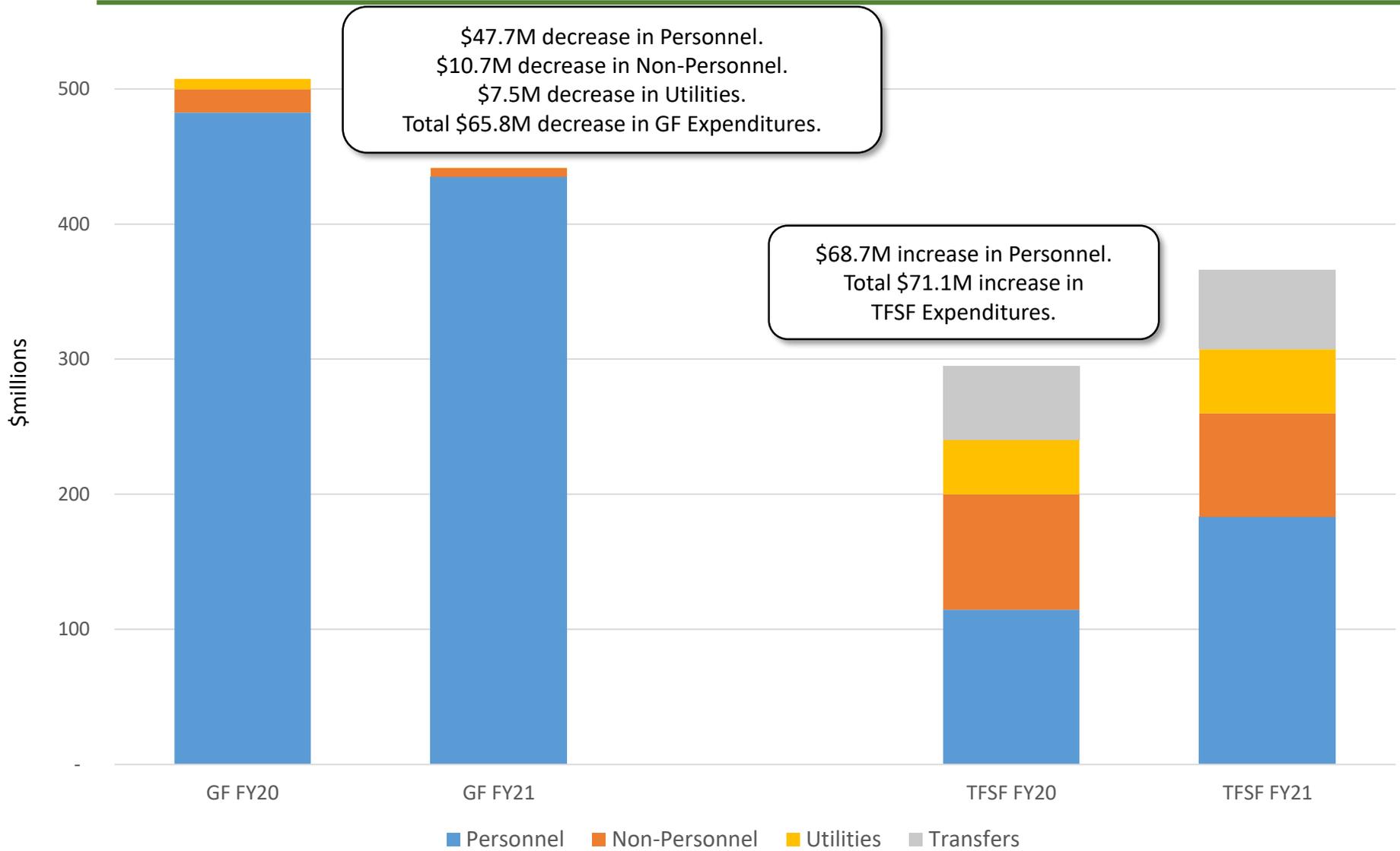


Aggregated UH





Aggregated UH





Aggregated UH

in \$millions

Revenues	FY20 Actual	FY21 Projected	FY21-FY20
General Fund Allocation	507.6	441.7	(65.9)
Tuition & Fees Revenues	331.4	305.5	(25.9)
Total GF+TFSF	839.0	747.2	(91.7)

GF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	482.6	434.9	(47.7)
Non-Personnel	17.3	6.6	(10.7)
Utilities	7.7	0.2	(7.5)
Total GF Expenditures	507.5	441.7	(65.8)

TFSF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	114.5	183.1	68.7
Non-Personnel	85.3	76.7	(8.6)
Utilities	40.5	47.4	6.9
Transfers	54.6	58.8	4.2
Total TFSF Exp+Transfers	295.0	366.0	71.1

TFSF Ending Balance	165.5	104.9	(60.5)
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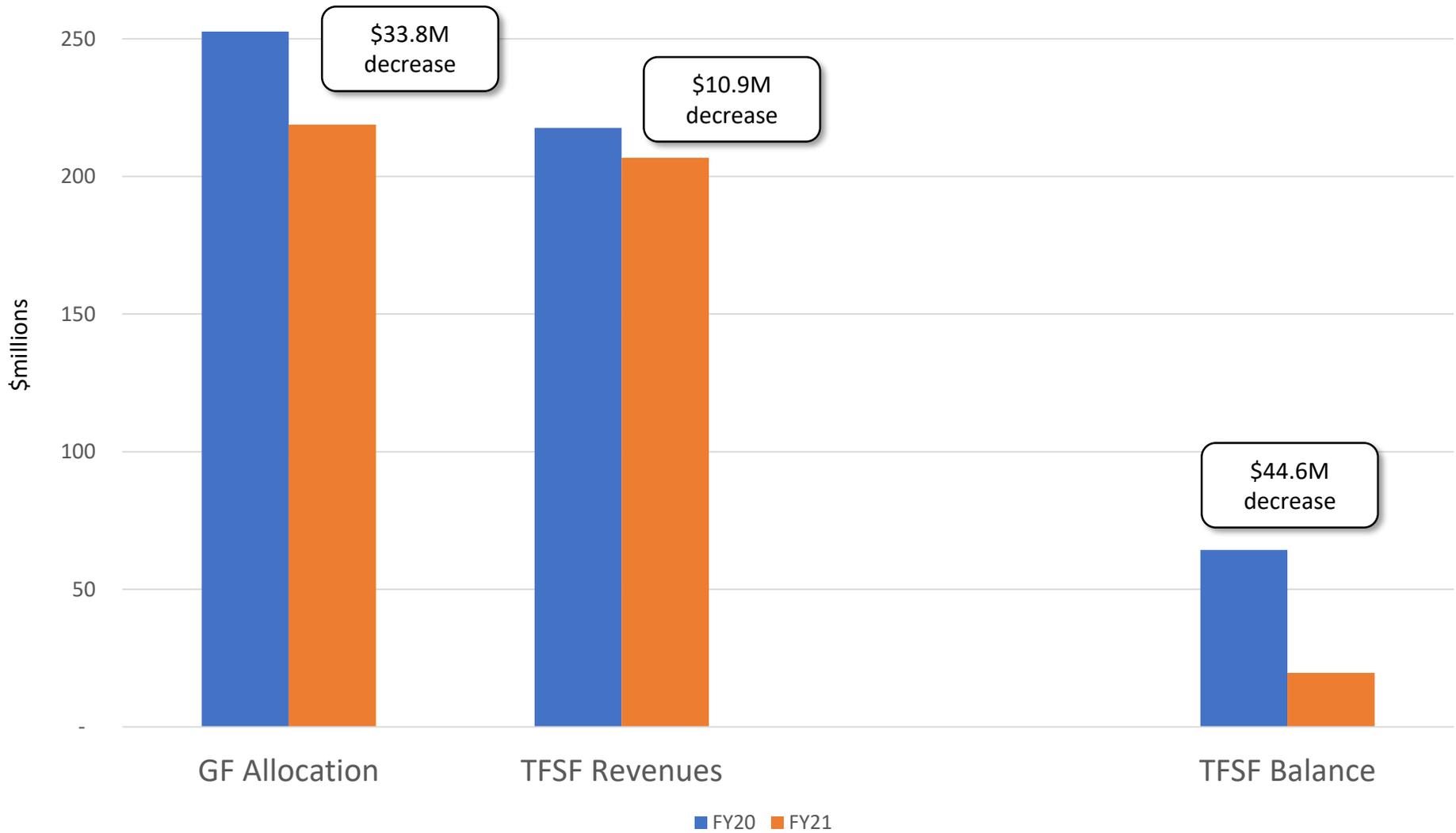
Aggregated UH

- Projected General Funds \$65.9 million less than FY20 Actual. Tuition and Fees \$25.9 million less than FY20. Total \$91.7 million revenue decline.
- General Fund Personnel expenditures to be reduced by \$47.7 million. Non-Personnel reduced by \$10.7 million. Utilities reduced by \$7.5 million. Total GF expenditures reduced by \$65.8 million.
- TFSF Expenditures Personnel expenditures increasing by \$68.7 million. Non-Personnel reduced by \$8.6 million. Net increase of \$71.1 million.
- Expected decline in TFSF reserves of \$60.5 million. Aggregate ending balance is \$104.9 million, still above the 5% target (\$41.2 million).



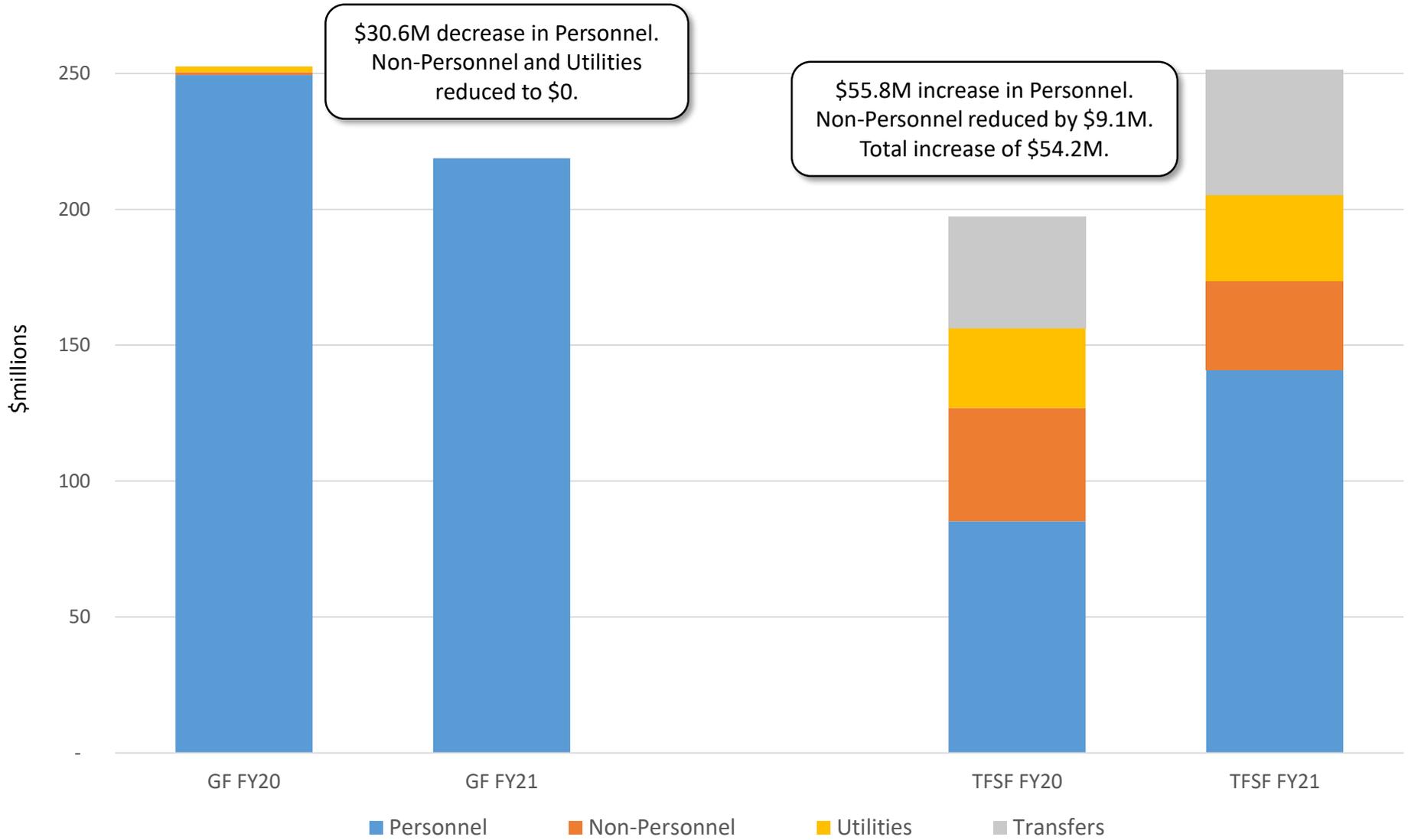
Mānoa

Revenues and TFSF Ending Balance





Mānoa





Mānoa

in \$millions

Revenues	FY20 Actual	FY21 Projected	FY21-FY20
General Fund Allocation	252.6	218.8	(33.8)
Tuition & Fees Revenues	217.7	206.8	(10.9)
Total GF+TFSF	470.3	425.6	(44.6)

GF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	249.4	218.8	(30.6)
Non-Personnel	1.0	-	(1.0)
Utilities	2.1	-	(2.1)
Total GF Expenditures	252.6	218.8	(33.8)

TFSF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	85.2	140.9	55.8
Non-Personnel	41.8	32.7	(9.1)
Utilities	29.3	31.7	2.4
Transfers	41.1	46.1	5.0
Total TFSF Exp+Transfers	197.3	251.4	54.2

TFSF Ending Balance	64.3	19.7	(44.6)
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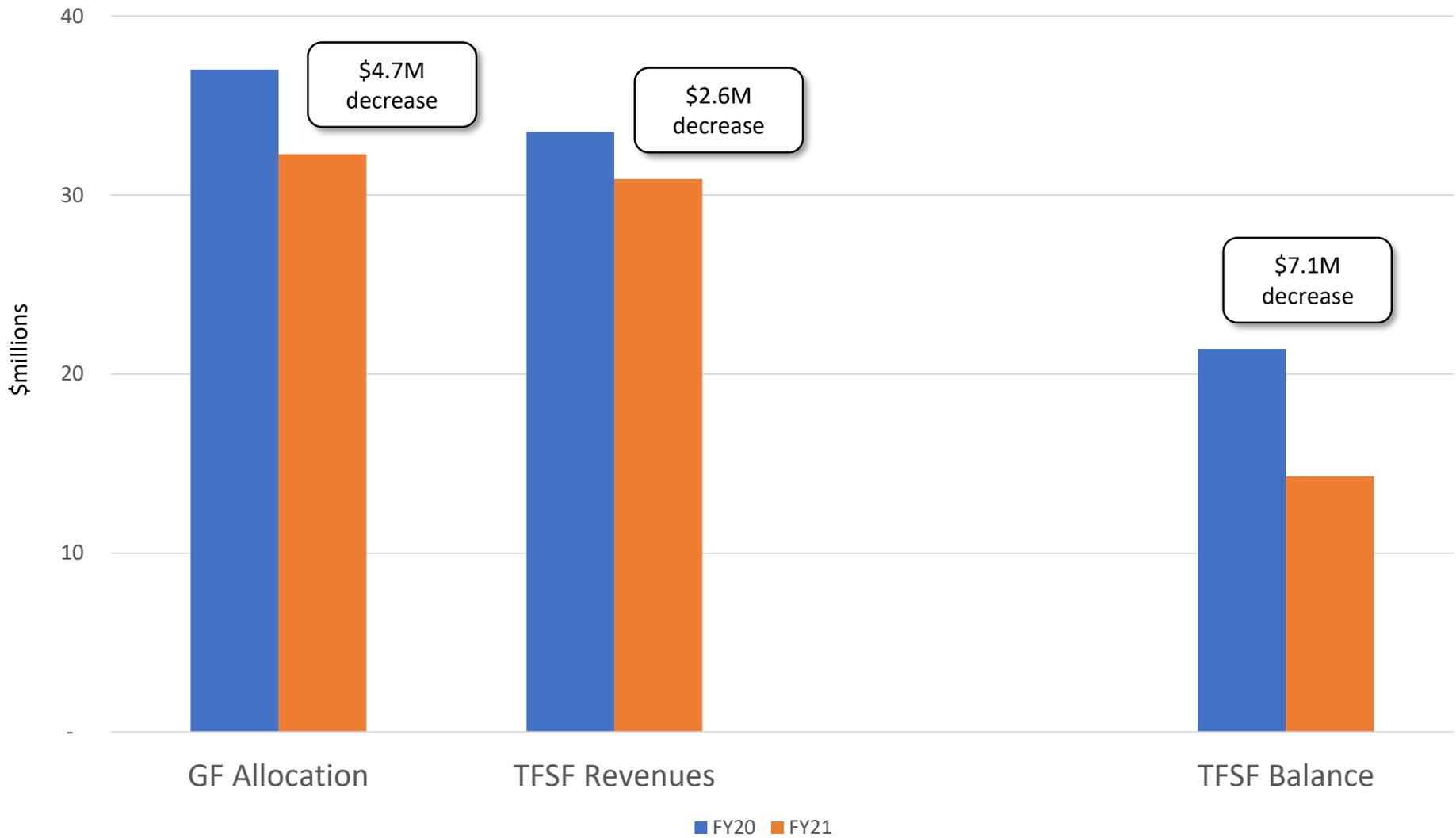
Mānoa

- Projected General Funds \$33.8 million less than FY20 Actual. Tuition and Fees \$10.9 million less than FY20. Total \$44.6 million revenue decline.
- General Fund Personnel expenditures to be reduced by \$30.6 million. Non-Personnel (\$1.0 million) and Utilities (\$2.1 million) reduced to \$0.
- TFSF Expenditures Personnel expenditures increasing by \$55.8 million. Non-Personnel reduced by \$9.1 million. Net increase of \$54.2 million.
- Expected decline in TFSF reserves of \$44.6 million. Ending balance is \$19.7 million, just short of the 5% target (\$23.5 million).



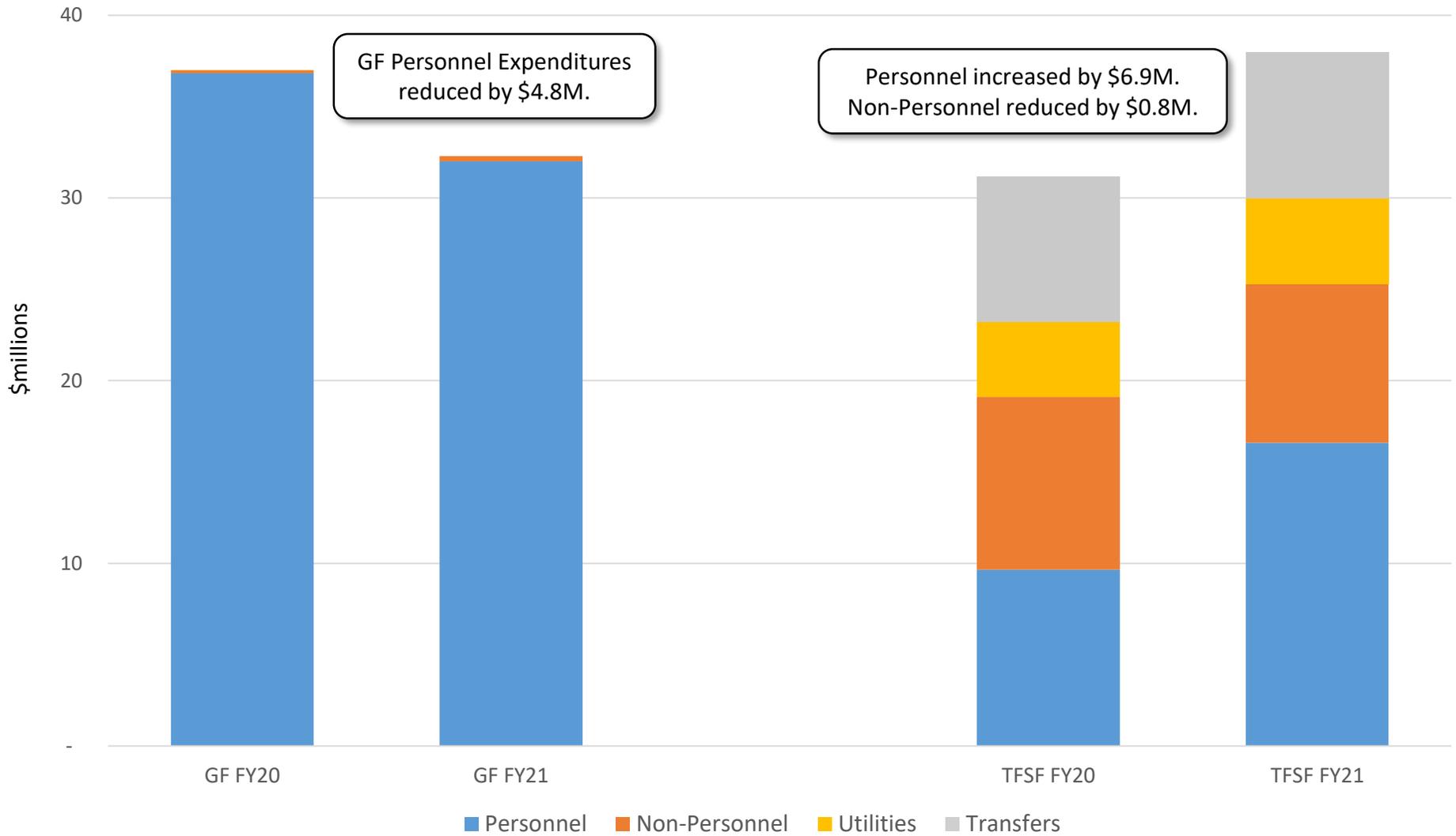
Hilo

Revenues and TFSF Ending Balance





Hilo





Hilo

in \$millions

Revenues	FY20 Actual	FY21 Projected	FY21-FY20
General Fund Allocation	37.0	32.3	(4.7)
Tuition & Fees Revenues	33.5	30.9	(2.6)
Total GF+TFSF	70.5	63.2	(7.3)

GF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	36.8	32.0	(4.8)
Non-Personnel	0.2	0.3	0.1
Utilities	0.0	-	(0.0)
Total GF Expenditures	37.0	32.3	(4.7)

TFSF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	9.7	16.6	6.9
Non-Personnel	9.5	8.7	(0.8)
Utilities	4.1	4.7	0.6
Transfers	8.0	8.0	0.0
Total TFSF Exp+Transfers	31.2	38.0	6.8

TFSF Ending Balance	21.4	14.3	(7.1)
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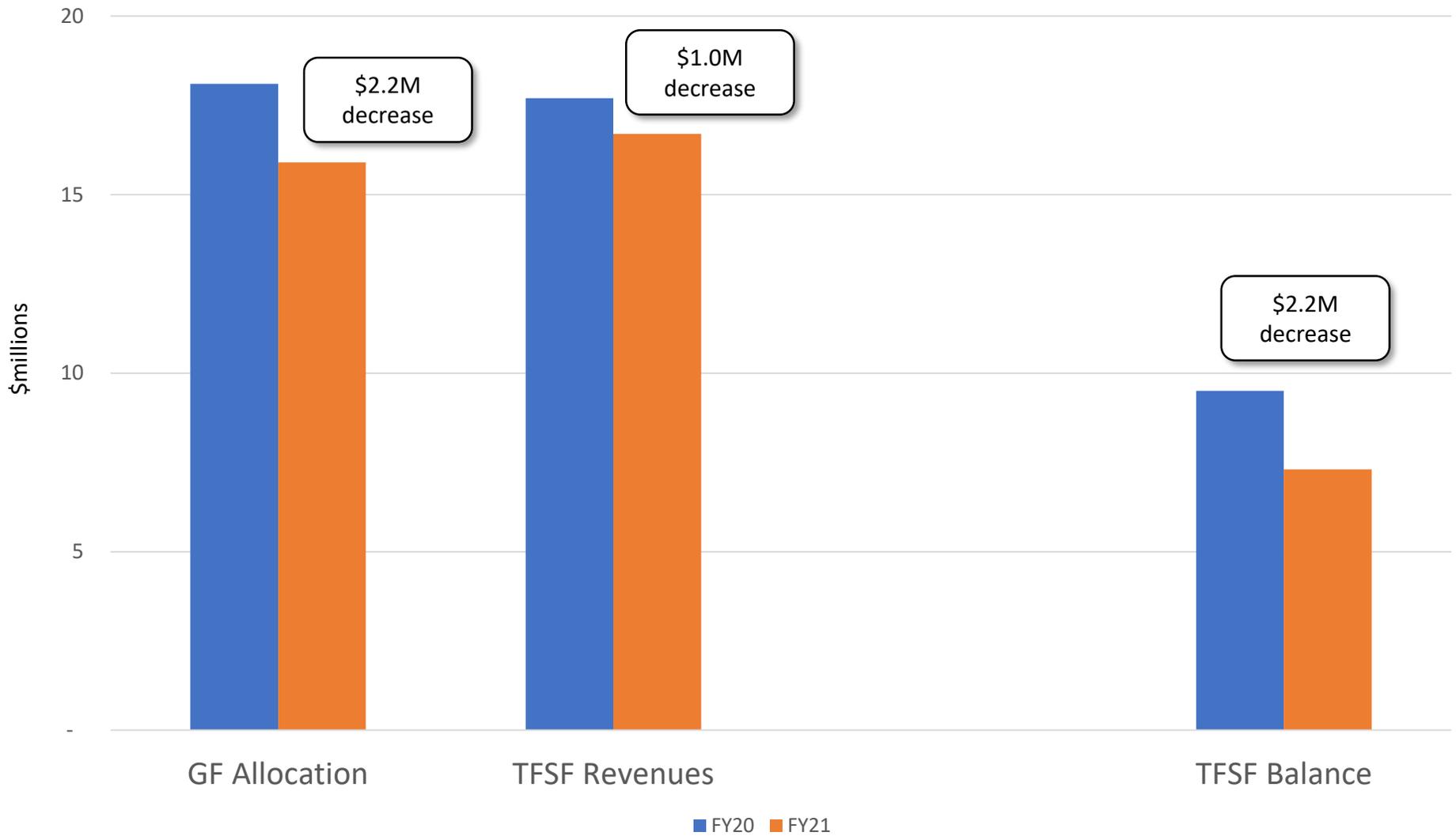


Hilo

- Projected General Funds \$4.7 million less than FY20 Actual. Tuition and Fees \$2.6 million less than FY20. Total \$7.3 million revenue decline.
- General Fund Personnel expenditures to be reduced by \$4.8 million.
- TFSF Expenditures Personnel expenditures increasing by \$6.9 million. Net increase of \$6.8 million.
- Expected decline in TFSF reserves of \$7.1 million. Ending balance is \$14.3 million, still above the 5% target (\$3.4 million).

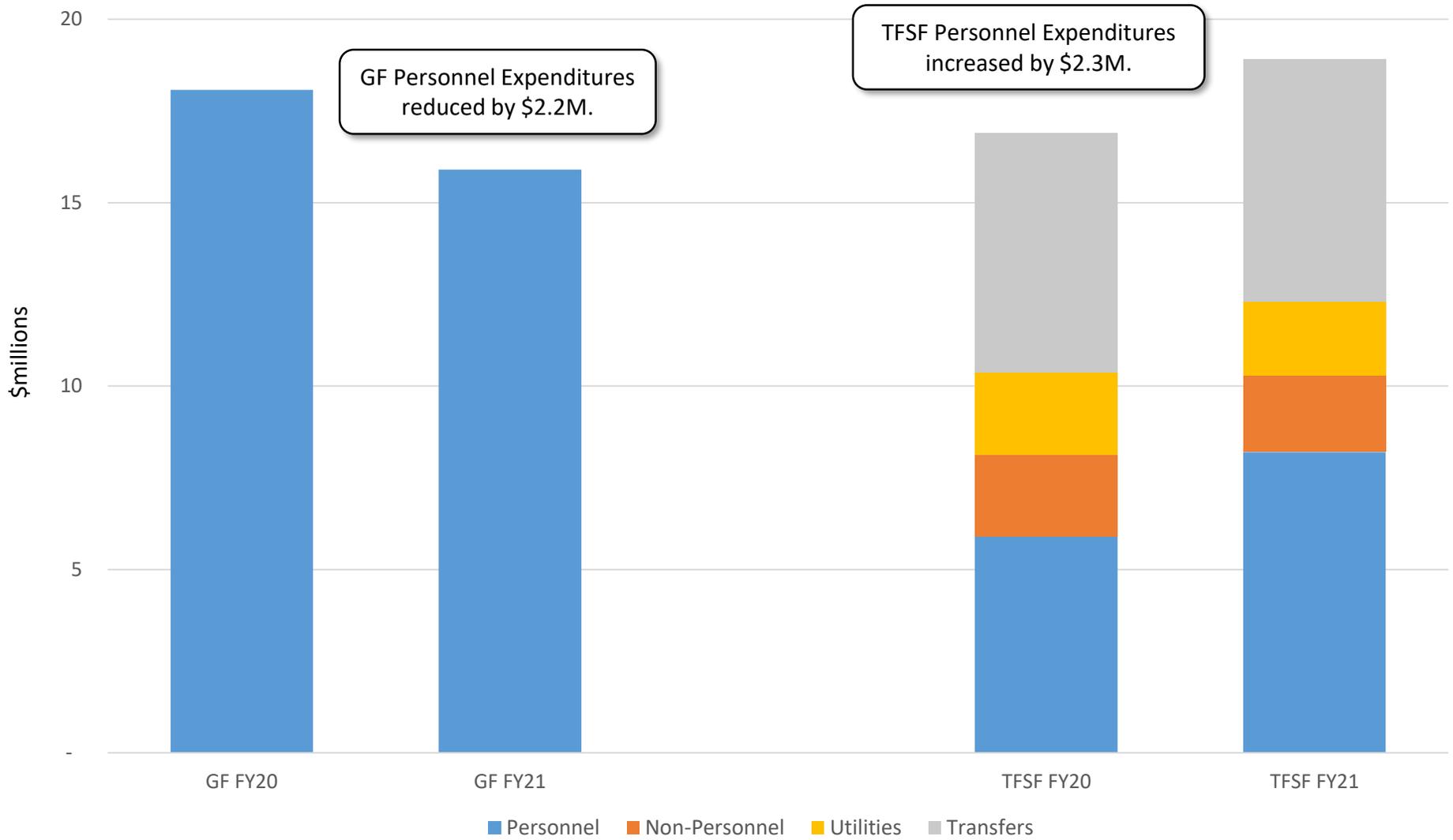


West O'ahu





West O'ahu





West O'ahu

in \$millions

Revenues	FY20 Actual	FY21 Projected	FY21-FY20
General Fund Allocation	18.1	15.9	(2.2)
Tuition & Fees Revenues	17.7	16.7	(1.0)
Total GF+TFSF	35.8	32.6	(3.2)

GF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	18.1	15.9	(2.2)
Non-Personnel	-	-	-
Utilities	-	-	-
Total GF Expenditures	18.1	15.9	(2.2)

TFSF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	5.9	8.2	2.3
Non-Personnel	2.2	2.1	(0.1)
Utilities	2.3	2.0	(0.3)
Transfers	6.5	6.6	0.1
Total TFSF Exp+Transfers	16.9	18.9	2.0

TFSF Ending Balance	9.5	7.3	(2.2)
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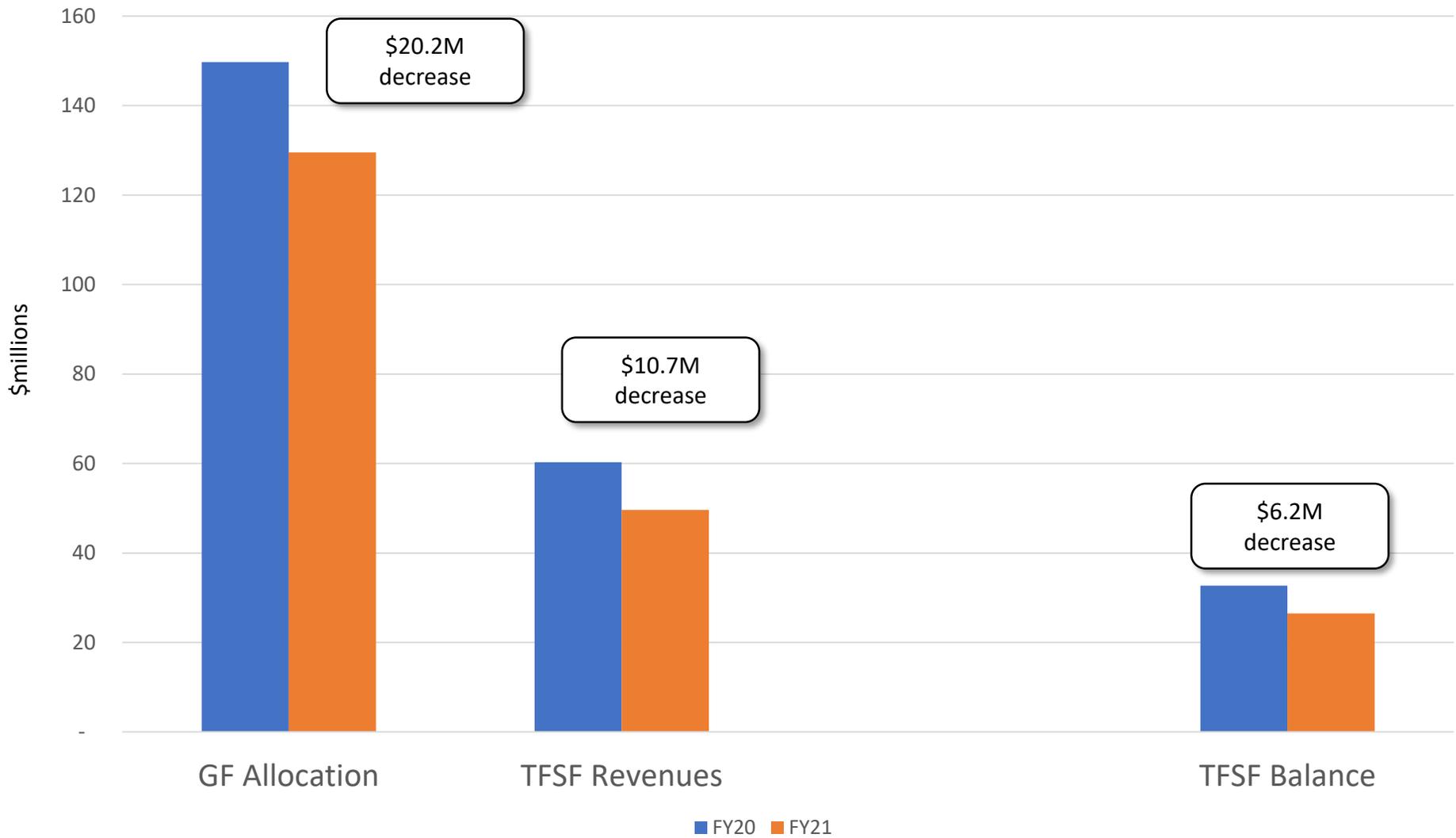


West O'ahu

- Projected General Funds \$2.2 million less than FY20 Actual. Tuition and Fees \$1.0 million less than FY20. Total \$3.2 million revenue decline.
- General Fund Personnel expenditures to be reduced by \$2.2 million.
- TFSF Expenditures Personnel expenditures increasing by \$2.3 million. Net increase of \$2.0 million.
- Expected decline in TFSF reserves of \$2.2 million. Ending balance is \$7.3 million, still above the 5% target (\$1.7 million).

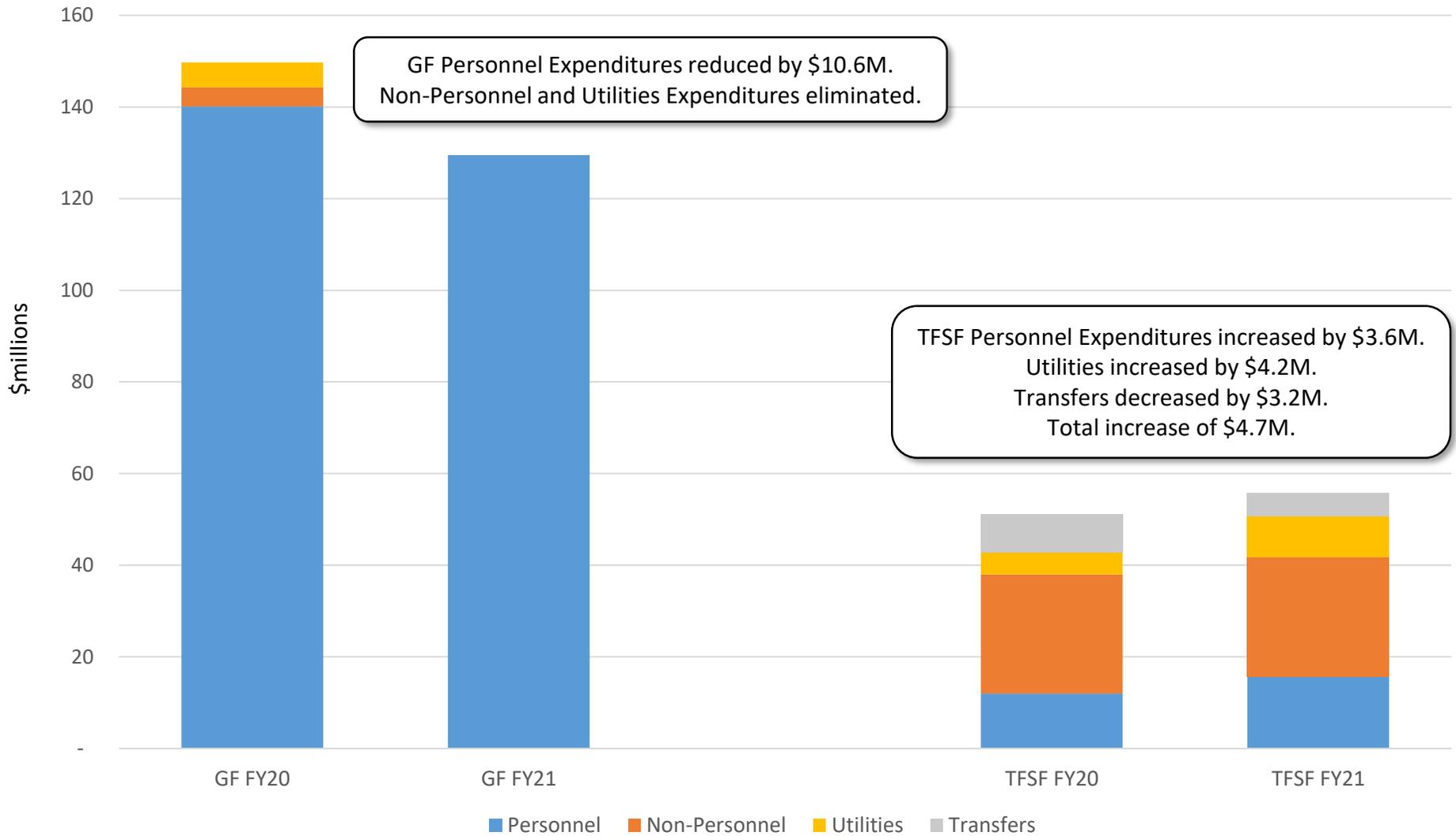


Community Colleges





Community Colleges





Community Colleges

in \$millions

Revenues	FY20 Actual	FY21 Projected	FY21-FY20
General Fund Allocation	149.7	129.5	(20.2)
Tuition & Fees Revenues	60.3	49.6	(10.7)
Total GF+TFSF Revenues	210.0	179.1	(30.9)

GF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	140.1	129.5	(10.6)
Non-Personnel	4.2	-	(4.2)
Utilities	5.4	-	(5.4)
Total GF Expenditures	149.7	129.5	(20.2)

TFSF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	12.0	15.6	3.6
Non-Personnel	26.0	26.1	0.1
Utilities	4.8	9.0	4.2
Transfers	8.3	5.1	(3.2)
Total TFSF Exp+Transfers	51.1	55.8	4.7

TFSF Ending Balance	32.7	26.5	(6.2)
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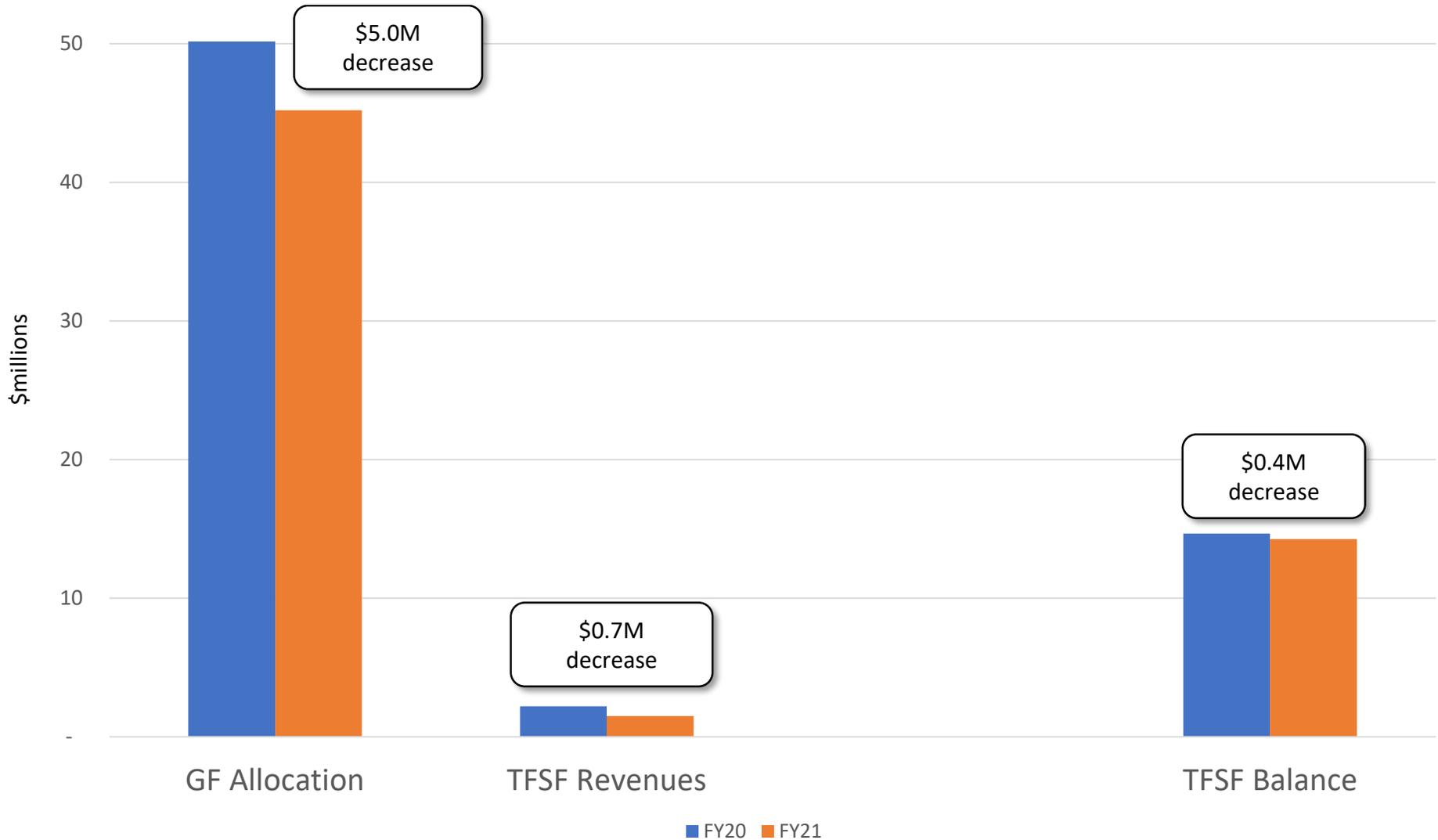


Community Colleges

- Projected General Funds \$20.2 million less than FY20 Actual. Tuition and Fees \$10.7 million less than FY20. Total \$30.9 million revenue decline.
- GF Personnel expenditures to be reduced by \$10.6 million. Eliminates GF Non-Personnel and Utilities expenditures. Total \$20.2 million reduction.
- TFSF Expenditures Personnel expenditures increasing by \$3.6 million. Utilities increased by \$4.2 million. Transfers decreased by \$3.2 million. Total increase of \$4.7 million.
- Expected decline in TFSF reserves of \$6.2 million. Ending balance is \$26.5 million, still above the 5% target (\$10.1 million).

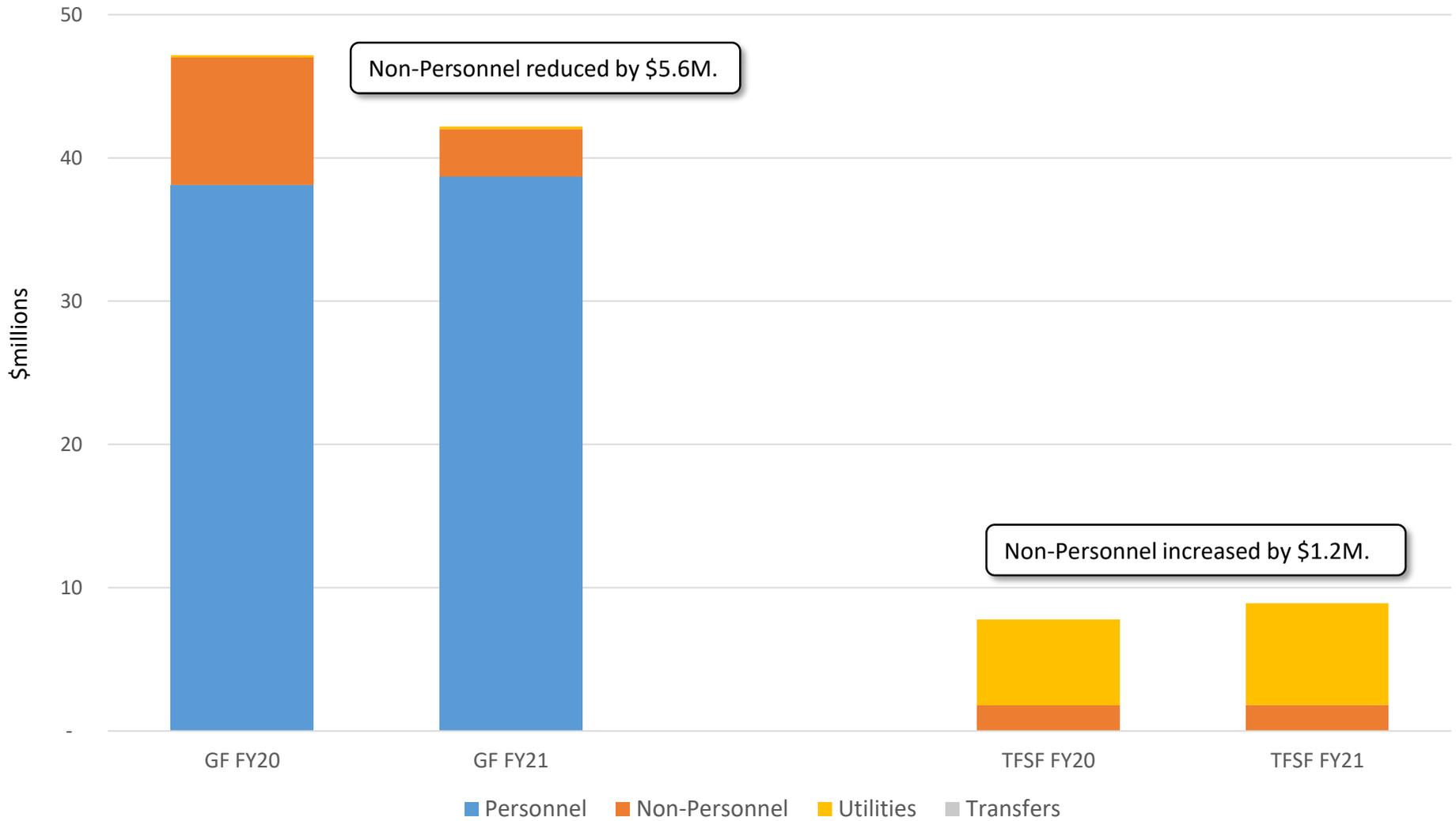


Systemwide Administration





Systemwide Administration





Systemwide Administration

in \$millions

Revenues	FY20 Actual	FY21 Projected	FY21-FY20
General Fund Allocation	50.2	45.2	(5.0)
Tuition & Fees Revenues	2.2	1.5	(0.7)
Total GF+TFSF	52.4	46.7	(5.7)

GF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	38.1	38.7	0.6
Non-Personnel	8.9	3.3	(5.6)
Utilities	0.2	0.2	0.0
Transfers (B+)	3.0	3.0	-
Total GF Expenditures	50.2	45.2	(5.0)

TFSF Expenditures	FY20 Actual	FY21 Projected	FY21-FY20
Personnel	1.8	1.8	0.0
Non-Personnel	5.9	7.1	1.2
Utilities	0.1	-	(0.1)
Transfers	(9.2)	(7.0)	2.2
Total TFSF Exp+Transfers	(1.5)	1.9	3.4

TFSF Ending Balance	14.7	14.3	(0.4)
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Systemwide Administration

- Projected General Funds \$5.0 million less than FY20 Actual. Tuition and Fees \$0.7 million less than FY20. Total \$5.7 million.
- General Fund Non-Personnel expenditures to be reduced by \$5.6 million, against a \$0.6 million increase in Personnel. Net: \$5.0 million reduction.
- TFSF Expenditures increasing in most categories. Net increase of \$3.4 million.
- Expected decline in TFSF reserves of \$0.4 million. Ending balance of \$14.3 million, still above the 5% target (\$2.5 million).



Next Steps

- FY21 expenditure plans will be presented to the B&F Committee at its next meeting (September 3rd)
 - That plan will have additional detail and cover all Special and Revolving Funds.
- Open process and discussion of FY22-beyond University structural changes. Schedule as outlined in August 6th, B&F Committee presentation.
- Begin process for next fiscal biennium (FYB21-23) legislative budget proposal.

Repositioning the University of Hawai'i for FY 2022 and Beyond

August 20, 2020
Board of Regents



UNIVERSITY OF HAWAII

We are Challenged With Austerity, Urgency and Uncertainty that We Don't Control

- The state budget crisis is real, deep, immediate and continuing
- The ~\$100m hole in our budget will not simply disappear
 - The State financial challenges are deepening every day
 - Full economic recovery is more than 4 years away
 - Even if there is federal assistance, it will be short-term
- Tactical actions like hiring freezes, travel bans, deferral of equipment purchases, across-the-board reductions can help in FY21, but the longer we delay strategic structural changes, the longer we stay in an FY21 world
- Our path forward must be grounded in vision, principles and priorities



Vision for Hawai'i and UH

Hawai'i is a special place where diverse people and communities live, work, learn and play together in a sustainable manner. Hawai'i's economy is vibrant and globally competitive, characterized by engaging living-wage jobs. Inspired by its host culture, Hawai'i treasures and protects its amazing environment as it promotes a high quality of life for all its people.

The University of Hawai'i system is the single most important contributor to the future of Hawai'i. The people of Hawai'i appreciate the excellence throughout UH, understand its value to the state and show their pride in their university system. UH campuses are recognized for their quality and value and are destinations of choice within Hawai'i and beyond. The UH System is the premier integrated higher education system in the country.

Integrated Academic and Facilities Plan for the UH System
Approved by the Board of Regents, April 20, 2017



Grounding the Vision in Today's Reality

UH is essential to the recovery of Hawai'i and the creation of a thriving post-pandemic future for our people and our islands.

That must be our focus in the difficult days ahead.

Guiding Principle for this time of fiscal constraint:
What does Hawai'i need most from us?



What Does Hawai'i Need Most from UH: Priorities for Recovery and Beyond

- Hawai'i needs a more educated citizenry that addresses our challenges and opportunities
- Hawai'i needs more of our residents prepared and qualified to fill the jobs Hawai'i needs
- Hawai'i needs to grow healthy new economic sectors and develop new approaches to existing sectors
- UH research and innovation must become more substantial economic and intellectual drivers

Clear priorities must guide our discussions, consultation and decision-making in the difficult days ahead. UH priorities must be grounded in what Hawai'i needs.



UH Must Engage More Hawai'i Residents in Post-Secondary Education and Training

- The best estimate is that 70% of jobs created will require some post-secondary education
 - Right now, that applies to just 48% of working age adults in Hawai'i
- Post-secondary education is the most powerful enabler of social and economic mobility with inter-generational positive impacts
 - Holders of a post-secondary credential: earn more, are healthier, live longer, have children more likely to attend college
 - Are less likely to become unemployed in a recession and are faster to be re-employed during recovery
 - Pay more taxes, vote more, volunteer more, less likely to draw on social services, less likely to be incarcerated
- A broad-based education equips students to thrive in an uncertain future as lifelong learners with skills and abilities including communication, critical thinking, empathy, cultural competence, creativity and can-do spirit

UH graduates don't just get jobs, they create jobs



UH Must Educate More Hawai'i Residents for Living Wage Hawai'i Jobs

- Education
 - Teachers, teachers, teachers – via multiple pathways
- Health Care & Social Welfare
 - Doctors, nurses, allied health professions, social workers, public health workers, psychologists, counselors, physical therapists...
- Construction, Design & the Built Environment
 - Skilled labor, architects & engineers focused on sustainable and resilient structures for Hawai'i

When we educate our own residents to fill needed jobs in our community, especially living-wage jobs, we do better for our people and we do better for our employers.



UH Must Help Grow New Economic Sectors and Develop New Approaches to Old Ones

- Computer Science & Engineering
 - Cybersecurity, Data Science, Artificial Intelligence / Machine Learning
 - Hawai'i residents with these skills can telework for employers anywhere
- Creative Media Industries
 - Film / Music / Video, Production, Gaming, Esports
- Climate Change, Energy, Resilience & Conservation
 - Sea level rise, coral reef health, weather impacts, renewable energy generation, microgrids, disaster risk assessment, resilience
 - Protection and restoration of native environments
- Food, Agriculture, Aquaculture
 - Need to avoid either/or approach to local food production and high-value products; We need both!
- Sustainable Tourism
 - Reduce numbers and impact on infrastructure, environment and community
 - Medical tourism, edutourism, ecotourism, culinary tourism, voluntourism can all increase engagement with, and living wage jobs for, residents

There is no single silver bullet that can replace our shattered 2019 Tourism economy. These areas represent substantive opportunities where Hawai'i has competitive advantages and UH has recognized strength and opportunity to excel globally.



UH Must Strengthen its Research Enterprise as a Major Economic and Intellectual Driver of Innovation

- Extramural funding over \$450m during FY20, mostly federal
 - Thousands of directly created living wage jobs
 - Positive economic impacts multiply throughout the islands
- Need to ensure continued high performance in areas of strength
 - Ocean, earth & atmospheric sciences; Astronomy & space sciences; Environmental microbiology; Climate change and resilience; Energy; Disaster management; Study of Asia and the Pacific, Hawai'i and its people
- Need to build stronger research capacity in areas of opportunity
 - Health sciences and disparities; Agri/Aquaculture; Computer Science & Engineering; Pacific Engagement
- Need to increase community impacts: startups, jobs, investment

No community has developed into an economic powerhouse without the engagement of a strong research university.



A Path Forward for FY22 and Beyond



UNIVERSITY OF HAWAI'I

Confronting Our Long-term Budget Challenge

- UH must embrace new sets of learners and serve them in new ways,
- Without losing our values, UH must accelerate our focus on effectiveness and stewardship of public resources across every aspect of our work
- UH can no longer afford to attempt to “be all things to all people”
- Our units have discrete and important missions but we must do more at every level across the UH System to align, collaborate and share resources
- Even as we reduce in some areas, we must invest in others
- UH must invest in diversification of our revenue sources beyond state general funds and tuition revenue
- We must move with vision, clarity, collaboration, consultation, transparency, humanity and agility

Every change at UH faces inherent opposition, inside and out. UH needs to consider and consult on ideas, not just these – and must act more expeditiously than is our custom to help Hawai'i move forward to a positive future for our people and our islands.



Actions for Structural Rebalancing

- Reduce Expenses
 - Shed and avoid excess facilities costs
 - Shared administrative & support functions
 - Strengthen decision-making around resource allocation
 - Program consolidation, sharing, realignment and elimination
 - Retirement Incentive program
- Increase Revenue
 - (The State will be challenged for years to come and tuition rate increases not a viable option)
 - Targeted enrollment opportunities; serve more students and move the state forward
 - Invest in monetizing real estate
 - New approaches to auxiliaries – should financially support core mission
- Principles
 - Open to all ideas
 - Relentless focus on what Hawai'i needs
 - Consultation is essential and must be expeditious
 - Respect for Collective Bargaining Agreements

Excellence abounds across UH. We can build on, emphasize and extend that in areas of priority.



Timeline

- August 24, 2020 – First Day of Instruction
- September 2020
 - Open discussions and consultation throughout UH
- October – November 2020
 - Refine Ideas, Calculate financial impacts
- December 2020
 - Present comprehensive approach to BOR
- January 2021
 - Begin implementation

The longer we delay, the longer we live in FY21.



Hawai'i cannot thrive even in the best of times without a high-performing public higher education system.

Now, more than ever, Hawai'i needs every part of its university fully focused on the needs of our people and our islands.

In turn, the people and institutions of Hawai'i need to support their university system.



Evaluation of the president

What is being evaluated?

- The university (of which the president is CEO)
- The president as CEO of the university system
- The president as CEO of UH-Mānoa

Over what time frame?

- This is a once-every-three-years evaluation that should look at a three-year time frame

Whom do we contact for input? There are nine categories listed below:

- All regents
- All of the direct reports to the president
- Deans of seven UH-Mānoa units
- FY 19-20 faculty senate chairs for all campuses
- FY 19-20 ASUH FY 19-20 presidents for all campuses (except for Honolulu Community College, which has none)
- FY 19-20 chairs of other university groups
 - Maunakea Management Board
 - Kahu Ku Mauna
 - Pūko‘a Council
- Business and community leaders
 - Hawai‘i Business Roundtable exec director and six members
 - Hawai‘i Chamber of Commerce president
 - Hawai‘i Community Foundation president
- Elected officials
 - Senate president and House speaker
 - Chairs and vice chairs of the Senate and House committees on higher education
 - Chairs and vice chairs of Senate ways and means and House finance committees
 - Governor
- Other relevant stakeholders

What questions do we ask? All questions start with “Looking over the previous three years ...”

- What progress did the university make, in your opinion, in its four strategic directions, which are to:
 - Increase the number of UH graduates and graduation rates and reduce the time students take to get their degrees?
 - Increase the quantity and quality of research the university undertakes and its economic and community impact?
 - Improve UH facilities and processes for improving facilities?
 - Improve accountability and responsible use of public resources as a System?
- The past year has been extraordinary with issues surrounding Maunakea dominating much of the last half of 2019 and covid-19 dominating much of 2020 What is your assessment of his leadership on these unprecedented issues?
- What could the university have done to improve, in these areas or in other areas?
- What should the university do going forward that it is not doing or is not doing well?
- Looking specifically at David Lassner in his capacity as president of the university, what do you see as his strengths?
- What things should he work on to improve?
- For those asked to look at David Lassner in his role as CEO of UH-Mānoa:
 - What do you see as his strengths leading UH-Mānoa?
 - What things should he work on to improve as his leadership of UH-Mānoa?

Item VII.

Executive Session

**ITEM TO BE
DISCUSSED IN
EXECUTIVE
SESSION**