The Regents of the University of California

COMMITTEE ON FINANCE
May 26, 2005

The Committee on Finance met on the above date at UCSF–Laurel Heights, San Francisco.

Members present:	Regents Blum, Dynes, Kozberg, Lee, Ornellas, Parsky, and Sayles; Advisory members Juline, Rominger, and Blumenthal
In attendance:	Regents Anderson, Marcus, Novack, Pattiz, Preuss, and Ruiz, Regent-designate Rosenthal, Faculty Representative Brunk, Secretary Trivette, General Counsel Holst, Treasurer Russ, Provost Greenwood, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome and Hershman, Chancellors Birgeneau, Bishop, Carnesale, Córdova, Denton, Fox, Tomlinson-Keasey, Vanderhoef, and Yang, Vice Chancellor Brase representing Chancellor Cicerone, Laboratory Director Anastasio, and Recording Secretary Bryan

The meeting convened at 10:55 a.m. with Committee Chair Blum presiding.

1. **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of March 17, 2005 were approved.

2. **CONSENT AGENDA**

Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Approval of External Financing for Arroyo Student Housing–Phase 1, Riverside Campus

The President recommended that, with the concurrence of the Committee on Grounds and Buildings:

A. The 2004-05 Budget for Capital Improvements and the Capital Improvement Program for the subject project be included as follows:

Riverside: Arroyo Student Housing – Phase 1 – preliminary plans, working drawings, construction, and equipment – $54,671,000 total project cost to be funded from external financing ($50,276,000), Riverside campus University of California Housing System Net Revenues ($3,147,000), and Recreation reserves ($1,248,000).

B. External financing be obtained not to exceed $50,276,000 to finance the Arroyo Student Housing – Phase 1 project, subject to the following conditions:

(1) Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.

(2) As long as this debt is outstanding, University of California Housing System fees for the Riverside campus shall be established at levels sufficient to provide excess net revenues sufficient to pay the debt service and to meet the related requirements of the proposed funding.

C. The general credit of The Regents shall not be pledged.

D. The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.

E. The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

3. **UPDATE ON THE UNIVERSITY OF CALIFORNIA STATE-FUNDED BUDGET, INCLUDING REPORT ON GOVERNOR'S MAY REVISION TO THE 2005-06 BUDGET**

Vice President Hershman discussed the most significant impacts of the Governor's May Revision to the budget and provided an update on the Legislative hearings. He reported that, while the State's revenues have increased by about $5 billion over a two-year period, the Governor has decided to build a reserve and decrease State debt. The State will not be selling $1.7 billion in deficit reduction bonds that the public had approved, leaving $4 billion in those bonds that will help in 2006-07. Also, the Governor is not going to borrow $600 million from local governments or $1.3 billion from transportation, and he has put an extra $900 million into a reserve. The Governor is using the money to try to ensure that the future problem is not any greater than previously anticipated. The rest of the May Revision contains tradeoffs that result in no net increase to the budget. Even if all the actions the Governor has proposed are approved, however, the State will still have a General Fund deficit of $4 billion to $5 billion.

Mr. Hershman reported that there were few changes to the University's budget in the May Revision. The Governor augmented lease-revenue bonds on University facilities by almost $19 million, and he approved a math and science initiative that includes a commitment to fund loan forgiveness grants for students who become teachers in these subjects.

Mr. Hershman noted that all of the proposals that were in the University's basic Compact with the Governor – which included the 3 percent salary adjustment, 5 percent enrollment growth, and funding for UC Merced – were approved unanimously by the Senate and

Assembly budget committees. The Legislature did not approve the Governor's cut to student academic preparation; it is still considering the science and mathematics initiative. The capital budget was approved unanimously.

Regent Anderson sought assurance that, although a merit increase of 1.5 percent and a cost-of-living increase of 1.5 percent had been set aside for staff, that action would result in a 3 percent increase to base salaries. Mr. Hershman confirmed that it would, depending in some cases on collective bargaining agreements. He noted that 3 percent is the available pool; many categories of staff are judged individually within the pool.

Regent Kozberg inquired about the prognosis for reaching the planned enrollment growth of 5,000 and whether the academic preparation allocation was based on a pool of funds. Mr. Hershman responded that enrollment growth appears to be in line with projections. He recalled that the University had committed $12 million to the academic preparation initiative and was hopeful that the Legislature would provide more. The University is preparing a mechanism for evaluating student academic preparation programs, the data from which should ensure that the programs are supported in the future without controversy. Regent Ruiz believed that funding these programs was particularly important.

Regent Lee noted that the state's economy seemed to be improving. He commented that the increase contemplated for professional school fees was an insignificant amount relative to the University's total budget. He believed that it should be possible to get funding approval for the needed $3.7 million. Mr. Hershman recalled that it was the Governor and Legislature who made large cuts in the budgets of the professional schools, necessitating the increased fees. It was their view that the professional schools should become more self-supporting.

Regent-designate Rosenthal noted that the budget contained a request of $5 million for restoration of a shortfall related to the 2004-05 professional school fee increase. He asked where that fit in, particularly with reference to the recommendation for a temporary fee increase for professional schools. Mr. Hershman explained that it related to the current year. He recalled that the State had cut the University's budget for the professional schools by $42 million. The fee increases to make up for that cut would had to have been so large that the Regents decided to match only $37 million of the amount through fee increases, leaving a $5 million shortfall that needs to be made up in next year's budget.

Secretary Trivette drew attention to a report of communications received pertaining to this item.

4. **APPROVAL OF PROPOSED ADDITIONAL INCREASES IN PROFESSIONAL SCHOOL FEES FOR 2005-06**

The President recommended that, in addition to the 3 percent increases approved at the November 2004 meeting, Fees for Selected Professional School Students be increased by amounts up to an additional 7 percent, for a maximum total increase of 10 percent for 2005-06, as shown in the Attachment, and that an amount equivalent to at least 25 percent of the revenue generated from these additional increases in professional school fees be set aside for financial aid for those students.

It was recalled that the last four years of sustained budget cuts have resulted in a dramatic reduction in State support for the University's professional degree programs, and the schools are experiencing ongoing financial difficulties. While the 3 percent increase in fees approved at the November 2004 Regents meeting will provide funding for future cost increases for the professional programs, it does not address the unfunded cost increases over the past four years. The financial circumstances of the programs are severe and will require greater fee increases over time. The primary concern of the schools is their ability to maintain high-quality academic programs, given the drastic reduction in State subsidies. Accordingly, the Chancellors at several campuses have proposed that additional increases in the professional school fees be continued and that supplemental increases in fees, up to a maximum of 10 percent of the professional school fee including the 3 percent approved at the November 2004 meeting, be approved for 2005-06 for the identified professional degree programs to begin to address the systemic budget problems, provide for financial aid, and continue efforts to maintain program quality.

It has been the University's practice to set aside a portion of the revenue generated by student fee increases to mitigate the impact of the increases on financially needy students. At the November 2004 meeting, The Regents approved setting aside an amount equivalent to 25 percent of the revenue generated from a 3 percent increase to cover cost increases in programs funded from professional school fee revenue. Consistent with that action, it is proposed that, for these supplemental increases in professional school fees, an amount equivalent to 25 percent of the new fee revenue be used for financial aid for needy students. The proposed increases would generate approximately $3.7 million in new revenue for the professional schools, net of financial aid.

In January 1994, The Regents approved a Fee Policy for Selected Professional School Students, authorizing fees for students in selected professional degree programs that are required in addition to mandatory systemwide fees and miscellaneous campus-based fees. In approving the new fee policy, the University reaffirmed its commitment to maintain academic quality and enrollment in the designated professional school programs, and that earning a degree in these programs benefits the individual financially as well as benefitting the state.

The Regents Policy is outdated, given the enormous cuts to the professional school budgets and to the University as a whole which have required changes in financial aid requirements and an expansion in the number of affected degree programs. Nonetheless, the factors to be considered when setting professional school fees are generally consistent with those identified in the Compact with the Governor. The Regents have expressed support for the Compact, and the proposed fee increases are intended to reflect both the understanding between the University and the Governor outlined in the Compact and the original Regents Policy regarding the setting of professional school fees. The Compact calls for the University to develop long-term plans for increasing fees for selected professional school students. These plans are to address professional school fees over the next five years and should include consideration of the following factors: average fees at other public comparison institutions, market factors, average cost of instruction, average cost of attendance, the need to preserve and enhance the quality of the professional programs, the state's need for more graduates in particular disciplines, and financial aid requirements of professional school students. Professional schools are expected to weigh all the factors identified in the Compact as they determine the level of fees needed to maintain their programs and provide sufficient financial aid for their students in the coming years.

Consistent with the Compact with the Governor, the proposed 2005-06 budget plan approved by The Regents included increases in mandatory systemwide fees of 8 percent for undergraduate students and 10 percent for graduate students and a similar amount for professional school students. In addition to the increases in mandatory systemwide fees, professional school fees were increased by 3 percent to cover cost increases in programs funded from professional school fee revenue. This is the same cost adjustment factor used for 2005-06 to determine the base budget adjustment for State General Funds under the Compact.

As proposed in the Compact, the Office of the President and the campuses have developed a multi-year plan for increasing fees in professional schools over the next several years, taking into account the factors outlined in the Compact. The plan assumes that professional school fees will be adjusted annually and that campuses will retain the revenue from professional school fees to cover salary and other cost increases. To cover cost increases in programs funded from professional school fee revenue, it is anticipated that professional school fees will increase by the same cost adjustment factor used to determine the base budget adjustment for State General Funds under the Compact. Recognizing that both quality and affordability are essential elements of all fee decisions, the plan proposes that flexibility be provided to increase fees further to maintain program quality. Finally, the plan reaffirms the University's commitment to provide access to its professional schools by expecting that additional funds will be set aside for financial aid for professional students in an amount to be determined annually by The Regents. For 2005-06, it proposed that an amount equivalent to 25 percent of new fee revenue be used for financial aid.

Given that the State subsidy for the professional schools has been reduced so significantly, the ability to maintain the quality of their academic programs and to be competitive with other professional schools of comparable quality is of paramount concern to the professional schools. In 2003-04, professional school fees were increased by about 30 percent and the revenue was used to offset base budget cuts for the

University that otherwise would have targeted instruction. The 2004-05 Governor's Budget assumed that the University would develop a plan for achieving $42.2 million in new revenue from increases in professional school fees to be used to offset base budget cuts that otherwise again would have targeted instruction. The increases approved for 2004-05 are expected to generate only $37 million in income, falling approximately $5 million short of the revenue proposed by the Governor. The shortfall was absorbed temporarily through cuts to other programs; to cover the shortfall permanently, a 2005-06 increase in mandatory systemwide fees charged to professional school students was approved at the November Regents meeting.

These budget cuts in combination with the additional $500 million of cuts to the University's general budget that were not offset by fees have left the University's professional schools in a very difficult position. Because fee increases were used to offset budget cuts and did not generate any additional revenue for the schools, they have fallen further behind in their ability to offer competitive salaries to their faculty and staff and have been unable to deal with cost increases associated with inflation. Failed faculty recruitments are particularly worrisome to the schools. In addition, some programs have been unable to continue specialized academic course offerings, and other programs need additional revenue to address new curriculum requirements.

Remaining competitive involves not only ensuring high-quality academic programs, but also keeping costs for students competitive. The University recognizes that with these proposed increases, total tuition and fee charges for a number of the professional degree programs will be higher than those at the public institutions the University uses for salary comparisons; however, the magnitude of the budget cuts over the past four years has left the schools with few options if the quality of the programs is to be maintained. Because of the budget cuts, fees for professional students have gone from being below the average of fees at other public institutions to being more in line with the tuition and fees charged at other high-quality institutions such as the University of Michigan and the University of Virginia. Data on tuition and fee charges for 2005-06 for professional degree programs at other institutions is not yet available, but it is assumed that tuition and fees at those institutions will increase in 2005-06 as well.

A second primary consideration is the need to provide additional financial aid to recruit and retain high-quality students. The fee increases in 2003-04 provided that funds equivalent to 33 percent of new fee revenue generated from the increases would be set aside for financial aid purposes; however, consistent with the 2004-05 Governor's budget, the University did not set aside additional funds for financial aid from the fee increases. All of the new fee revenue generated was used to cover budget cuts. To begin addressing the concerns regarding maintaining academic quality and financial aid needs, for 2004-05 The Regents delegated authority to the President to raise the fee at any of the professional schools by an additional amount not to exceed 10 percent of the total of systemwide fees (Educational Fee and University Registration Fee) and professional school fees, if it was determined that a higher fee was needed. This option was exercised by Law and Business at the Berkeley and Los Angeles campuses, Dentistry at Los Angeles and San Francisco, and Pharmacy at San Diego and San Francisco. For a number of these programs, a significant portion of the revenue associated with these supplemental fee increases was used for financial aid purposes.

Vice President Hershman emphasized that individual judgments about fees were made by school administrators and Chancellors. He pointed out that $3.7 million may not seem to be a significant sum relative to the overall budget, but it is significant to the individual schools. Market factors, quality considerations, and student-faculty ratios were considered when setting the rates, and it was agreed to provide financial aid at 25 percent. Mr. Hershman introduced Mr. Chris Edley, Dean of Boalt Hall School of Law, UC Berkeley, who discussed the school's challenges and its need for fee increases.

Dean Edley recalled that the mission of the law school is excellence in the preparation of leaders and the production of knowledge in ways that will benefit the state, the nation, and the world. He emphasized that the mission does not include access for the masses; graduate professional education at Boalt has always been rather exclusive, with only 10 percent of applicants being accepted. The mission also does not include being inexpensive. He believed that policies must be adopted that will maintain access for those qualified to attend and freedom of career choice for graduates. The old financial model established top-five excellence for Boalt by relying on substantial State funding. There was minimal fundraising, resulting in a very modest endowment. The current financial model, with sharp cuts in State support offset by increases in professional fees, will not sustain excellence. He reported that after 15 years of subsistence budgeting at Boalt, its former national top-five rating has slipped below the top ten. He believed that a new financial model is needed that will support the investments required to regain top-five status.

Dean Edley noted that, while in-state tuition has increased sharply at Boalt, it is still lower than tuition among the school's competitors, and Boalt is spending much more than its competitors on financial aid. What little State support remains is needed, along with fee revenue invested in Boalt programs, in order to have any hope of being competitive nationally. Nonresident students in their first year at Boalt are paying the same for a product that in recent years has eroded substantially as they would pay to attend Stanford. Dean Edley believed, however, that there is room for capturing revenue to improve Boalt if the money is not taken away for other purposes. It is proposed, therefore, that for 2006 there be a slight increase in professional fees in order to expand the faculty, renovate the library, and invest in financial aid. He did not believe it was realistic to expect any greater State support in the future.

Chancellor Carnesale introduced Mr. Bruce Willison, Dean of the Anderson School of Management at UCLA, who recalled that a 1997 study that was done for both the Haas and Anderson schools of business indicated that the University was losing its competitive position in the business school world because it had underinvested in faculty, curriculum development, fellowships, and student services. In 2003, the Anderson school was charging less than half of the tuition at the top schools. It now charges about two-thirds of what the private sector comparison institutions charge for residents, although nonresidents pay at market. Revenue from a further fee increase could be used to hire faculty, whose numbers have dropped by 5 percent since 2000 because their salaries are so far below the market. He believed that it was critical for the professional schools to raise fees and retain the revenue to invest in things that will enhance their ability to strive for excellence.

President Dynes invited University of California Student Association President Jennifer Lilla to address the Regents. Ms. Lilla noted that it was proposed to increase professional student fees for the second time in a year. Professional students have been hurt by fee increases for the past several years, and increases are anticipated to continue through 2007-08. Students believe that raising professional school fees again is unfair to continuing students who have already budgeted for the coming year and is especially unfair to new students who have declared their intent to register. She noted that the fee proposals contain no reference to the total cost of education that includes tuition plus living expenses. Year-after-year fee increases hurt the ability to recruit students and lower the status of the professional programs. She noted that only 25 percent would be set aside for financial aid. She noted also that the temporary increase in the educational fee for selected professional school students was being proposed in order to fund a revenue shortfall resulting from a law suit injunction, which she thought was unfair to students.

Committee Chair Blum emphasized that it should be recalled that, in two State budget sessions, the University lost over $500 million of revenues. Faculty salaries are lagging behind the market and class sizes are increasing. In facing these issues, ways must be found of maintaining the quality of the institution.

Chancellor Carnesale commented that the State depends on the excellence of its research universities for new industries, a skilled workforce, and leadership in industry and government. He believed it was essential that the University of California remain competitive with the best of the private research universities. A number of the University's professional schools are among the finest in the nation. The State budget cuts over the last two years have led to more than a doubling of fees, but that was overwhelmingly to replace lost State support, although it could not compensate for losses in student services, information technology, or research. Students are paying more and getting less. The fee increase proposals under discussion ensure that the money will go directly to the schools to benefit their students. While the University is working to meet its responsibility by improving efficiency and effectiveness and raising private funds, it will continue to require higher fees and higher aid to retain a level of quality. He reported that the proposed increases were supported by all Deans and Chancellors as the best of a bad set of options. He stressed that holding down cost will be meaningless if quality is lost.

Regent Lee believed that while it was important for the University's business schools to maintain their edge, it was less important for its law schools, in view of the abundance of lawyers in the nation. He observed that it would help protect jobs in this country to charge higher fees to law students and lower fees to students in less well-represented fields such as nursing. Dean Edley advocated maximum flexibility in determining strategies for financing the University's professional schools, noting that the professions and markets differ.

Regent Marcus believed that fee increases that are proposed mid-year and will bring in only $3.7 million seemed to indicate poor planning on the part of the administration. If just a portion of the revenue from previous fee increases had been returned to the schools, there would be no need for the proposed increases. Chancellor Carnesale reported that the money was not returned to the schools because it was required to displace cuts in State money. Vice President Hershman recalled that at the November meeting it was reported that there would be a mid-year fee increase, and it was proposed that the amount of that increase be left to the President to determine. At that time, the Regents decided that each school should reexamine its situation and submit individual proposals to The Regents.

Regent Kozberg was in strong support of the proposal concerning increases in professional school fees. She believed that the recommendation had been developed through a responsible process that had allowed the schools to reach a consensus decision. Because the Legislature does not value professional schools to the same degree as undergraduate education, it is incumbent on the Regents to allow the schools to help themselves to be the best they can.

Regent Pattiz agreed that the future of the schools must be protected, but he was not convinced that the only place to get the necessary funds was from professional students, and not just those in business and law. He recognized that it is not the job of a Regent to determine line by line where the money should come from, but he was troubled that the administration has not been able to find the $3.7 million needed. He had hoped that other options might be proffered in order to make a cost-benefit analysis possible. Mr. Hershman emphasized that campuses have struggled with cuts amounting to $500 million in the base budget that will not be restored by the Compact or offset by fee increases. They are attempting not to let salaries fall further behind and to minimize negative effects on students to the extent possible. Chancellor Carnesale emphasized that every Chancellor has considered every option for allocating campus resources.

Chairman Parsky observed that the timing and isolation of the fee proposals from the overall budget situation may be contributing to the notion that money could be found somehow that would make the fee increases unnecessary. He reiterated that it had been The Regents' decision that rather than have an across-the-board response, the campuses break the allocations down school by school. A laborious analysis was undertaken to do so.

Dean Edley commented that at Boalt the total package represented an increase of roughly $3,000 per student; about $1,600 of that is in general and educational fees and about $1,400 in professional degree fees. The general and educational fee increases are $400 for miscellany and $1,000 levied as a result of the Kashmiri class action lawsuit. Of the professional degree fee increase, $400 is for staff salary increases to go into a pool to reflect the fact that the cuts from years past have required that employees, including faculty, be moved from State funds to professional degree funds. Their cost-of-living and other increases instead of coming out of general revenues will come from the students. In other words, only $1,000 of the $3,000 increase that Boalt students are facing is needed in order to make investments to improve the quality of the education. He believed that Boalt should be given the flexibility to chart its fiscal future and be responsible for its fate.

Regent Anderson acknowledged that the professional schools need increased revenue and that the money must come from somewhere. She expressed concern, however, about the planning that led up to the fee proposal and the timing of the recommendation. She believed that the increase could have been proposed at the January or March meeting and that not to have done so indicated poor planning and did not comply with Regents' policy. She expressed concern about the timetable for notifying the affected students about the increases and the amount of financial aid they could expect.

Committee Chair Blum reemphasized that all the fee increases were analyzed and recommended by deans and department heads. The decision could not be made in the fall because the information available was determined to be insufficient.

Mr. Hershman agreed that a better process for the future would be to bring all fee proposals to the Regents at the November meeting. That had been the intent, but the Regents asked to have it done differently. The proposal also was delayed because of the complication of the lawsuit, which required that campuses again examine their recommendations. He reported that in November the University had informed ongoing students and those going through the admissions process that an increase of an unknown amount could be expected.

Chancellor Carnesale agreed with Regent Kozberg's comment that the Legislature cares only about undergraduate students. An undergraduate student at UCLA pays about $7,000 in fees, or 23 percent of what he would pay for the universities that are more highly ranked, which are all private. Professional students used to pay about 33 percent of that; they are now paying closer to 66 percent. It would make sense to increase fees slightly for the 80 percent who are undergraduate students. That is not feasible, given the political environment.

Regent Sayles reported that, despite his history of voting against fee increases, he would support the current proposals. He believed that business and law students are concerned about the value of the education being provided. The University will lose the top-flight students if the schools are not given the ability to build on that quality.

Regent-designate Rosenthal questioned Dean Edley's assumptions. He noted that there is not unanimity among deans, faculty, alumni, and students on the issue of the future of the professional schools, and he objected to the fact that deans with different opinions had not been invited to speak. He was skeptical that the mean salary for Boalt students was as high as was represented. He asked whether there is a clear roadmap for future professional student fees.

Committee Chair Blum reiterated that the University has a fundamentally unreliable partner in the State. There are enormous demands on the State's finances, and education generally is a lower priority than many other concerns. The University is struggling with a budget cut of half a billion dollars. He observed that no one will be happy with the actions that will be necessary to maintain professionalism and high quality under these conditions.

Regent Marcus commented that the University had been using a patchwork approach to addressing its financial problems. He was skeptical that approving an interim measure would do anything to bolster quality, believing rather that a permanent solution is needed.

Vice President Hershman noted that the proposed fee increase would not take effect until the coming year. He recalled that under the Compact the University had reached an understanding with the State on undergraduate and graduate fees and a fee plan had been laid out. Fees for the professional schools were left up to the University. The administration is working toward the development of a multi-year plan. He noted that the lawsuit had complicated the matter for this year.

Dean Edley reported that Boalt has a five-year plan for regaining its top-five status and that both private fund raising and increased fee revenue will be needed to accomplish its goal. What is not needed are fee hikes that produce revenue that is siphoned off for other uses in the system. The money must be used to make investments to strengthen the school. The professional school fee increase will come back to the law school to be used to make changes that students will recognize as having improved the quality of the product. He noted that the income that students earn immediately upon graduation varies. While it is true that the public interest mission of the school is reflected by graduates who choose public service, 85 percent of them choose to go into lucrative private practice. Increased revenues must be available for financial aid in order to protect the options and financial viability of law school for the remaining 15 percent of graduates.

Regent Kozberg believed that the professional schools were at a crucial point where quality, once lost, would be difficult to regain. She was satisfied that the campuses had presented plans that were well thought through.

Regent Ruiz was unconvinced that the $3.7 million could be found somewhere to cover this year's needs without raising fees.

> [For speakers' comments, refer to the May 17 minutes of the Committee on Grounds and Buildings and the May 25 and May 26, 2005 minutes of the Committee of the Whole.]

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regents Blum, Dynes, Kozberg, Ornellas, Parsky, and Sayles (6) voting "aye," and Regent Lee (1) voting "no."

5. **APPROVAL OF TEMPORARY INCREASE IN EDUCATIONAL FEE FOR SELECTED PROFESSIONAL SCHOOL STUDENTS BEGINNING 2005-06**

The President recommended that:

A. The Educational Fee be increased by $1,050 for two academic years beginning fall 2005 for students who are subject to the Fee for Selected Professional School Students, for a total $6,407 Educational Fee for these students.

B. The Educational Fee increase not apply to graduate professional school students enrolled in Public Health, Public Policy, and the UC San Diego International Relations and Pacific Studies program, as they currently are assessed this amount.

C. Revenue from the increase in the Educational Fee be used to cover current losses in professional school fee income associated with the Kashmiri lawsuit injunction.

D. An amount equivalent to at least 25 percent of the revenue generated from the increase in the Educational Fee will be set aside for financial aid for professional school students.

E. Assessment of the $1,050 increase in the Educational Fee be reevaluated by spring 2007.

The Committee was informed that the proposed increase is equivalent to the increase that was implemented for graduate academic students, but not for professional school students in 2004-05. At that time, professional school students enrolled in Public Health, Public Policy, and the UCSD International Relations and Pacific Studies program were treated as graduate academic students for fee purposes and were assessed the fee increase that was implemented for all graduate academic students. If approved, the annual Educational Fee for most professional school students would be $6,407 in 2005-05; professional school students enrolled in Public Health, Public Policy, and the UCSD International Relations and Pacific Studies program would pay the graduate academic Educational Fee of $6,162. The display below compares the Educational Fee for graduate and professional school students if the proposed fee increase is approved.

Proposed Temporary Increase in Educational Fee for Professional Students Compared with Increases for Graduate Academic Students

		Graduate Academic*	Graduate Professional
2003-04	Educational Fee levels	$4,506	$4,751
	Ed Fee Increase	1,050	
2004-05	Total Educational Fee	$5,556	$4,751
2005-06	Previously Approved Increase	$ 606	$ 606
	Proposed Temporary Increase	0	1,050
	Total Educational Fee	$6,162	$6,407

*Includes students enrolled in Public Health, Public Policy, and IRPS

In January 1994, The Regents approved a Fee Policy for Selected Professional School Students, authorizing fees for students in selected professional degree programs that are required in addition to mandatory systemwide fees and miscellaneous campus-based fees. In approving the new fee policy, the University reaffirmed its commitment to maintain academic quality and enrollment in the designated professional school programs and recognized that earning a degree in these programs benefits the individual financially as well as benefitting the state. These fees were increased regularly through 1997-98. In 1997, AB 1318 (Chapter 853) was enacted which, among its provisions, specified a two-year freeze on fees for California residents, including those enrolled in graduate academic professional school programs.

Professional school fees did not increase again until 2002-03, when mid-year cuts to the State-funded budget resulted in fee increases in mandatory systemwide fees and professional school fees. In 2003-04, professional school fees were increased by about 30 percent and the revenue used to offset base budget cuts for the University that otherwise would have been targeted at professional instructional programs. The 2004-05 Governor's Budget assumed, as part of a package of cuts affecting nearly every area of the budget, that the University would develop a plan for achieving $42.2 million in new revenue from increases in professional school fees to be used to offset base budget cuts that otherwise would have again been targeted at instruction. The increases approved for 2004-05 are expected to generate only $37 million in income, falling approximately $5 million short of the revenue proposed by the Governor. The shortfall is being absorbed temporarily through cuts to other programs. At the November Regents meeting, to cover the shortfall permanently an increase of $628 in mandatory systemwide fees for professional school students was approved, to begin in 2005-06.

For 2004-05, to address budget cuts targeted to general campus instructional programs, the Educational Fee was increased by $700 for undergraduate students and by $1,050 for graduate academic students; however, the Educational Fee was not increased for professional school students in recognition of the increases that were approved in the professional school fees, which averaged 30 percent across the disciplines.

In 2003, students who had been enrolled in UC's professional degree programs prior to December 16, 2002 filed a class action suit against the University alleging that the increases in the Fee for Selected Professional School Students that were approved by The Regents for spring 2003 and for all subsequent years violated a contract between the University and students that the professional school fee would not be increased while they were enrolled. Subsequently, the trial court entered an Order granting a preliminary injunction against the University, prohibiting the University from collecting any increases in the Fee for Selected Professional School Students during 2004-05 and 2005-06 above the amount that each student was charged during the 2003-04 academic year. The Order applies only to currently enrolled students who first enrolled in their respective professional degree programs prior to December 16, 2002 and whose professional school fees were raised on or after that date.

As a result of the injunction, by the end of the current academic year, the loss in professional school fee revenue to the University will be approximately $13.5 million, and the loss in revenue in 2005-06 as a result of the injunction is estimated to be an additional $9 million, for a total of approximately $22.5 million over the two years. Revenue from these fee increases was intended to help cover base budget cuts to the professional degree programs, consistent with the final 2004 Budget Act, and is essential to maintaining the quality of the professional degree programs.

The Trial Court is expected to rule on the case in the coming months. The plaintiffs contend that professional school fees should be rolled back even further, to 2001-02 fee levels, for all affected students and that the University should be required to refund any fee increases that were collected above the fall 2002 fee levels. The resulting cost to the University in lost professional school fee revenue if the Court were to grant the plaintiffs' request is estimated to be about $55 million, including the amount associated with the injunction. The final cost to the University should be reduced by the amount of University funds that were used for financial aid purposes but would be increased by other court-mandated costs. Regardless of the ultimate outcome of the case, in the interim the University has a fiscal responsibility to address the immediate shortfall of revenue associated with the injunction; as a result, the $1,050 increase in the Educational Fee is being proposed. If the fee increase is to be implemented in fall 2005, the increase needs to be approved immediately to provide notice to students of the change in the fee.

This revenue is essential to maintaining the quality of the academic programs and student services, and to sustaining enrollments, because professional school fee revenue, net of financial aid, provides significant support to the base operating budgets of the professional schools. Vice President Hershman has informed the Trial Court that the University would be unable to absorb such a substantial loss of revenue and that the University would have no choice but to recoup the revenue it expected to receive from the fee increases by instituting new fees or raising other fees.

Because the University believes its position in this case is correct and that The Regents has the authority to approve fee increases when necessary, if the Trial Court grants the plaintiffs' request, the University will consider an appeal. Even if the University ultimately prevails in the litigation, however, at the end of this current term the majority of students who have benefitted from the injunction prohibiting collection of fee increases for 2004-05 and 2005-06 will have graduated, and it will be very difficult to collect the revenue at a later date. Therefore, it is prudent to consider an action at this time that will address the estimated shortfall of $22.5 million in professional school fee revenue related to the injunction.

Several options for addressing the immediate revenue loss have been considered. These are summarized below:

(1) **Charge a supplemental fee to all students enrolled at the University, including undergraduate and graduate academic students.** A supplemental fee charged to all students to cover the loss of revenue associated with the injunction would be approximately $75 per student per year if phased over two years, assuming 25 percent of the fee revenue would be set aside for financial aid purposes. (This amount would grow to between $185 and $200 per student over two years to deal with the estimated total loss of revenue if all of the plaintiffs' requested relief were granted.)

Imposing such a charge on undergraduate and graduate academic students would be inconsistent with the Compact with the Governor regarding increases in student fees for 2005-06 and 2006-07. The Regents have previously approved increases in mandatory systemwide fees of 8 percent for undergraduates and 10 percent for graduate students for 2005-06, the maximum considered under the Compact.

(2) **Charge a one-time supplemental fee to students subject to the Fee for Selected Professional School Students.** The number of professional students who would be subject to such a fee is relatively small – approximately 9,500 students in 2005-06, excluding students enrolled in Public Health, Public Policy and UCSD's International Relations and Pacific Studies program. A one-time charge to recover the revenue associated with the injunction would be approximately $3,200 per student, assuming 25 percent of the fee revenue would be set aside for financial aid purposes. (This amount would grow to about $7,750 per student to deal with the estimated total loss of revenue if all of plaintiffs' requested relief were granted.)

(3) **Charge a temporary, supplemental fee to professional students, phased over time.** In 2004-05, while the Educational Fee was increased by $1,050 for graduate academic students, there was no corresponding increase in the Educational Fee for professional school students in recognition of the increases that were approved in the professional school fees. An increase in the Educational Fee equivalent to that approved for graduate academic students could

be implemented for professional school students for two or three years to help deal with the revenue shortfall. Students in Public Health, Public Policy, and the UCSD International Relations and Pacific Studies program would not be charged a supplemental fee because they are assessed the Educational Fee increase of $1,050 as graduate academic students. A supplemental fee of $1,050 per student per year charged to students subject to the professional school fee would cover approximately two-thirds of the loss of revenue associated with the injunction if phased over two years, assuming 25 percent of the fee revenue would be set aside for financial aid purposes. Eight years would be required to deal with the estimated total loss of revenue with a fee increase of $1,050 if all of plaintiffs' requested relief were granted.

None of these alternatives is ideal; however, the professional degree programs, like all other University programs, are struggling to deal with the effects of four years of cuts to the University's budget of $500 million that were not offset by fee increases. In addition, salaries for faculty and staff are lagging behind the market by about 10 percent. The ability of the professional schools to maintain quality is at risk, and the programs cannot absorb any additional losses in revenue. Given this, Alternative (3) – increasing the Educational Fee for professional school students by an amount equivalent to the increase in the Educational Fee that was approved for graduate academic students in 2004-05 – is recommended. The proposed $1,050 increase in the Educational Fee, net of financial aid, would generate approximately $7.5 million annually.

It has been the practice of the University to set aside a portion of the revenue generated by student fee increases to mitigate the impact of increases on financially needy students. At the November 2004 meeting, The Regents approved setting aside an amount equivalent to 25 percent of the revenue generated from mandatory systemwide fee increases for professional school students. Consistent with that action, it is proposed that an amount equivalent to 25 percent of the revenue generated from this increase in the Educational Fee be set aside for financial aid purposes.

At the end of two years, a substantial portion of the revenue lost as a result of the Court Order prohibiting the University from collecting fee increases for 2004-05 and 2005-06, net of financial aid, will have been recovered. At that time, the University would reevaluate whether the temporary Educational Fee increase should be continued or if a supplemental fee should be charged to other students. In addition, the University would be able to evaluate the impact of the Fee increase on the schools' ability to remain competitive in recruiting and retaining the best students and to continue to improve the quality of the degree programs.

President Dynes proposed that the recommendation be amended by the addition of the following:

> F. The Regents may amend this action as warranted by future developments in the litigation.

Committee Chair Blum asked whether the University's finding a way to charge a fee despite the litigation would damage negotiations with the litigants or its position in the court case. Mr. Holst believed the action would be viewed as reasonable, under the circumstances.

Regent Anderson asked why any action on fees could not wait until the court case was decided. Mr. Hershman explained that the fee revenue will be lost for the next two years regardless of the outcome in court. He believed it was unrealistic to expect to recoup any money from students who had already graduated.

> [For speakers' comments, refer to the May 17 minutes of the Committee on Grounds and Buildings and the May 25 and 26 minutes of the meetings of the Committee of the Whole.]

Upon motion duly made and seconded, the Committee approved the President's recommendation as amended and voted to present it to the Board, Regents Blum, Dynes, Kozberg, and Parsky (4) voting "aye," and Regents Lee, Ornellas, and Sayles (3) voting "no."

6. **ADOPTION OF EXPENDITURE RATE FOR THE GENERAL ENDOWMENT POOL**

The President recommended that, with the concurrence of the Committee on Investments, the expenditure rate per unit of the General Endowment Pool (GEP) for expenditure in the 2005-06 fiscal year shall be 4.65 percent of a 60-month moving average of the market value of a unit invested in the GEP.

The Committee was informed that the payout would be distributed in August 2005 for expenditure in the 2005-06 fiscal year. This would increase by five basis points the rate adopted by The Regents in May 2004 for expenditure in the 2004-05 fiscal year. The Committee on Investments, at its meeting on May 16, 2005, approved the proposed payout rate of 4.65 percent.

In October 1998, The Regents adopted a target endowment expenditure rate of 4.75 percent, with a first year payout of 4.35 percent. For all future years, the President and the Treasurer committed to review GEP performance, inflation expectations, the University's programmatic needs, and to recommend to The Regents a rate that would provide appropriate increases in the dollar value of the payout.

If the GEP achieves the total return of 7.5 percent for the full 2004-05 fiscal year, the recommended rate of 4.65 percent would produce an increase per-share payout for expenditure in 2005-06 of 1.18 percent over the prior fiscal year. For the first nine months of this fiscal year, ended March 31, 2005, the GEP has experienced a total return of 7.88 percent. Inflation as measured by the Cost-Price Index (CPI) has been running at about 3 percent over the past year.

In dollar terms and year-to-year percentage change of GEP, for payouts based on a range of assumed GEP investment returns through the end of fiscal year 2004-05, the end of the 60-month averaging period, the range of dollar payouts estimated by the Treasurer's Office is considered to be an appropriate balance among the following objectives that were discussed with The Regents in October 1998:

- Maximize long-term total return;
- Preserve the real (i.e., after inflation) long-term purchasing power of the endowment portfolio's principal and of its distributions;
- Optimize annual distributions from the endowment portfolio;
- Maximize the stability and predictability of distributions;
- Promote accountability of asset management (disclosures to donors, performance reporting, etc.); and
- Promote the fundraising effort.

It is important to note that the number of shares to which the payout formula applies changes over time. New shares are purchased by additions to the GEP, existing shares experience fluctuation with the financial markets, and some shares are sold. For these reasons, the percentage is expressed on a per-share basis.

The President and the Treasurer will continue to review annually the expenditure rate in the context of the performance of the GEP to form their recommendation to The Regents for the continuation or modification of the endowment expenditure rate.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

7. PRESENTATION ON CAMPUS AND SYSTEMWIDE EFFICIENCIES

Mr. Tom Vani, Vice Chancellor–Business and Administrative Services, Santa Cruz campus, provided information on current efforts to redesign campus administrative and financial processes to increase efficiencies and reduce costs. He reported that six projects have been initiated by the Santa Cruz campus over the last two years in coordination with the Office of the President. These projects have involved carefully rethinking administrative processes and applying new technologies to gain significant improvements in the way the campus delivers services without compromising quality. Key functional areas include e-Procurement/Strategic Sourcing, Enterprise Time and Attendance, Financial Administrative Services, Human Resources, Workers' Compensation, and Information Technology.

Vice Chancellor Vani reported that the Santa Cruz campus has a number of core business processes and systems. Some are electronic-based on client server technology, some are Web-based, and some are still paper intensive. The campus made an effort to move as much as was feasible to modern, Web-based applications, allowing ease of use, consistency in process, and broad access. Since 1995, typical business functions such as employment, purchasing, and other financial transactions have been placed in service centers. Prior to 1995, these functions were more broadly distributed to individual departments. The move to service centers in an attempt to improve effectiveness was successful, to an extent; however, there were areas needing improvement. In five to ten years there will be a critical turnover in staff due to retirements. This means that current paper-based, labor-intensive processes that rely on individuals more than systems are not sustainable and pose a serious business risk. In consideration of funding reductions, it was decided to look for ways to improve effectiveness, drive out cost, and position the Santa Cruz campus for the future.

Mr. Vani reported that from among the 29 projects identified, 6 were chosen for implementation. Of these 6, 5 are fully under way, on a variety of schedules over the next 6 to 12 months. The organizational result of these efforts is that the service center structures are being replaced by a more robust and responsive consolidated organization with direct connections to the departments. Of important note is the IT structure. IT support had been provided on the Santa Cruz campus on fragmented levels. As with the service centers, this led to a proliferation of practices and more hardware and software. The campus intends to provide a strong central IT organization, improve hardware use, desktop support, and security, and allow the development of a strategic approach to future IT needs and investments.

Mr. Vani observed that the continuous improvement of processes requires ongoing investment of resources, especially in technology. In order to reach out to staff, rather than just imposing changes, an emphasis was placed on developing the new structure on the campus with input from end users. Work teams of representatives from throughout the campus and project managers met with divisions and large units to make sure that the new processes work for them. The initiative has resulted in a 10 percent reduction in Workers' Compensation claims and a 34 percent reduction in lost days for the year. The consolidation of the service centers is being done with a reduction of $1.1 million in annual operating expenses on a base of $6.6 million. The campus was able to avoid layoffs by developing a transition plan using open positions. Overall, the campus anticipates savings of 10 percent to 15 percent on e-procurement.

Strategic Sourcing Program Update

Vice President Broome provided an update on the two primary Strategic Sourcing programs under way at the University. One addresses non-information-technology-related purchases, and the other addresses specific IT products and services. She discussed completed contracts in the non-IT Strategic Sourcing area as well as contract efforts under way and provided an update on the plan to accelerate the total Strategic Sourcing program through the use of outside resources.

Vice President Broome discussed four items: fully implemented programs where every campus has implemented every aspect of the program and savings are expected to be achieved; completed contracts, where the arrangements are in place but the campuses must implement them; programs that are in process; and the accelerated model to encourage faster results.

The first fully implemented program is the purchase card with U.S. Bank, which has been used for the past four months. Ms. Broome reported that, competing against companies like Walmart and Lockheed Martin, the University received U.S. Bank's best-in-class award based on the business practices and business controls it had put in place, its strategic vision to maximize the use of the card, and its implementation of the card in terms of technology.

Turning to completed contracts, Vice President Broome reported that there are 50 systemwide IT contracts now in place that cover $180 million of spending and are generating $30 million of savings systemwide. In office supplies, where the annual spending is $22 million, savings of $3.5 million are projected. Two contracts for office equipment, with a total spend of $28 million, could produce reductions of 32 percent to 42 percent over previous contracts, with an estimated first-year savings of $2 million. Two contracts for general laboratory supplies, with a spending of $60 million, promise a potential savings of $11 million to $21 million over five years.

Ms. Broome reported that an initiative is in progress to optimize savings through the supply chain in the medical centers. The University is looking for the maximum savings under its agreements as a consortium and then will determine whether more could be saved by dealing directly with the vendors.

Given the potential savings, it is apparent that accelerating the process would be advantageous. Because the University's resources are insufficient to contribute further to this effort, a consultant with strategic sourcing expertise in higher education was selected through a competitive bid process. Overall, the University expects savings and incentive awards of $448 million over 5 years on a required investment of $71.2 million. Ms. Broome believed the estimates to be conservative; they depend on the commitment across the system to purchase using the contracts. The accelerated program is expected to begin on July 1.

Regent Blum commented that these initiatives have the potential to result in large annual savings within the next few years.

Regent Ruiz was pleased with the reported progress. In response to a question he asked about the costs, Ms. Broome explained that the $71.2 million cost is a combination of the external cost for the consultants, and the internal cost of training University employees and of the technology necessary to ensure that all sites have the ability access the purchasing system. It also includes the consulting fees. She noted that once the outside consultants have completed a spend diagnostic, the University will have the ability to assess the depth of the opportunities available for savings.

Committee Chair Blum indicated that further updates would be provided at the next Committee meeting.

8. **AMENDMENTS TO THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN TO FACILITATE THE EXTENSION OF THE STAFF AND ACADEMIC REDUCTION IN TIME (START) PROGRAM**

The President recommended that the University of California Retirement Plan be amended effective July 1, 2005 to:

A. Facilitate the extension of the existing START program for one year through June 30, 2006, for those employees currently participating in the program.

B. Authorize the President during the extension period to grant participation in the program, as appropriate, to those locations that demonstrate a need to achieve salary savings because of new budget reductions.

C. Delegate implementation of these amendments to the President.

It was recalled that at the January 16, 2003 meeting, The Regents authorized limited, delegated authority to amend UC benefit plans and programs, including amendments to UCRP, in support of personnel strategies to respond to the immediate California State budget crisis. Authority for the design and implementation of the necessary amendments to UCRP to support the personnel strategies was delegated to the President, with the concurrence of the Chairman of the Board and the Chair of the Committee on Finance, so that strategies could be developed and implemented quickly to produce immediate, required savings.

One of the programs implemented in response to the budget challenge was START, a personnel program endorsed by the chancellors and by medical center and laboratory directors. It was designed to achieve temporary salary savings through the voluntary reduction of appointment percentage and corresponding pay. Amendments to UCRP were necessary so that participation in the START program would not reduce a participating employee's accrual rate of UCRP Service Credit or the amount of pay used to determine UCRP benefits. Approval of UCRP amendments necessary to implement START was obtained in April of 2003.

The START program was implemented June 1, 2003 and is due to end on June 30, 2005. With appropriate approvals, academic appointees, except for those in faculty and student academic titles, and full-time or part-time non-probationary career ("regular status") staff can voluntarily reduce their percentage of time from 10 percent to a maximum reduction of 50 percent of full-time in monthly increments for up to 12 months per START contract. A participant's work schedule cannot be reduced below 50 percent time in any given month of participation. The START program was available for implementation by all UC locations; however, the national laboratories chose not to participate, as they were not subject to budget reductions at that time.

In return for a voluntary reduction in time and pay, a START participant:

- Accrues UCRP Service Credit at the pre-START rate provided that the participant is on pay status for at least 50 percent time during each month of participation. UCRP benefits, including retirement, survivor, and disability income, are based on the participant's unreduced salary.

- Accrues vacation and sick leave at the pre-START rate.

START Program Data (Summary)

As of February 2005, the START program has resulted in $24.4 million in salary savings for UC locations and has helped meet budget reduction goals for departments, minimized the need for layoffs, and addressed the work-life needs of many employees.

- 2,757 participating employees (76 percent female, 24 percent male)
- 41 percent of participants are 50 years or older
- 27 percent of participants are eligible for retirement
- 85 percent of participants are in the Professional and Support Staff Personnel Program
- 64 percent of participants have reduced their time 20 percent or less

Proposal to Extend START Program for One Year

It is proposed that the existing START program be extended for one year, from July 1, 2005 through June 30, 2006, for employees currently participating in the program. Extending the START program for current participants would achieve further short-term salary savings in response to the continued budget shortfalls. Campuses have indicated strong support for the proposed extension of START, citing the success of this temporary program in addressing budget reductions by responding to both employee and employer needs and minimizing the need for layoffs. Although the University's budget funding is expected to improve based on projections under the Compact with the Governor, some campus departments believe that the limited amount of additional funding that may be available will not allow them to return to full staffing.

In addition, the President recommends that he have delegated authority during the extension period to grant participation in the program, as appropriate, to those locations not currently participating that demonstrate the need to achieve salary savings because of new budget reductions.

Amendments to UCRP are necessary so that participation in the proposed extension of the START program will not reduce a participating employee's accrual rate of UCRP Service Credit or the amount of pay used to determine UCRP benefits. The Segal Company, the Plan's Consulting Actuary, has indicated there is no additional actuarial cost to UCRP for extending START, since the START program would not create larger projected benefits for participating members other than those already anticipated in the most recent valuation.

The University will take appropriate action concerning proposed changes that may trigger notice, consultation, and meeting and conferring obligations under the Higher Education Employer-Employee Relations.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

9. **AMENDMENT TO POLICY ON DEFENSE AND INDEMNIFICATION OF REGENTS IN CIVIL PROCEEDINGS**

The President recommended that The Regents amend the Policy on Defense and Indemnification of Regents in Civil Proceedings as follows:

Additions shown by underscore

Policy on Defense and Indemnification of Regents in Civil Proceedings

The Regents of the University of California, a corporation, shall defend and indemnify as provided in this policy any present or former member of the Board of Regents who has been, is, or becomes a party to any action or proceeding arising out of an act or omission occurring within the scope of his/her duties as a Regent. <u>This policy shall also be applied to individuals who are duly nominated by The Regents Nominating Committee and subsequently appointed by the Board as a whole to positions as advisors to the Board of Regents or to one of its committees.</u> The defense and indemnification provided hereunder shall not be deemed exclusive of any other rights to which a party seeking indemnification may be entitled under any statute, bylaw, insurance, agreement, or otherwise; and shall inure to the benefit of the heirs, executors, and administrators of such party. Such defense and indemnification shall supplement indemnification provided by the California Tort Claims Act, other statutes, and other policies of the corporation and are provided for all covered actions or proceedings to the fullest extent permitted by law and regardless of any limitations of coverage contained in the indemnification provisions of said statutes or policies.

* * *

It was recalled that in January 1988, The Regents adopted a Policy on Defense and Indemnification of Individual Regents in Civil Proceedings. This amendment would provide the same level of protection as is provided for Regents to individuals duly nominated by the Regents' Nominating Committee and subsequently appointed by the Board as a whole to positions as advisors to the Board of Regents or to one of its committees. Advisors would include individuals who serve as the Financial Expert Advisors to the Regents' Committee on Audit and those selected to serve on the Investment Advisory Committee. Briefly, such an advisor to The Regents would be provided indemnification and defense against civil claims, litigation, and liabilities that may arise as a result of acts or omissions committed by that individual in the course and scope of his or her service as an advisor.

Consistent with the existing Regental Policy, as a condition of seeking defense and indemnification, advisors would be required to give prompt notice to the Board of the pendency of any action or proceeding for which they might seek defense and indemnification, to keep the Board or its designee apprised of significant developments in the action or proceedings, and to cooperate in the defense.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

10. **INDEMNIFICATION OF INDIVIDUALS SERVING ON THE UNIVERSITY OF CALIFORNIA PRESS BOARD OF DIRECTORS**

The President recommended that The Regents:

(1) Indemnify and defend individual members of the UC Press Board of Directors as to claims and liabilities that may arise or occur in the course and scope of their service as members of the Board, except for claims resulting from fraud, corruption, or actual malice.

(2) Authorize the President to issue any necessary guidelines to implement this policy.

It was recalled that the University of California Press is among the largest, most distinguished, and most adventurous nonprofit publishers in the nation, attracting manuscripts from the world's foremost scholars, writers, artists, and intellectuals for over a century. The UC Press Board of Directors provides advice and counsel to the University's Senior Vice President and Provost, as well as the UC Press Director, on the overall direction of the Press. The Board is also responsible for financial oversight of the Press. It includes some 15 members, all appointed by the Provost and Senior Vice President–Academic Affairs. They are experts in their fields, which include academia, publishing, finance, and private industry. Some are published authors as well.

The work of UC Press is highly visible. About 180 new books and 50 journals are published each year in social and natural sciences and the humanities. Some of the publications are controversial, and a recent threat of litigation caused some Board members to inquire about indemnification. It is important that the University continue to be able to attract and retain highly qualified individuals to serve on the Board who will participate openly and without reservation in their deliberations and in their formulation of recommendations to the Press.

Indemnification requirements of California law and related University policies already protect individual members of the Board who are employees of the University. This action is intended to protect those members who are not University employees. The source of funds for any defense and indemnification resulting from this action beyond costs incurred on behalf of the University would be the UC Press.

In 1978, The Regents adopted a resolution leading to the 1988 Regents Policy on defense and indemnification of individual Regents in civil proceedings. The proposed action would provide the same level of protection to individual members of the UC Press Board as is provided to individual Regents under that policy. Briefly, a member would be indemnified and defended against civil claims, litigation, and liabilities that may arise as a result of acts or omissions committed by the member in the course of his or her service as a member of the UC Press Board. Standing Order 100.4(dd)(9) prohibits acceptance of liability for conduct of persons other than University officers, agents, students, invitees, and guests without Regents' authorization, thus requiring specific approval by the Board of Regents. The Regents has approved indemnification previously in certain circumstances; recent examples are indemnification of the President's Council on the National Laboratories, the Trustees of Campus Foundations, and the public member of the Merced Community LLC. A general delegation of authority to the President for assessment and approval of requests for indemnification may be brought to The Regents for future consideration, to address limited circumstances where individuals agree to serve in positions at the University's request, advising the University on operational matters within the scope of its mission.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

11. **PROPOSED CONTINUATION AND INCREASE OF LIFE-SAFETY FEE, BERKELEY CAMPUS**

The President recommended that:

A. The mandatory life-safety portion of the Berkeley Campus Fee be continued for four years, from fall 2005 through spring 2009.

B. The mandatory life-safety portion of the Berkeley Campus Fee be increased for all students enrolled during the regular academic year by $6.50 from $31.50 per student per term to $38.00 per student per term for fall 2005 and spring 2005, and beginning fall 2006 through spring 2009 be increased to $46.00 per student per term.

C. Students enrolled in the summer be assessed the mandatory life-safety portion of the Berkeley Campus Fee at 50 percent of the succeeding fall term, or $23 per student beginning summer 2006 through summer 2008.

It was recalled that the Berkeley campus Student Center Fee was established in 1955 and was incorporated following a student referendum, along with other student fees in 1968, into a new fee named the Berkeley Campus Fee. In July 1992, to address life-safety needs, The Regents approved an increase in the fee of $31.50 per student per semester, effective from spring 1993 through spring 1996. Consistent with University policy, the approved increase did not require a student referendum. Subsequently, The Regents approved extensions of the life-safety portion of the fee through spring 2005 to address additional health and safety projects. The life-safety portion of the Berkeley Campus Fee has funded needed seismic and other life-safety improvements in student services facilities ineligible, in whole or in part, for State-funded maintenance. The life-safety portion of the fee is the Berkeley campus' primary fund source to address the safety needs of student services facilities. The total annual Berkeley Campus Fee is $197.50, of which $63 is used to fund life-safety projects.

Revenue from the life-safety portion of the Berkeley Campus Fee was originally allocated to fund projects identified by a committee comprised of students and staff. A portion of the funds was targeted for the campus SAFER program (Seismic Action Plan for Facilities Enhancement and Renewal) following the revised evaluation of the campus' seismic needs conducted in summer 1997. Since its inception, approximately $17.5 million in fee revenue, net of financial aid, has been collected by the campus and either expended or budgeted to fund seismic analyses and repairs, HVAC repairs, elevator replacements, fire alarms and sprinklers, demolition and hazard removal, and resurfacing. More recently, following the September 11, 2001 terrorist attacks, The Regents approved use of the fee for some campus security projects.

During the past year, the Berkeley campus Life Safety Advisory Committee, with both student and campus staff membership, has developed a comprehensive list of potential life-safety projects and their respective costs and determined an appropriate amount and duration for the life-safety portion of the Berkeley Campus Fee based on the identified projects. The committee also was asked to determine whether the life-safety portion of the Berkeley Campus Fee should be extended to summer students and the appropriate amount of that fee. The committee's findings are incorporated into this recommendation. The committee will continue through the period of time the life-safety portion of the Berkeley Campus Fee is collected to review project budgets and schedules, approve revised sequencing, take advantage of other campus deferred maintenance work to leverage the funding for the life-safety projects, make certain that an appropriate campus administrator or committee is identified to develop plans for addressing any deferred projects, and ensure that the uses of revenue from the life-safety fee conform to University and campus guidelines. The campus has recommended that the fee be increased in two phases in the first and second years 1 and 2 of the extension to reduce the amount of external financing that would be needed.

The revenue generated by the four-year extension is expected to fund projects from among those listed below.

Life-Safety Fee Renewal Project List	Student Services Unit	Description of Work	Project Costs	% from Life-Safety	Amount from Life-Safety
Rec Sports Facility	Recreational Sports	Exterior repair to address structural steel collapse	$6,000,000	100%	$6,000,000
Rec Sports Facility	Recreational Sports	Restore elevator	$300,000	100%	$300,000
Tang Center	Univ Health Service	Magnetic closures for fire-rated doors	$27,000	88%	$24,000
Tang Center	Univ Health Service	Smoke detectors deteriorating/failing	$24,000	88%	$21,000
Not yet specified		Seismic remediation	$500,000	100%	$500,000
Banway Bldg	Career Center	Seismic remediation	$2,700,000	50%	$1,350,000
Lower Sproul Plaza	ASUC	Water-proofing/ restoration to address risk of structural steel collapse	$3,000,000	33%	$1,000,000
Total			**$12,551,000**		**$9,195,000**

Eligible facilities that would be the subject of seismic remediation planning will be student services facilities that are funded from student fees or occupied by student services or programs. The cost of the planning studies will be proportionally shared by all occupants of the facilities.

In keeping with Berkeley campus practice, it is proposed that two-thirds of the per-term fee revenue be used to support life-safety projects and one-third be directed to student financial aid. Approval of the campus proposal will result in a modest increase in total student fees. It is estimated that over the four years the fee will generate about $10.7 million, of which $3.5 million will be used for financial aid purposes and $7.2 million will be available for projects.

The request for continuation of the fee is in accord with the University's Policy on Campus-Based Student Fees (Policies Applying to Campus Activities, Organizations and Students, as revised July 28, 2004) which states:

83.0 Exceptions to Referenda Requirements

An increase in compulsory campus-based student fees may be approved either by The Regents or by the President under the President's delegated authority as appropriate, subject to the Chancellor's recommendation, and does not require a student referendum, under any of the following circumstances:

* * *

83.12

When the Chancellor determines that an increase is necessary for the health and safety of students, such as for the maintenance of the safety of a building or facility that is funded wholly or in part by compulsory campus-based student fees. Safety issues are those that are potentially dangerous such as risk of fire, asbestos, earthquakes, or structural deficits. (See the University Policy on Seismic Safety and the University Policy on Environmental Health and Safety.)

For buildings or facilities with multiple uses, whenever possible the costs to students for funding safety-related or health-related maintenance should be based on the proportion of current non-academic student use of the facility. A portion of the revenue from these fees may be set aside for financial aid purposes.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

12. REPORT OF NEW LITIGATION

General Counsel Holst presented his **Report of New Litigation**. By this reference, the report is made a part of the official record of the meeting.

The meeting adjourned at 1:08 p.m.

Attest:

Secretary