

The Regents of the University of California

COMMITTEE ON FINANCE

September 20, 2007

The Committee on Finance met on the above date at Mondavi Center, Davis campus.

Members present: Regents Blum, Brewer, Dynes, Garamendi, Gould, Hopkinson, Island, Kozberg, Moores, Parsky, Preuss, and Wachter; Advisory member Croughan; Staff Advisors Brewer and Johansen

In attendance: Regents Allen, Bugay, De La Peña, Johnson, Pattiz, Ruiz, and Varner, Regents-designate Cole, Scorza, and Shewmake, Faculty Representative Brown, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Provost Hume, Executive Vice Presidents Darling and Lapp, Vice Presidents Broome, Foley, and Sakaki, Acting Vice President Standiford, Chancellors Birgeneau, Blumenthal, Bishop, Block, Fox, Kang, Vanderhoef, and Yang, Acting Chancellor Grey, and Recording Secretary Smith

The meeting convened at 10:30 a.m. with Committee Chair Gould presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of July 18, 2007 were approved.

2. APPROVAL OF THE FINAL 2007-08 BUDGET

The President recommended that changes to the University of California 2007-08 budget plan for State General Funds consistent with the final budget act adopted by the Legislature and the Governor, as described below, be approved.

Executive Vice President Lapp recalled that the Board approved a total budget plan for the University for 2007-08 at the November 2006 meeting. The Governor and the Legislature had since acted on the State budget and, as a result, the Board was asked to approve a final budget plan consistent with changes included in the final budget act. There were very few changes to The Regents' original plan as it was adopted in November 2006 and they are all related to State General Funds; there were no proposed changes to other fund sources. Ms. Lapp noted that the 6.4 percent increase in State funding over last year is significant, given that the State's overall budget increased by only 0.6 percent.

At the November 2006 meeting, the Board adopted the following resolution related to student fees:

“. . . the expenditure plan included in the document, *2007-08 Budget for Current Operations*, be approved, provided, however, that student fees as proposed will be reduced or rescinded prior to implementation if the Governor and the Legislature provide the funding to reduce or eliminate the fee increases and the remaining portions of the Compact with the Governor remain in place.”

The final State budget does not provide funding to buy out planned student fee increases. Therefore, the undergraduate, graduate, and professional student fee increases approved at the March 2007 meeting will be implemented.

The final State budget act provides a total of \$3.274 billion in State General Funds for the University's budget. This is an increase of 6.4 percent over the previous year. While not all of the University's requests were funded, the budget meets and exceeds the Compact, including preserving the base budget adjustment that at one time was threatened, and providing funding needed to begin to close the gap in staff and faculty salaries.

The changes proposed for programs funded from State and UC General Funds and Student Fees were displayed. The first column of the display showed The Regents' budget request as approved by the Board in November 2006, revised slightly to reflect additional funding for lease revenue bond payments and annuitant health benefits. The budget plan previously approved by the Board recognized that this adjustment would be made by the State based on estimated costs, as has been done in previous years. The second column displayed the changes approved in the final budget act, which reflected the actions of the Governor and the Legislature. Described below are changes to the budget plan approved by The Regents in November 2006.

Marginal Cost of Instruction

The budget plan approved by The Regents in November 2006 included enrollment growth of 5,340 FTE students and an assumption about revisions to the marginal cost formula, which is used to calculate the level of funding provided from the State for each additional student. At the time the November document was developed, the University's plan reflected an estimated marginal cost of \$10,500 per student.

With regard to the number of students, the Governor's Budget proposed an increase of 5,000 FTE students, including enrollment growth in the health sciences (medicine and nursing), rather than the 5,340 originally requested. The level of enrollment growth proposed by the Governor was approved by the Legislature and is included in the final budget act. With regard to the funding level per additional student, or the marginal cost calculation, the final marginal cost rate approved by the Legislature was increased to \$10,586. When both actions are taken into account (340 fewer students, but a higher marginal cost

rate), it is a net reduction of about \$2.6 million from the amount previously approved in the Regents Budget plan.

Employer Retirement Contributions

Consistent with the Board's intent, the University had requested that employer and employee contributions be reinstated by July 1, 2007. This issue was discussed at length throughout the budget process; however, the final budget does not include funds to begin the State's share of reinstating employer contributions, which had been estimated to be \$60 million in the first year. The Governor's May Revision proposed budget language that would have stated the Governor's and Legislature's intent to reinstate employer contributions to the University's retirement system (UCRS), once employee contributions are reinstated, at rates comparable to employer contributions provided to the Public Employees Retirement System. Unfortunately, neither house acted on this language. The University will need to revisit this issue as part of the discussions on the 2008-09 budget. The State should support efforts to ensure the fiscal viability of the University's retirement system, and State support should be provided for the UCRS at a level similar to that provided for other State employees.

Student Academic Preparation Programs

The Regents' Budget assumed the \$19.3 million in State General Funds provided for student academic preparation programs had been made a permanent part of the University's base budget. However, the Governor's January budget once again proposed elimination of these funds. The Legislature augmented the University's budget to restore the funds and the final budget sustains the augmentation.

Labor Research

The Regents' Budget assumed the \$6 million in State General Funds provided for labor research had also been made a permanent part of the University's base budget. However, again, the Governor's January budget proposed elimination of these funds. The Legislature augmented the University's budget by \$6 million to restore funding for labor research to its original level when the program was initiated in 2000-01 and the final budget sustains the augmentation. Budget language accompanying the appropriation calls for 40 percent to be used for labor education programs and 60 percent for research on labor and employment.

California Institutes for Science and Innovation

As part of the Governor's Research Initiative announced last December, the January Governor's budget proposed increasing core support for the California Institutes for Science and Innovation by a total of \$15 million, bringing the total State funding for operations to \$19.8 million. Unfortunately, the Legislature did

not support the Governor's request and no funds for this purpose are contained in the final budget.

The State has already made a substantial investment in the physical infrastructure for the Institutes, initially providing \$100 million in capital funding for each Institute, with a required two-to-one match from non-State sources. The four Institutes have achieved and exceeded the match requirement from non-State funds and have built state-of-the-art facilities to house these programs. While the facilities needs of the Institutes have been largely met, the core support for the Institutes is inadequately funded. The State began providing \$1.2 million per year per Institute in 2001-02 with the understanding that additional support would be negotiated in future years, once the Institutes were in full operation. The funding proposed by the Governor was needed to ensure that each Institute had a minimum level of support with which to operate, which in turn would act as seed money to continue to attract funds from industry and governmental sources.

It had been the University's intention to work with the Governor to continue to seek approval of this funding during the remainder of the legislative session through separate legislation. However, it became apparent that the additional \$700 million in reductions that were part of the final agreement on the budget among the legislative leadership and the Governor make it unlikely that the University would succeed in this effort. Options for achieving adequate funding for the Science Institutes are currently under discussion and will be discussed with the Board when a preferred option is identified.

Funding for Petascale Computing

The National Science Foundation launched a national bidding process for the design and management of a \$200 million petascale computer which would become operational in 2011 as the world's fastest supercomputer. The University requested and the Governor proposed including \$5 million in the 2007-08 budget as State matching funds in support of the University's bid to win this competition. The final version of the budget did not include these funds. However, the issue was moot with the announcement that the award was made instead to the University of Illinois.

Funding for Casa de California

For several years, the State budget has contained language authorizing the University to use up to \$7 million in operating funds to support renovations needed for the University's educational facility in Mexico City, *Casa de California*. As part of the final negotiations on the budget, the Governor agreed to veto \$700 million from the Legislative version of the budget. Included among these vetoes was a total of \$500,000 eliminated from the University's budget as well as the language authorizing use of State operating funds for maintaining and renovating the facility. It was the Governor's intention that no State funds be

used for this facility. The University is seeking other sources internally to continue the work of renovating the building for future academic uses.

State Augmentation for COSMOS

The California State Summer School for Mathematics and Science (COSMOS) is an intensive academic four-week residential program for talented and motivated high school students who have completed grades 8 to 12. The goal of the program is to motivate the most creative minds of the new generation of prospective scientists, engineers, and mathematicians to become the future leaders in these fields. The academic program is taught by distinguished UC faculty, scientists, and researchers.

The Legislature augmented the COSMOS budget by \$500,000 and the augmentation was sustained by the Governor. This is a very worthwhile and successful program.

It should be noted that two other legislative augmentations, \$1.5 million for agricultural research and \$1.5 million for the Scripps Institute for Oceanography, were vetoed from the final budget act as part of the agreement reached between the Governor and legislative leadership to eliminate \$700 million from the legislative version of the budget.

Increase in Student Fees Related to Enrollment Growth

The Regents budget approved in November had estimated enrollment growth at 5,340 FTE. As noted above, the final budget act funded enrollment growth of 5,000 FTE. The projected student fee income generated from new enrollment has been adjusted down by \$2.7 million to reflect this change.

Capital Outlay Program

The Regents approved changes to the 2007-08 State Capital Outlay program at the July meeting. The Regents' original request for State-funded capital outlay and the changes that were approved in the final budget act was displayed. The changes included a legislative initiative to provide up to \$10 million of State general obligation bond funds for preliminary plans, working drawings, and construction for the Life Sciences Research and Nursing Education Building on the campus of the Charles R. Drew University of Medicine and Science. This facility would support a joint nursing program between the University of California and Drew University. As pointed out in the July item, these funds would not be available until formal agreements were signed between The Regents of the University of California and Drew University pertaining to the ownership and occupancy of the facility and the operation of a joint program in nursing. The project will be presented to The Regents for approval once the joint program and scope and budget of the project are defined.

Ms. Lapp also discussed a California community college initiative scheduled for the February ballot to increase the amounts that they are currently guaranteed under Proposition 98, reduce their fees from \$20 to \$15 per unit, and make governance changes to increase the independence of the community college system. She stated that the initiative would provide community colleges with a funding guarantee separate from that provided by the current Proposition 98 formulas. While the initiative would have no direct impact on the University, it would increase the community colleges' share of the State budget, thereby reducing the amounts available to the State in discretionary programs, from which the University receives its funding. The Legislative Analyst estimates that the initiative would increase funding to community colleges above Proposition 98 levels by between \$135 million to \$470 million over the next three years, and would further reduce low community college fees and make it difficult to raise those fees again. Ms. Lapp noted that further reducing these fees would create pressure to raise fees at the University and at the California State University (CSU) system and to limit the State's ability to raise additional funds in unfavorable budget years for both UC and CSU. Ms. Lapp plans to conduct further analysis of the initiative and report to The Regents in November.

Regent Hopkinson asked if there was a commitment from the State to guarantee future contributions to UCRS. Ms. Lapp stated that there was such language in the Governor's January budget, but this language was not retained in the final version. The University will continue to have conversations with the State regarding such guarantees.

Regent Ruiz requested to know more about the budget for labor research and how it benefits UC, given that this is a point of contention between the Governor and the Legislature. Committee Chair Gould agreed that Ms. Lapp should brief The Regents on this and any other issues that are in debate at the State level.

Faculty Representative Brown inquired about the agreement with the State to fund the California Institutes for Science and Innovation (Cal ISIs), and noted the pressure placed on the University to fund the program internally. President Dynes responded that the original creation of the Cal ISIs included an understanding that operational support would be provided by the State. He explained that the Cal ISIs are thriving, and it is the judgment of President Dynes, Provost Hume, and outside advisors that support must be provided to the Institutes, since a small investment yields a large return. Mr. Brown asked if it is the University's position that it has the capacity to fund the Cal ISIs in the future without ongoing State support. President Dynes stressed that the University will seek that funding again from the State.

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

3. **2008-09 BUDGET: OPTIONS UNDER DISCUSSION**

Executive Vice President Lapp made an oral presentation on options under discussion for the 2008-09 budget. At several recent meetings of the Board, including during an initial discussion of the 2008-09 budget at the July meeting, several Regents expressed the view that more opportunity ought to be provided to review and discuss possible trade-offs that are under consideration as the 2008-09 budget is developed. In addition, Provost Hume and Ms. Lapp are revamping the budget development process to ensure that academic priorities are adequately reflected in the final budget request to the State. The presentation reviewed options with the Board as well as highlighted relevant changes to the budget development process.

Ms. Lapp stated that the 2008-09 budget proposal will be presented to The Regents for approval at the November meeting. She noted that during the meeting of the Committee on Long Range Planning, views were expressed that the University needs to be much more concise, articulate, and aggressive when seeking funding for the initiatives outlined in the report of the Long Range Guidance Team. She assured Regents that she is working with Mr. Hume to meet that request and include such refinements in the November proposal. The immediate presentation, however, focused on the core basic budget needs of the University.

Ms. Lapp pointed out that the Department of Finance is currently projecting that the General Fund operating deficit for 2008-09 will grow to at least \$6.1 billion if no corrective actions are taken. The Governor has indicated a commitment to developing a budget proposal with a zero operating deficit. To put the numbers in context, Ms. Lapp explained that \$6.1 billion represents 6 percent of the State's General Fund budget; the University's share would be roughly \$190 million. Further, given that 70 percent of the State's budget is nondiscretionary, if the \$6.1 billion came from the discretionary portion of the budget, the University's share would be larger than \$190 million. The Department of Finance has issued instructions that any proposals for expansion and new initiatives will have to be funded internally. The University's primary goal will be to secure the Compact funding.

Ms. Lapp reviewed the sources of revenue for the overall University budget, pointing out that only one-third of the University's sources of revenue – which includes State General Funds, UC General Funds, and student fees – are available for the University's instructional mission and to fund new public service initiatives. She underscored, however, that all portions of the University's budget are subject to the same stresses, including faculty salaries, health and welfare benefits, and the need to fund retirement contributions.

Revenue to fund the University's core instructional mission is comprised of 60 percent State General Funds, 11 percent UC General Funds, and 29 percent

student fees, totaling \$5.4 billion. Expenditures include 59 percent faculty and staff salaries and wages; 12 percent benefits; 20 percent equipment, supplies, utilities, and debt service; and 9 percent financial aid. Ms. Lapp noted that labor costs represent 71 percent of budget expenditures.

Ms. Lapp turned to projected increases in expenditures under a basic budget plan for the University, which include compensation, the accelerated faculty salary plan, non-salary price increases, enrollment growth, student financial support, core academic support, student-faculty ratios, graduate student support, and student mental health services, for a total of \$405 million in expenditure increases.

Regarding anticipated increases in revenue, State funding is expected to be consistent with the Compact, including a 4 percent base budget adjustment, a 1 percent increase for core needs, and a 2.5 percent increase for enrollment growth. Ms. Lapp stated the importance of recognizing that such funding increases would represent a 7 percent increase over UC's current budget; given that the State budget only increased 0.6 percent in the current year, securing this funding would be a significant achievement. UC General Funds are expected to increase by \$20 million through a combination of nonresident tuition increases for undergraduates and increases in federal contract and grant overhead. Student fee revenue is expected to increase in two ways: new revenue for enrollment growth and a 7 percent student fee increase or equivalent State funding. Total anticipated increases in revenue total \$375.6 million. The budget shortfall is \$29.4 million.

Ms. Lapp presented a number of options to address the shortfall, warning that many of the options will be unacceptable to Regents. The first option, to which Ms. Lapp, Provost Hume, and the President are committed, is to identify new efficiencies, both at the Office of the President and systemwide. Using the Monitor Group report as a blue print, Ms. Lapp expressed her confidence that initiatives at the Office of the President and collaborations with campuses should yield a savings of between \$20 million and \$25 million, which is an achievable target for both 2008-09 and 2009-10, for a total of \$50 million. Other options to consider are to decelerate faculty compensation increases, divert a portion of the 1 percent funding for student-faculty ratios, limit return-to-aid to 30 percent, eliminate additional graduate student support, or reduce the increase for student mental health. While the latter options are recognized as unacceptable to the Regents, Ms. Lapp saw a need to present the options in order to identify tensions in the budget. Options to increase revenues include raising student fees by an additional 1 percent net of student aid or raising the registration fee by an additional 3 percent to fund a large portion of the student mental health needs.

New University initiatives that will be considered include research, public service, and deferred maintenance, the latter of which has consistently been identified by the campuses as a major need.

Ms. Lapp discussed that, in terms of capital outlay from the State, the Compact specifies that the University would receive \$345 million in General Obligation bonds or State lease revenue bonds, which would be used to address seismic and life-safety improvements, enrollment growth, modernization of aging facilities, and infrastructure. The funding for 2008-09 would require a new bond measure. Ms. Lapp commented that the University will have to make a very strong case to the State in the coming months as to why the University needs the funds, and she called on the Board to help make that case.

Regent Moores pointed out that capital gains are a significant portion of the State's budget, and inquired as to what contingency plan the University has considered if capital gains are reduced in the coming years. Ms. Lapp shared Regent Moores' concern, noting that her office is in continual contact to solicit information regarding tax revenues; the State will not have actuals on capital gains and stock options until early next year. Ms. Lapp noted that a precipitous drop in capital gains would jeopardize foremost the additional 1 percent funding, or \$30 million, but the additional 4 percent base budget adjustment may also be vulnerable, totaling approximately \$155 million in State funds that would not be forthcoming. She stated her intention to work on a contingency plan to address this possibility. Regent Moores asked that such a plan be shared with the Board.

Regent Moores questioned why enrollment growth was included in capital outlay. Ms. Lapp explained that enrollment growth requires new housing at campuses; once enrollment growth has stabilized and the necessary beds are provided, those funds would be shifted to the modernization of aging facilities. Regent Moores reasoned that over-enrollment will cause the University to spend capital outlay funds.

Regent Garamendi discussed that there are two ways to engage in budget planning; one is the process in which the University is presently engaged and the other is to develop a budget plan based on the overall needs of the University and the State. He maintained that the proposed budget will continue to propel the University into mediocrity, and reminded the Regents that he has long argued against the Compact. He believed that the Regents should ignore the Department of Finance directives, develop a budget that meets the vision and needs of the University, and submit it to the Governor and the Department of Finance as what is necessary to fulfill the University's mission and meet the needs of California. In that scenario, the Department of Finance would be responsible for cutting the budget and in turn not meeting the needs of the University and of the State. He also argued that it was inappropriate to assume additional student fees in the draft budget. If the budget were drafted without the assumption of student fee increases, the burden and political heat would fall on those who are elected to raise taxes. He objected to non-elected officials raising a tax on students, which has occurred at the University in recent years, noting that the efficiency of the increase is low since one-third is recycled into student support.

Ms. Lapp clarified that the proposed budget would solicit funds to cover a student fee increase; the budget will ask for the Compact as well as the \$102.9 million scheduled for a student fee increase, in the event that the State does not provide the funds. Regent Garamendi reasoned that if the University asks the State to buy out student fees, the University should assume that the State will not. If the University does not include student fee increases in the budget, the issue is left to the Governor and the Legislature to assume the burden and consequences of raising student fees.

Regent Pattiz expressed his concern over the consequences if the University chooses not to include student fee increases in the budget, including the possibility that admissions growth will be affected. He also expressed concern about abdicating The Regents' responsibilities to the Legislature, potentially compromising its ability to manage the institution.

Regent Island asserted that the University's relationship with the State is possibly the least effectively managed activity in the enterprise, and it should be of the highest priority to improve it. He strongly encouraged considering a different approach in dealing with the State, such as that proposed by Regent Garamendi. Regent Island reminded the Regents that students and their parents are already taxpayers in California and they should not be burdened with further taxes through student fee increases.

Regent Allen asked that a smaller fee increase be considered as an option.

Echoing other comments by Regents, Regent Hopkinson commended Ms. Lapp's articulate and detailed presentation. She expressed her concern over the budget in general, and asked for more definition on the alternatives given and the implications of expenditure increases, for example how improvement in graduate student ratios would affect Regents' other goals. She requested that interim information be provided to The Regents regarding these alternatives.

Regent Varner requested information on the amount of money received by the University in technology transfers, given the opportunity to improve revenue through the licensing of patents. He echoed Regent Garamendi's comments regarding the importance of conveying the extent to which the University contributes to the economy of California.

Regent Ruiz observed that fundraising efforts should be a line item in the revenue breakdown of the budget, given the opportunity to increase revenues through aggressive fundraising.

Regent Kozberg inquired about the payout from the University's endowment and asked if the University has a clear picture of how the endowment can be used and any restrictions placed on such use. Ms. Lapp replied that her office is addressing the option of diverting both endowment funds and funds in the Short Term

Investment Pool (STIP) to longer term investments in order to yield a greater rate of return. Both the endowment and the STIP represent promising options to increase the University's revenue.

Chairman Blum agreed that reinvestment of the STIP fund creates a potential to increase revenues, given that currently it holds \$8.1 billion, up to \$7 billion of which is excess reserve that is invested at 4.2 percent. Ms. Lapp explained that the STIP fund holds much of the University's gifts and campus funds that are not needed immediately. She is investigating the amount needed for cash liquidity so that the remainder can be diverted to longer term investments. She also pointed out that approximately 50 percent of the funds are restricted, such as gifts that were donated for a very specific purpose. The campuses have been asked to provide the Office of the President with more detailed information regarding what the funds are.

Chairman Blum also noted that, while recognizing that Ms. Lapp rightly opted to be conservative in estimating savings by improving operational efficiencies, the Monitor Group work has indicated that savings may be much greater than those estimates. He expressed his concern that the augmentation to faculty salaries may be stalled if the additional \$125 million is not provided by the State.

Regent Hopkinson brought up the costs involved in the effort to improve efficiency, including the development of new systems. Ms. Lapp responded that, particularly in the area of the Human Resources Information System (HRIS), the initial phases have already been funded. In later years, however, the Board would need to be approached for further funding, perhaps as much as \$100 million. Incremental changes, however, can be made to improve the systems, and internal funding streams for these changes have been identified.

Regent De La Peña stressed the importance of having a single accounting system implemented in the Office of the President. Ms. Lapp responded that the Office of the President, particularly Vice President Broome's office, is working diligently to ensure that the information entered into the system is consistent; this is part of the HRIS initiative.

Committee Chair Gould noted that many of the Regents' questions centered on the long-range needs of the University, and reminded the Regents that the Task Force to Evaluate University Funding Options that he and Regent Moores are co-chairing is modeling the long-term needs of the University. This information should be available for presentation by the end of the year. The modeling is intricate, taking into account all possible sources of revenue that the University can control to generate more funds, in addition to what can be aggressively sought from the State. The purpose of the endeavor is to have a well-articulated, well-documented synthesis of the needs of the University, which is crucial in dialogs with the State regarding the future of the University. The next step would be to assess options if the University is not funded at those required levels. Committee

Chair Gould asserted that the University must be better informed in its negotiations with the State. He concluded that the year ahead will be challenging, and urged thinking about the budget issues in advance of the November meeting, at which time the University budget will be brought before The Regents.

Ms. Lapp expressed her appreciation at the complements received regarding the presentation, and acknowledged the work and input of Ms. Debora Obley and Mr. Michael Clune.

4. **AUTHORIZATION TO SUBMIT APPLICATIONS FOR PROPOSITION 71 GRANT FUNDING FOR MAJOR FACILITIES GRANTS AND TAKE RELATED ACTIONS TO RECEIVE FUNDING**

The President recommended that:

- A. The Regents authorize the chancellors to submit applications for Proposition 71 grant funding for California Institute for Regenerative Medicine Major Facilities Grant Program.
- B. The Regents authorize the President or his designee, after consultation with the General Counsel, to execute grant contract documents and take such further actions, including but not limited to:
 - (1) The establishment of a mechanism for financial transactions.
 - (2) Execution and delivery of such additional, related instruments, certificates, statements, and documents as are reasonably required to obtain the Grants.
- C. Any action taken by the President or his designees, in furtherance of the matters authorized by the foregoing actions, is hereby ratified, approved, and confirmed as the act and deed of The Regents.
- D. Approval of the individual capital projects, including its financial feasibility, for which the grant funding would be applied, will follow the standard University approval practices.

The California Institute for Regenerative Medicine (CIRM) was established in early 2005 with the passage of Proposition 71, the California Stem Cell Research and Cures Initiative. The Independent Citizens Oversight Committee (ICOC) is the 29-member governing board for CIRM. The Statewide ballot measure, which provided \$3 billion in funding for stem cell research at Californian universities and research institutions, was approved by California voters November 2004. Proposition 71 authorizes up to ten percent of the funding to be allocated for grants to build scientific and medical research facilities.

CIRM will allocate funds to provide capital grants in several phases for new or improved space in support of stem cell research. The ICOC approved the first phase of grants at its June 2007 meeting for building renovations, equipment, and operating funds to support shared research laboratories and stem cell techniques courses throughout the State (CIRM Shared Research Laboratories and Stem Cell Technique Courses). The second phase will be the CIRM Major Facilities Grant Program. The third and final phase of capital funding, approximately \$35 million, has been set aside for a stem cell bank and core facilities. At this time, further details about this last phase of funding are not known.

CIRM released the first part of its Major Facilities Grant Request for Applications (RFA) on August 24, 2007. The RFA released \$227 million for new stem cell laboratories. CIRM has indicated each institution (i.e., each campus or consortium) may only submit one application for this competitive RFA.

The ICOC will review the competitive grant applications in two steps, the first for scientific merit and the second for facility considerations. In the first step, the ICOC will set total funding targets for each of three distinct categories of capital grants based on the scientific program to be located in these major facilities as follows:

- CIRM Institutes: Funding for capital project proposals that support the most comprehensive stem cell research programs, with individual grants ranging from \$25 million to \$50 million.
- CIRM Centers of Excellence: Funding for capital project proposals with broad but somewhat less comprehensive stem cell research programs, with individual grants ranging from \$10 to \$25 million.
- CIRM Special Programs: Funding for capital project proposal that support specialized stem cell research programs, with individual grants ranging from \$5 million to \$10 million.

It is anticipated that the ICOC's first review will be completed January 2008. At that time, campuses will know the grant range for which they are competing and can modify their final application for the facility as appropriate. The ICOC's second and final review is projected to occur sometime in April 2008.

Proposition 71 states that applications that provide for facilities no more than two years after grant award will receive priority for funding. In this context of competitiveness and timeliness, it is requested that the chancellors be authorized to submit Proposition 71 applications for competitive grant funding for the CIRM Major Facilities Grants Program and that The Regents authorize the President or his designee to execute grant contract and supporting actions.

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

5. **ORGANIZATIONAL ASSESSMENT AND RESTRUCTURING OF THE UNIVERSITY'S ADMINISTRATIVE FUNCTIONS**

Provost Hume reported that the Monitor Group has been working to analyze administrative and financial functions across the system. In summarizing the assessment phase, Mr. Mackenzie from the Monitor Group reported that promising savings opportunities do exist via improvements in service effectiveness and operational efficiencies.

Mr. Mackenzie reviewed the mandate of the Monitor Group effort. The project was intended to define clear roles for the Office of the President (OP) and find achievable projects and initiatives to increase effectiveness and efficiency, with the intent to deliver better on the University's mission. The first step was to conduct an organizational diagnostic, which had three basic parts: an assessment of the major activities of the administrative and finance functions within OP, a review of the allocation of resources dedicated to those activities, and an evaluation of OP's performance from the stakeholders' point of view.

Several hundred interviews were conducted at all campuses and at OP with chancellors, provosts, vice chancellors, members of the Academic Senate, all OP division heads, and many Regents. In addition, a detailed cost analysis was conducted primarily within OP, including an activity-based study to identify expenditures on administration and finance, and 650 people were surveyed to rate the performance and importance of OP's services.

While the work revealed motivated, caring, and hard-working people systemwide, it also revealed widespread dissatisfaction with and distrust of OP's services and processes, resulting in a lack of confidence in OP. Mr. Mackenzie explained that these inadequacies were due to structures, practices, and a culture that lead to systematic underperformance, perpetuating a vicious cycle of no confidence across many of the constituencies. The silver lining is that the people of OP care about the University and want confidence to be restored.

Several themes emerged from an analysis of the assessment phase. The first was that OP's decision-making processes are unclear in terms of authority, process, and transparency. Second, there is a conflict between Regents' and campuses' expectations of OP: Regents expect OP to be enforcers of standards and to ensure campus accountability, but OP often lacks authority over campuses or that authority is unclear. Conversely, campuses expect OP to be a responsive service organization without interfering with their basic autonomy. Since OP has not earned Regents' confidence, Regents feel duty bound to step beyond their oversight role and assume responsibilities that should be the purview of OP. The effect of these conflicting expectations is that OP is structured to disappoint. Third, OP takes away choices from a campus perspective; systemwide initiatives are developed and campuses incur costs for them, but often the initiatives do not

reflect the basic needs of the campus or are not effective. Fourth, OP is viewed as reactive rather than proactive.

In terms of culture, the assessment found that OP exhibits risk intolerance and aversion, in part due to years of facing public challenges and failures. In terms of leadership, it was found that extremely talented and dedicated people at OP are being held back by systems and processes that they inherited in many cases, eroding confidence in themselves and in leadership.

Mr. Mackenzie turned to systemic issues, using the example of budgets. Money is automatically appropriated to the same endeavors annually, making impossible the strategic allocation of funds to high priority needs. The result is that basic infrastructure, such as information technology, is arguably decades behind. Not only are systems ineffective, in certain cases they do not even exist. Reporting should be largely automated, but given the lack of systems, OP is forced to use manual labor.

Monitor Group found significant opportunities for cost reduction, including improving efficiency and reducing redundancy within OP, and collaborating among campuses for achieving economies of scale. Campus collaboration has a greater potential for cost savings given that five to six times more resources are spent on the campuses than at OP. Realizing these savings, however, will require strong leadership from and trust in OP. Such confidence is needed in order to identify opportunities, make up-front investments, prioritize choices and approaches, and provide incentives aggressively to pursue identified opportunities.

Based on conversations with Regents, restoring credibility at OP will involve demonstrable cost-cutting and improved transparency, accountability, and performance. Mr. Mackenzie advised that OP must improve its leadership so that the Regents can return to a more appropriate role. From the campus side, it was found that campuses want transparency, efficiency, and accountability as well, but they also want OP's services to fit their needs better. As restructuring proceeds, Monitor Group will ask for the commitment of the Regents and the campuses to be open to extending confidence to OP in order to allow them to meet the challenges of today and tomorrow.

The steering committee has identified three waves of restructuring efforts. Wave One involves restoring OP's credibility through improving service quality, increasing transparency, and saving money. Three basic efforts have been approved for this Wave by the steering committee: developing a transparent budget and funds distribution process, streamlining and improving capital projects, and improving the University's State government relations function. Wave Two involves a rebuilding of OP, including developing a principle-driven view of OP's role, clarifying its vision, and building a high performing human resources organization that will realize that vision. Wave Three will involve an

engagement between the campuses and OP to take advantage of economies of scale through systemwide collaboration and providing financial incentives to ensure campus involvement.

Regent Moores asked if Monitor Group had quantified targets for potential savings over the next couple of years. Mr. Mackenzie replied that the work did not go to that depth, but that a basic assessment on the initial projects or initiatives can be offered.

In response to a question from Regent Kozberg regarding how the waves will proceed, Mr. Mackenzie explained that a team has been chartered for each initiative that in each case includes at least one Executive Vice President, a Regent sponsor, and the involvement of one or more campuses. Some initiatives are just beginning, while others have been underway for approximately three weeks.

Regent Hopkinson asserted that clarification of the roles of Regents, OP, and the campuses is essential before the next phase is implemented, because while many improvements can be initiated, the sustainability of those initiatives will be hampered if the roles are not resolved. She stated that, in addition to service, OP has a role in governance, maximizing the University's potential, resource allocation, and accountability. Mr. Mackenzie noted that there is an effort led by Provost Hume, assisted by Regent Schilling, Faculty Representative Brown, Chancellor Vanderhoef, and others, to address the role of OP. Regent Hopkinson clarified that roles need to be defined for the campuses and The Regents as well. She recalled that the earlier decentralization effort had huge benefits to the University as a whole, but a price was paid at OP, and urged the importance of finding a balance.

Regent Island expressed his concern that widespread dissatisfaction with OP results from a desire from the campuses to not to have any services from OP. While the Monitor Group report suggests that there would be widespread embracement of OP's services upon its restructuring, he doubted that this would be the case. Mr. Mackenzie agreed that OP's responsibilities are broad; some of those responsibilities are embraced by the campuses, and others, perhaps those involving audit or compliance, may not be. It was the professional judgment of Monitor Group and Mr. Mackenzie that campuses embraced improvement in the entire range of services from OP. There needs to be a balance between control and service.

Regent Island asked how Regents are able to evaluate and participate in the final Monitor Report and findings and give input to the recommendations, expressing concern that as the work progresses and reports are produced, recommendations will be adopted and implemented without input from The Regents.

Chairman Blum wanted Regents to be aware that much of the work involves detailed operational activities. He suggested that Mr. Hume and Mr. Mackenzie appear before The Regents at each meeting to discuss the work. Regent Gould agreed with the suggestion that a regular presentation should be brought to Regents as to the progress of the Monitor Group, and that Regents should be informed if changes require a major shift in policy or direction.

Regent Island noted the difficulty of embarking on an effort without a long-term President in place, and expressed concern over remaking the University pursuant to an outside consultant's study, a consultant that has neither the interest nor the long-term responsibility to care for the institution.

Chairman Blum clarified that the Monitor Group is providing the University with ideas for change. He expressed his confidence that the University's operating team will evaluate what does and what does not makes sense, and move ahead with the changes. Chairman Blum stressed that the Provost is sensible, makes good decisions, and is highly respected on all campuses.

Regent Parsky echoed that the issue of roles is critical. He suggested that there not be large gaps between when work is implemented and when it is discussed at Regents meetings; decisions should not be made without meeting with Regents. He suggested that Monitor Group reports focus upon options and alternatives for how OP can fulfill the roles of service and oversight control appropriately. Regent Parsky also commented that the reports presented on cost savings be developed in conjunction with Executive Vice President Lapp, so that the Regents are presented with a coordinated presentation in November and subsequently.

Provost Hume stated that the work on the relative roles of OP, The Regents, and the campuses is set to be completed and presented to The Regents in January; he will also present an interim report on that issue in November. Regent Hopkinson requested a discussion on respective roles at the November meeting.

Regent Kozberg asked how the effort will be incorporated into the Committee process in order to ensure long-term accountability, given that some of the changes will involve policy. Chairman Blum echoed the importance of that process, noting that some work is already shifting to the Committee on Long Range Planning. Issues will be presented to appropriate Committees as they arise; for example, work on reinvesting the Short Term Investment Pool fund will need to involve consultation with the Committee on Investments. Regent Hopkinson reasoned that the overall guidance of the effort should include the Committee on Governance, and Committee Chair Gould agreed that any items related the shaping of the respective relationships at the University would be brought to that Committee.

Faculty Representative Croughan requested that the original survey be repeated in three to five years in order to track improvements and consider modification of

the restructuring effort. Mr. Mackenzie noted that in Mr. Hume’s response to Chairman Blum’s letter calling for the University to be more strategically dynamic, he committed to readministering the survey on a periodic basis.

The Committee recessed at 11:15 a.m.

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The Committee reconvened at 11:20 a.m. with Committee Chair Gould presiding.

Members present: Regents Blum, Brewer, Dynes, Gould, Hopkinson, Island, Kozberg, Moores, Parsky, and Preuss; Advisory member Croughan; Staff Advisors Brewer and Johansen

In attendance: Regents Allen, Bugay, De La Peña, Johnson, Pattiz, Ruiz, and Varner, Regents-designate Cole, Scorza, and Shewmake, Faculty Representative Brown, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Provost Hume, Executive Vice Presidents Darling and Lapp, Vice Presidents Broome, Foley, and Sakaki, Acting Vice President Standiford, Chancellors Birgeneau, Blumenthal, Bishop, Block, Fox, Kang, Vanderhoef, and Yang, Acting Chancellor Grey, and Recording Secretary Smith

Discussion of the work of the Monitor Group resumed.

Regent De La Peña stressed the importance of having one information technology system to allow OP the ability to obtain accurate information and administer appropriate oversight; he inquired about the possibility of outsourcing this system. Mr. Mackenzie responded that, while that phase of the effort has not been reached, there will be a point when the steering committee will decide if functions should remain at OP, be sent out to a campus or several campuses in the form of a data service center – a suggestion that has been put forth strongly – or if outsourcing is the best option. These options will be discussed in the next phase of the work. Regent De La Peña requested that either Ms. Lapp or the Monitor Group provide an estimate of how long the implementation of one information technology system would take.

Regent Ruiz expressed his concern that the opinions of the Regents may not be heard, and suggested that periodic updates be given to individual Regents in order to provide an opportunity for Regents to share their ideas and concerns. Committee Chair Gould concurred that such consultations would be helpful, noting that some Regents are focused on particular aspects of the work.

6. **AUTHORIZATION FOR APPROVAL OF APPROPRIATIONS FROM LANS LLC FEE INCOME TO BE EXPENDED IN FY 2007-08**

The President recommended that:

A. The President be authorized to expend, for the following purposes and in the following amounts, from the University's net share of Los Alamos National Security (LANS), LLC income earned from contract inception through September 30, 2007:

- (1) Supplemental compensation and other payments previously approved by The Regents for certain LANS LLC employees, incurred through September 30, 2007 – \$1.2 million.
- (2) An appropriation to the Office of the President budget for federally unreimbursed costs of University oversight of its interest in LANS LLC and Lawrence Livermore National Laboratory (LLNS) LLC, paid or accrued through June 30, 2008, including but not limited to an allocable share of the costs of The Regents, the Secretary and Chief of Staff to the Regents, Human Resources, Finance, Strategic Communications, Governmental Affairs, the General Counsel, the University appointed Governors on the LLCs, and the Vice President for Laboratory Management – \$2.6 million.
- (3) An appropriation to a new LLC post-contract contingency fund – \$700,000.

B. The balance of fee income to be appropriated to scientific research in the following priority order:

- (1) California Institutes for Science and Innovation – \$2.5 million
- (2) UC Campus-Los Alamos Research and Education Initiatives – \$3.05 million
- (3) Los Alamos-New Mexico Universities Research Initiatives – \$1.5 million
- (4) Science and Technology Policy Initiatives – \$1.0 million
- (5) UC System-Wide Institute for Geophysics and Planetary Physics – \$500,000
- (6) UC Institute on Global Conflict and Cooperation – \$500,000
- (7) Collaborative Research Program – \$1.0 million
- (8) UC Professorship – \$1.0 million
- (9) UC National Laboratory Doctoral Student Fellowship Program – \$1.0 million
- (10) Net fee income received in excess of the above appropriation would be used to supplement funding for S&T Policy Initiatives,

Collaborative Research Program, and the UC National Laboratory
Doctoral Student Fellowship Program

- C. IT IS RESOLVED that the Office of the President will make every effort to defray the costs of the Laboratory Management Office from fee revenue for FY 2008-09 and report to The Regents prior to the adoption of the Office of the President's 2008-2009 budget on these efforts.

It was recalled that this proposal was the initial implementation of the September 2006 action approving a "Procedure for Appropriating Net Fee Income Received as Owner of a Limited Liability Company Managing a Department of Energy National Laboratory" (Procedure). The Procedure adopted states that:

- A. Net fee income from the University's ownership of a limited liability company (LLC) holding a contract to manage and operate a Department of Energy (DOE) national laboratory be expended for the limited purposes of funding scientific research, defraying University liabilities associated with its ownership interest in the LLC and/or any other obligations directly between the University and DOE (including reserves for future claims), and supplementing income for certain LLC employees who, consistent with the LLC Agreement, are recruited to the laboratory by the University.
- B. The President develop, in consultation with the chancellors, laboratory director(s), and the Academic Senate, an annual plan for funding scientific research from net fee income.
- C. The President submit the annual plan to The Regents for approval in advance each year.
- D. The President report annually to The Regents on the net fee income received and expenditures made therefrom.
- E. Any expenditure of net fee income for purposes other than those identified above shall be presented by the President to The Regents for approval in advance.

The University has an ownership interest in two limited liability companies that hold contracts to operate a DOE national laboratory — Los Alamos National Security LLC (LANS) and Lawrence Livermore National Security LLC (LLNS). For purposes of this action, only LANS has generated net fee income to the University that is proposed to be appropriated; LLNS would begin earning fee income on October 1, 2007 and that net fee income would be a part of future appropriations which will be brought to The Regents for approval. (Fee income from the current LLNL contract that was set to expire September 30, 2007 was expended in accordance with specific terms in that contract and is not covered by the Procedure.)

It is the intent of the President to bring annual appropriation actions for approval under the Procedure to The Regents each May prior to the commencement of the next University fiscal year, and to report on final income and expenditures each September after the close of the prior University fiscal year. Annual DOE/National Nuclear Security Administration (NNSA) fee determinations are made after the close of each federal fiscal year (October 1-September 30) and LLC distributions of net fee are finally reconciled on a calendar year basis (January 1-December 30). Accordingly the University's LLC net fee appropriations plan of necessity involves forecasting. The alternative would be to defer totally appropriation decisions for an additional nine months. The President believed that the better course is to use conservative estimates and flexible spending plans, including identifying research funding that is contingent on exceeding forecasts, to reduce the risks associated with a significant variance between forecast and actual results.

The President developed the following plan for the 2007-2008 budget as provided for in the Procedure:

- A. The Regents has approved compensation supplements and other payments for certain LLC employees in a series of actions dating back to May 2005. The sum of these approved payments from June 1, 2006 through September 30, 2007 is \$1.2 million. These sums are paid to key management individuals employed by the LLC for whom it is the University' obligation to recruit and retain. These positions are the Laboratory Director, the Laboratory Deputy Director for Science & Technology, other scientific personnel identified in the LLC federal contract as "key personnel," the Laboratory Counsel, and the senior Laboratory person responsible for government and public relations. The other owners of the LLC are responsible for recruiting and retaining key personnel in the areas of business and operations and bear the cost from their fee share of supplemental compensation to those individuals.

The fee income and costs of supplemental compensation for LLNS employees begins October 1, 2007 and will be charged to net fee income paid to UC by LLNS. The President intends that the net fee income from both LLCs be treated as a single pool. Accordingly, in the next appropriation cycle net fee income and expenses from both LANS and LLNS will be reflected.

- B. The President requested that he be authorized to appropriate \$2.6 million to the 2007-08 budget of the Office of the President to defray expenses of oversight for the University's interest in the LLCs.

Funding for the unreimbursed costs for Laboratory Management Office include \$1.2 million from the LLC fund. In addition, \$500,000 will be

paid from the President's unallocated funds to fund the remaining portion of unreimbursed costs for Laboratory Management Office.

Funding for other unreimbursed costs for LLC oversight total \$1.4 million from the LLC fund. Distribution of these funds for oversight costs include \$10,000 for Office of The Regents; \$5,000 for Faculty; \$643,579 for University Affairs; \$10,000 for Financial Management; \$255,834 for Human Resources; \$267,730 for Office of General Counsel; \$151,105 for Security Office; and \$60,000 for LANS Board Representative.

- C. The President proposed the establishment of a new LLC post-contract contingency fund associated with the LLC contracts that will enable the University to fund any potential residual liabilities to the LLC upon expiration or completion of the contract, or to the DOE/NNSA under its performance guarantee. Under the predecessor University contracts for the three DOE national laboratories, the University established a \$20 million post-contract contingency fund from DOE national laboratory fee income that was restricted to certain uses in accordance with these predecessor contracts. That fund is being depleted and expended in accordance with the terms of those contracts and cannot be used for liabilities associated with LLC operations. The portion of that fund that was sourced in Los Alamos and Lawrence Livermore was \$18 million. Under the LLC agreements, the University bears a smaller portion of risk than it did under the predecessor contracts. Accordingly, the President proposes that a smaller post-contract contingency fund of \$9 million be established through eight annual payments covering the seven base years of the respective LLC contracts:

2007-2008	\$ 700,000
2008-2009	\$1,300,000
2009-2010	\$1,300,000
2010-2011	\$1,300,000
2011-2012	\$1,300,000
2012-2013	\$1,300,000
2013-2014	\$1,300,000
2014-2015	\$ 500,000

- D. The President forecasts that LLC net fee income payable to the University for LANS earned fee through September 30, 2007 will be between \$12 million and \$19 million. LANS' forecast for UC share of net income is \$16.7 million. As that number falls within UC's forecast range, this number is used for planning purposes. Factors that affect the actual final fee include: (a) the DOE/NNSA rating of LANS performance for federal FY 2007; (b) the amount of unreimbursed costs incurred by the LLC in the performance of the contract, including community commitments, the security fine of \$300,000 imposed by DOE/NNSA for the October 2006

security incident, and other unallowable costs; and (c) retained earnings or other contingency funds authorized by LLC Board of Governors. After accounting for the requested and previously approved charges to LLC net fee income, the President has developed a prioritized list of research activities totaling \$12.1 million with provision for how any additional income would be spent.

The President's plan has been developed in coordination with the Los Alamos National Laboratory Director, the UC Academic Senate, and the UC Office of the Provost. The first priority is to fund \$2.5 million of the vetoed \$15 million State budget request for the four UC-based California Institutes for Science and Innovation from the LLC fee income. The President intends to continue to seek alternative funding sources for the remaining \$12.5 million.

The balance of the research plan builds on very successful research collaborations between UC campuses and the two laboratories, continues support for two UC Multi-Campus Research Units (Institute for Geophysics and Planetary Physics and Institute on Global Conflict and Cooperation), establishes a new program for collaborative research, initiates a new fellowship for the support of science and engineering UC doctoral students, and establishes a new initiative for applying the science and engineering expertise of the University to policy issues of importance to the state and the nation. Any net fee income remaining after these appropriations would be used to supplement funding for Science and Technology Policy Initiatives, the Collaborative Research Program, and the UC National Laboratory Doctoral Student Fellowship Program.

Regent Parsky recounted that, as part of the oversight of the Office of the President, the Chair of the Committee on Finance asked him to pilot a project this year in preparation for the Regents' more aggressive examination of the entire Office of the President's budget in spring 2008. This is a project of both that exercise and the independent requirement that exists for the Board to approve annually any expenditure of laboratory fee income.

Regent Parsky recognized Executive Vice President Lapp's effort to uncover the amounts spent by the Office of the President from laboratory fee income, noting that the process has been very difficult. He expressed deep concern that information regarding the expenditure of laboratory fees within the Office of the President was not readily available to Regents, asserting that the situation is not acceptable. Regent Parsky expressed his hope that, in connection with the budget review that will take place next year, the process of providing information to Regents will improve, given Regents' direct responsibility over all aspects of the Office of the President's budget. He also reemphasized the fact that the University is in association with the laboratories for the purpose of science, and

thus monies which come from these endeavors should be dedicated to science and research.

Regent Parsky put forth an amendment to the item, to replace part C. of the recommendation:

IT IS RESOLVED THAT authorization to spend fee income as outlined in this Item shall end June 30, 2008 and the Office of the President is directed to review its use of fee income to defray costs of the Office of the President so that fee income can be dedicated to scientific research to the maximum extent possible.

Regent Pattiz expressed concern that the University should retain the ability to fulfill its fiduciary responsibility in its new role as a partner in an LLC. He wanted to ensure that the resources continue to exist within the Office of the President to provide adequate oversight over the laboratory operations and to avoid depending solely on the University's private sector partners to ensure high quality operations. Regent Pattiz was concerned about the amendment put forth, in that it did not give the University enough flexibility and risked overextending the University's resources to provide oversight.

Chairman Blum pointed out that problems continue to arise with respect to management of the laboratories, and that the University continues to be directly responsible for laboratory management.

President Dynes echoed the importance of ensuring that the University protects itself in the LLC arrangement, until such time that the University is comfortable that the entire responsibility has been transferred to the LLC, which is not yet the case.

Regent Parsky enumerated the expenditures on which the Office of the President proposes to use the fee income for offices other than the Office of Laboratory Operations and Administration, emphasizing the need for a greater degree of oversight.

Faculty Representative Brown explained the Academic Senate's belief that there should be a competitive bidding process for the appropriations in order to ensure that scientific activities are being supported.

Regent Hopkinson expressed concern over the implication of the amendment that the University will eliminate the budget for laboratory oversight. After discussion with Regent Hopkinson, Regent Pattiz offered a substitute amendment, which was duly seconded:

IT IS RESOLVED that the intent of the University is to maximize the use of fee income for science while maintaining appropriate oversight, and The Regents will review such allocation.

The Committee approved the President's recommendation as amended and voted to present it to the Board.

7. **ADOPTION OF POLICY REQUIRING SPECIAL REVIEW/APPROVAL PROCEDURES PRIOR TO UNIVERSITY SUBMISSION OF RESEARCH PROPOSALS TO TOBACCO INDUSTRY FUNDERS**

Regent Moores recommended that the Board of Regents withdraw RE89 ["Adoption of Policy Restricting University Acceptance of Funding from the Tobacco Industry," presented at the July 18, 2007 Regents meeting] from consideration, and instead adopt a substitute resolution that contains a combination of the following elements:

- A. Regental statement to researchers: A Regental statement expressing concern about the tobacco industry and exhorting University researchers to exercise the utmost care to assure that their research adheres to the highest scientific and ethical standards, including vigilance in not allowing any funder to direct or control the outcome of their research or the dissemination of its results.
- B. Scientific review and Chancellorial approval of research proposals prior to submission to tobacco industry funders: A direction that the President establish a policy requiring that prior to the University's submission of any proposal seeking research funding from the tobacco industry, the research proposal must be reviewed by a scientific review committee drawn from the community of scholars and designated by the President for this purpose, and must be approved by the relevant Chancellor (who will take the recommendations of the scientific review committee into account in determining whether to approve submission of the proposal). The scientific review committee would be charged with advising the relevant Chancellor regarding whether a proposed study uses sound methodology and appears designed to allow the researcher to reach objective and scientifically valid conclusions.
- C. Annual report to The Regents: A direction that the President prepare and submit to The Regents an annual report summarizing the number of proposals submitted to the scientific review committee, the number approved, and the number funded, along with a description or abstract of each proposal. [If E. below is adopted as an alternative to B., this provision would be either deleted or modified so that the annual report would include information about research proposals submitted to (and

funded by) tobacco industry funders, rather than information about proposals submitted to a scientific review committee].

- D. Authorization for individual academic units to request Regental permission to adopt tobacco funding restrictions: A provision authorizing individual academic units within the University (e.g., departments, schools or campuses) to request Regental approval to adopt a policy declining to accept, process, or administer research awards funded by the tobacco industry. A majority vote of the Academic Senate faculty affiliated with the unit would be required.
- E. [As a potential alternative to B., above]: Requirement that the University will not accept a research award from a tobacco industry funder until an abstract of the proposal has been included as an information item at a regularly scheduled Regents meeting. A direction that the President establish a policy requiring that The Regents be provided with an abstract of any research proposal submitted by the University to a potential tobacco industry funder. The University would not accept a research award from a tobacco industry funder until an abstract of the proposal has been included as an information item at a regularly scheduled meeting of The Regents.

Possible language for such a resolution is provided below, following the background information.

It was recalled that, at the July 18, 2007, Regents meeting, the Committee on Finance discussed RE89, "Adoption of Policy Restricting University Acceptance of Funding from the Tobacco Industry." In RE89, Regent Moores recommended adoption of a policy under which The Regents would decline all new funding from the tobacco industry or agencies substantially controlled by or acting on behalf of the tobacco industry, unless the funding is for activities clearly unrelated to the health effects of tobacco products, or to the promotion, regulation, or use of tobacco products. After discussion, the Committee decided to table the item to give time for a compromise proposal to be developed and brought back to the Committee for consideration.

Subsequent to the July meeting, three key ideas that were discussed at the July 18 meeting became the focus of efforts to reach a compromise. They are:

- A Regental expression of concern about the actions of tobacco industry funders and about the importance of ensuring the quality and integrity of research.
- Recognition that the community of scholars is the best judge of both quality and integrity of research, and the requirement that there be a special level of peer review for tobacco-industry-funded research proposals prior to submission.

- The importance of “sunshine” measures that can keep the President and Regents informed about tobacco-industry-funded research conducted by University researchers.

Subsequent to the July meeting, a fourth element, which had been discussed previously, also emerged as part of the compromise discussions: to allow individual academic units within the University to request Regental permission to adopt their own policies declining to accept, process, or administer research awards funded by the tobacco industry. Forwarding such a proposal might require a majority vote of Academic Senate faculty affiliated with that unit.

This proposal would not require the University to decline research funding from the tobacco industry, but instead would require adoption of special review and approval procedures to ensure that before the University submits a research proposal to a tobacco industry funder, adequate consideration has been given to whether the proposal appears designed to yield objective and scientifically valid conclusions. It would also require reports that would keep the President and The Regents informed about tobacco-industry funded research conducted by University researchers. Finally, as noted above, it would allow individual academic units within the University, through the Academic Senate and through the Chancellor and the President, to request Regental permission to adopt their own policies declining to accept, process, or administer research awards funded by the tobacco industry. This last measure would address the concerns of faculty within some units that have, in the past, expressed a desire to adopt a policy that they felt would dissociate themselves from an industry thought to be incompatible with the unit’s mission. Typically, these would be units associated with public health or cancer treatment and prevention.

Current University policy does not require formal internal scientific peer review of research proposals prior to submission to government, foundation, industry, or other private sponsors, nor does the University require Presidential approval of research proposals. However, proponents of the current compromise proposal believe that a special level of review and a requirement of a higher level approval will provide an extra measure of protection to minimize the chance that “bad science” is being deliberately funded by the tobacco industry, with the added potential for manipulation of the research findings by the industry upon completion.

Although the present proposal does not prohibit acceptance of research funding from the tobacco industry, it would allow individual academic units requesting Regental permission to adopt such a prohibition. For this and other reasons, some of the concerns voiced by both proponents and opponents of such a prohibition were relevant to consideration of adopting special review and approval procedures. Therefore, further background recapping and updating information that was provided previously to The Regents in connection with RE89 was provided.

Parts 1, 2, and 3 of the proposal (see Potential Language for Regental Resolution, below) were sent to the Chair of the Academic Senate and to the campus Vice Chancellors for Research for review and comment. Part 4 of the proposal (allowing individual units to request permission to adopt their own bans) and Part 5 (requiring an abstract of a proposal seeking tobacco industry funding to be provided to The Regents as an information item at a regularly scheduled meeting prior to acceptance of funds) were developed at the request of proponents of the original resolution (RE89), subsequent to that initial consultation.

The systemwide Vice Chancellors for Research expressed their opposition to the compromise proposal under consideration. In a letter to the President dated August 29, 2007, Vice Chancellor Barry Klein, writing on behalf of all ten Vice Chancellors for Research, expressed concern that the proposal would stifle academic freedom, create an unneeded bureaucracy, and be contentious and divisive to faculty. The letter expressed serious concern about Provisions 2, 3, and 4 of the proposal under consideration [Provision 5 was added after the date the letter was received]. The letter respectfully urged The Regents to consider adopting a Regental exhortation to researchers (similar to the one contained in the first provision of the proposal), which could in the Vice Chancellors' view "go a long way toward accomplishing the goals of The Regents without heading down a path of 'research controls' that would have a negative impact on the creativity and greatness of our University."

Potential Language for Regental Resolution

The following language was provided for consideration by The Regents as possible text for a Regental Resolution:

PREAMBLE:

1. In order for the University to effectively carry out its research mission, its researchers must engage in objective, high-quality research.
2. The University is committed to upholding the principles of academic freedom, which protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication, and which enable the University to advance and transmit knowledge.
3. The exercise of academic freedom entails correlative duties of professional care when teaching and conducting research.
4. The duty of professional care for University researchers includes a responsibility to adhere to the highest standards of intellectual honesty and integrity in research, regardless of the source of the funding for their research.
5. The Regents have serious concerns about tobacco industry funders, in part because there is evidence that such funders have a history of attempting to distort or manipulate research to de-emphasize or conceal the harmful effects of tobacco.

6. For the purposes of this Resolution, the “tobacco industry” means entities whose principal business is the manufacture and sale of tobacco products, and agencies that are substantially controlled by or acting on behalf of such entities.

RESOLUTION:

Because of The Regents’ particular concern about the tobacco industry, and because of The Regents’ interest in staying informed about the research conducted by University researchers with tobacco industry funding, The Regents adopt all four of the following provisions:

1. The Regents exhort University researchers to:
 - a) Consider carefully whether to accept research funding from the tobacco industry (and whether their research might be better served by seeking funding from alternate sources).
 - b) Exercise the utmost care in assuring that their research (including research carried out with tobacco industry funding) adheres to the highest scientific and ethical standards. This includes being particularly vigilant about not allowing any funder to direct or control the outcome of the research or the dissemination of its results.
2. The Regents direct the President to establish a policy requiring that, prior to the submission of any proposal to seek research funding from the tobacco industry, the research proposal must be reviewed by a scientific review committee drawn from the community of scholars designated by the President for this purpose, and must be approved by the Chancellor. Under the policy:
 - a) The scientific review committee shall be charged with reviewing proposals intended for submission to tobacco industry funders, and with advising the relevant Chancellor regarding whether a proposed study uses sound methodology and appears designed to allow the researcher to reach objective and scientifically valid conclusions.
 - b) The review committee shall be composed of at least three faculty members with expertise in areas of science relevant to the proposal being submitted. If a standing committee is established for this purpose, a provision shall be made allowing for consultation with experts in additional areas or from specific campuses, as needed, appropriately to evaluate a particular research proposal.
 - c) For each proposal it reviews, the scientific review committee shall produce a written report including a recommendation as to whether the proposal should be approved for submission, and/or whether any changes should be made to the proposal prior to submission,

- along with the rationale for the committee's recommendation. The report should be sent to the researcher, the Chancellor, the President, and The Regents [*consider*: and shall be publicly posted on the UCOP website].
- d) Chancellors shall be directed to take the advice of the review committee into account in deciding whether to approve submission of the proposal by the campus. Chancellors shall also be directed to take into account any advice issued by the campus conflict of interest committee, in cases where under existing policy requirements, the researcher has disclosed a financial interest in the research sponsor.
 - e) The Chancellor shall issue his or her determination (i.e., whether the proposal is to be approved for submission, with or without changes) in writing, including a rationale for his or her determination, with a copy to be sent to the researcher, the President, and The Regents. [*Consider*: A copy of the Chancellor's determination letter shall be publicly posted on the UCOP website.]
3. The Regents direct the President to prepare and submit to The Regents an annual report summarizing the number of proposals submitted to the scientific review committee, the number approved, and the number funded, along with a description or abstract of each proposal. The reporting requirement shall be in kept in place for at least five years, which will allow The Regents to review the type of research conducted by University researchers with funding from the tobacco industry. After five years, the President will consult with The Regents to evaluate whether the reporting requirement should be continued. [*Note: The Regents may wish to delete or modify provision #3 if they decide to adopt #5, below, in lieu of #2*].
 4. Individual academic units within the University (e.g., departments, schools, or campuses) may request Regental approval to adopt a policy of declining to accept, process, or administer research awards funded by the tobacco industry. An individual academic unit may request Regental approval for such a policy only upon a majority vote of the Academic Senate faculty affiliated with that individual unit. Any such request is to be submitted to the divisional Senate for comment. The divisional Senate shall forward any such request, along with the divisional Senate's comments, to the systemwide Academic Council for comment. The Academic Council shall forward the request, along with the comments of the divisional Senate and the Academic Council, to the Chancellor, who shall forward the request and all comments to the President for submission to The Regents for consideration.

5. [As a possible alternative to #2, above]: The Regents direct the President to establish a policy requiring that when a researcher submits a research proposal to campus officials for submission to a tobacco industry funder, the researcher shall also provide the President's office with an abstract of no more than 100 words that shall include a description of the proposed research, the amount of funding being requested, the proposed funding source, and a description of any anticipated deliverables. The President's office will forward any such abstracts to the Secretary and Chief of Staff to The Regents for submission to The Regents. The University will not accept a research award from a tobacco industry funder until an abstract of the proposal has been included as an information item at a regularly scheduled meeting of The Regents.

Chairman Blum recognized that many Regents are of the belief that the University should have no involvement with the tobacco industry due to how it affects the University's reputation. He pointed out one UC researcher's conclusion that second-hand smoke was not dangerous, as well as a news story of uncertain accuracy on a UCD research project that aimed to make cigarettes taste better. Such examples, Chairman Blum argued, questioned the ability of the faculty to monitor itself.

Regent Moores asked Faculty Representative Brown to comment on which elements of the resolutions would be supported by the Academic Senate. Faculty Representative Brown stated that the Academic Senate was prepared to support resolutions 1 and 3 in the proposal. He stated that the Senate supported both transparency and respecting delegated lines of authority.

Regent Moores clarified that nothing in the proposed resolutions speaks of the right of a Regent to object to funding from any source. He put forth an amendment that included elements 1, 3, and 5 of the proposed resolution.

Regent Kozberg voiced support for Faculty Representative Brown's proposal to accept elements 1 and 3, pointing out that 4 is a slippery slope with substantial policy implications, and that 5 is, as Faculty Representative Brown indicated, a form of "micromanagement."

In response to a question posed by Regent Hopkinson, Faculty Representative Brown explained that grants must be approved through the Vice Chancellors of Research for the acceptance of funding. Faculty Representative Croughan clarified that there is no scientific review conducted on any grant application; review is conducted by the outside institutions making the grant award, unless the research involves humans or animals, which would result in additional scrutiny regarding that involvement.

Regent Hopkinson proposed that resolution 2 be restructured so that the Chancellor, rather than the President, appoint a review committee, in order to

allow a more thorough review to be done before the application was submitted or accepted. She voiced her acceptance also of 1 and 3, but not 4 or 5.

Faculty Representative Brown advised that, with the modification of resolution 2 of the proposal to conduct the review under the purview of the chancellors, a major obstacle to faculty acceptance would be removed, noting that the primary concern of the faculty was that a research proposal may be overturned by The Regents. The other concern of the faculty was the burden of the process and the actual effectiveness of the scientific review process to prevent undesirable effects. Faculty Representative Brown continued to express concern about the burden of this process on faculty.

Faculty Representative Croughan reiterated that there is no scientific review process prior to funding at the campus level on any topic. The closest situation that exists at the University is the Tobacco-Related Disease Research Program, based at the President's Office; she argued that this is the only unit that has the expertise and structure already in place to review scientifically these types of applications. Involvement of this unit in the scientific review process proposed would alleviate burden at individual campuses. Regent Gould noted that the chancellors could request the input or consultation of the Office of the President if that assistance is needed. Provost Hume explained that the Office of the President administers money on behalf of the State from the tobacco tax for research into tobacco-related diseases, and so has developed review mechanisms for this program; assistance to the chancellors could be provided by this unit if requested.

Regent Ruiz supported Regent Kozberg's comments, cautioning that the proposal is bad Regental governance by micromanaging research and poses a slippery slope. He asserted that the issue should lie with the Academic Senate, believing that academic freedom would be compromised and that there may be deleterious effects of the policy on faculty recruitment.

Regent De La Peña suggested that an independent faculty body should follow tobacco industry-funded research through its course and review the results before the research is published.

Mr. Hume noted that distortion of results is an issue for research supported by external funding from any source. The academic community has strong mechanisms to deal with this issue in many ways, including the publication and career review process.

Regent Island noted his reticence to tamper with academic freedom, and did not wish to dishonor the position of the Academic Senate, but put forth the imperative to exercise his judgment that tobacco research ought not take place in the context of a world class university.

President Dynes commented that aggressive processes exist within the University that often result in the rejection of research proposals if they violate conflicts of interest or human subjects issues. It was his belief that processes can be put in place on tobacco industry-funded research such that the University can police itself and report to The Regents the results of those processes, and that these mechanisms will meet the requirements of The Regents.

Regent Hopkinson moved the approval of resolutions 1, 2 – modified by changing the word “President” to “Chancellor” in two places and adding, “Additionally, The Regents would be provided with timely notice of such grant, and a description of the research to be undertaken,” – and 3. The amendment was duly seconded. The Committee approved the recommendation as amended and voted to present it to the Board, Regent Brewer voting no.

8. **REPORT ON NEW LITIGATION**

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

The meeting adjourned at 1:20 p.m.

Attest:

Secretary and Chief of Staff