

The Regents of the University of California

**COMMITTEE ON FINANCE**

February 5, 2009

The Committee on Finance met on the above date at UCSF–Mission Bay Community Center, San Francisco.

Members present: Regents Garamendi, Gould, Hopkinson, Island, Kozberg, Lozano, Scorza, Varner, and Wachter; Ex officio members Blum and Yudof; Advisory members Bernal and Croughan; Staff Advisors Abeyta and Johansen

In attendance: Regents De La Peña, Johnson, Lansing, Makarechian, Marcus, O’Connell, Pattiz, Reiss, Ruiz, Schilling, and Shewmake, Regent-designate Stovitz, Faculty Representative Powell, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Executive Vice Presidents Darling and Lapp, Senior Vice President Stobo, Vice Presidents Broome, Dooley, Foley, Lenz, and Sakaki, Chancellors Block, Blumenthal, Drake, Fox, Kang, Vanderhoef, and White, and Recording Secretary Johns

The meeting convened at 9:50 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 November 19-20, 2008 were approved.

**2. UPDATE ON THE GOVERNOR’S PROPOSED 2009-10 BUDGET**

[Background material was mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Vice President Lenz discussed the Governor’s January budget assumptions, the overall fiscal condition of the State, and their effects on the University. The January budget assumptions included an additional \$21 billion in expenditure reductions. This would mean a reduction in Proposition 98 funding by \$3.2 billion and removal of \$344 million from Department of Developmental Services regional centers. This budget contained no funding for health and human services and cost of living increases. There was a reduction of \$842 million for the Department of Corrections and Rehabilitation and a proposal for \$150 million in savings by laying off State employees. There was a \$1.2 billion reduction in Supplemental Security Income-State Supplementary Payment (SSI-SSP) grants, lowering them to the federal minimum. Mr. Lenz observed that, for a blind or disabled individual on an SSI-SSP grant, this monthly payment would be reduced from \$907 to \$830. The payment for a couple would be reduced from \$1,579 to \$1,407.

In order to produce revenue, the Governor was proposing to increase the sales and use tax temporarily to generate approximately \$7.1 billion. There were also proposals to broaden the sales and use tax for appliances and furniture repair, vehicle repair, veterinary services, and golf fees, which could generate almost \$500 million; to increase the beverage excise tax to generate \$585 million; to implement an oil severance tax for \$855 million; and to reduce the personal income tax credit for \$1.4 billion. Mr. Lenz emphasized the challenge faced by the Governor and the two parties in the Legislature in grappling with what were difficult circumstances. He noted that certain non-fiscal issues might have an economic effect on the State, such as the establishment of a spending cap for the future, regulatory environmental relief, or changes in labor laws.

The budget proposed \$5 billion by shifting lottery revenue from State-funded programs, \$358 million in borrowing, and \$4.7 billion in revenue warrants, which would assist the State cash flow in the 2009-10 fiscal year.

The January budget included no funding for the Higher Education Compact agreement between the Governor and the University, nearly \$210 million. The budget assumed a mid-year Special Session cut to UC of \$65.5 million. While the Legislature had not taken any action on this cut, Mr. Lenz did not believe that the University could retain this \$65.5 million. A cut of \$33.1 million to the University last fall was treated as a one-time reduction and was restored in the 2009-10 proposed budget. The Governor recognized the full-year cost of \$95.7 million for the State's obligation for the reinstatement of contributions to the UC Retirement Plan (UCRP), assuming an employer contribution rate of four percent. However, the Governor's proposal would fund only \$20 million of this cost.

Mr. Lenz expressed appreciation to Committee Chair Gould for his work with the Department of Finance and the Governor's Office; without his efforts the University would not have prevailed at obtaining the current level of funding in the proposed budget.

The Governor's proposal included \$11.3 million for retiree health benefits, \$2.5 million for enrollment growth in the Programs in Medical Education (PRIME) and nursing programs, and assumed a 9.3 percent increase in student fees, which would generate approximately \$106.9 million, net of a one-third set-aside for financial aid.

There were changes in the University budget which were not readily recognized due to the manner in which revenue was treated in the preceding year. The budget proposal assumed that approximately \$5 billion in lottery funds would be used to address the crisis. The Governor removed lottery revenue from the budget of K-12, the California Community Colleges (CCC), the California State University (CSU), and UC, and replaced this with General Fund monies. The California Subject Matter Project was funded with federal monies on a one-time basis in 2008-09; replacement with State General Fund monies was now proposed.

Mr. Lenz stressed that the overall increase in the UC budget was misleading; in fact it was a matter of replacement of funds, as was the case with the California Subject Matter

Project. The report issued by the Legislative Analyst's Office created the impression that the University has done well in the current State budget proposal. However, Mr. Lenz pointed out that funding for debt service and retirement benefits had no flexibility for other use.

As part of an agreement with the State, funding for UC Merced has been reduced from \$10 million to \$5 million. Under the Governor's proposal, UC hospitals would face a \$14 million to \$25 million reduction based on Medi-Cal proposal rates which were under discussion in the Special Session. The University prevailed in gaining inclusion of \$479.5 million in State lease-revenue and General Obligation bonds for capital facilities projects. In the 2008-09 fiscal year, UC received \$261.3 million from the same funding source.

Mr. Lenz observed that it was impossible to advise the Regents on the 2009-10 budget in the absence of a resolution to the overall State fiscal crisis, and until the University fully understood the potential for any additional reductions made in the Special Session budget recommendations. The University was affected by the decision of the Pooled Money Investment Board in December 2008 to freeze State funding for capital facilities projects. He recalled the Regents' decision the previous month to curtail enrollment growth due to the lack of State funding for the second consecutive year. He noted that the Regents have decided to freeze Senior Management Group pay and that they would be confronted with a decision on student fees.

Mr. Lenz hoped that by March, the administration would be able to advise the Regents and provide information on the State's actions to address the overall fiscal crisis and the effect of these actions on the University. He enumerated fiscal challenges unlikely to be funded in the 2009-10 fiscal year. The campuses would be likely to absorb mandatory costs for health benefits and increasing utility costs. The State would not provide funding for the University's collective bargaining agreements; these costs would also be borne by the campuses. He reiterated that the Governor's proposal for \$20 million for the reinstatement of UCRP contributions did not cover the full-year cost. The University would temporarily cover Cal Grant funding in the spring when the State issued IOUs for Cal Grant awards. This would require temporary financing of approximately \$92.5 million.

Special Session budget reductions for Medi-Cal rate providers would have a significant effect on funding for UC medical centers. While the University appreciated the \$480 million in funding proposed by the Governor in the 2009-10 budget for the University's capital facilities projects, it was concerned about the State's ability to sell commercial paper that would fund these projects.

Mr. Lenz noted that President Yudof has met with each campus to review their budget actions in the 2008-09 year and their proposed budget assumptions and planning efforts for 2009-10, and that these meetings have been beneficial.

The University has been studying the federal legislation proposed as part of President Obama's economic stimulus program, with a view to potential support for UC capital facilities projects, research funding, and resources available to UC hospitals and medical centers. The University has engaged in discussions with the Department of Finance and the Governor's Office to ensure that UC receives its fair share of any federal funding to California. Mr. Lenz concluded by noting that the University is gearing up its advocacy efforts with the Governor and the Legislature regarding the University's critical role in the California economy and its ability to contribute to long-term fiscal stability.

Committee Chair Gould stated that the Governor's Office has supported the University at an extremely difficult time. He observed that the State's credit rating was recently downgraded and was now the lowest of the 50 states. While there was an imperative for the Governor and Legislature to find an interim solution, Committee Chair Gould anticipated that the University would be faced with another wave of actions in June.

Regent Scorza asked about alternative forms of revenue. Mr. Lenz responded by emphasizing the University's reliance on the State. He opined that an increase in current tax rates or an expansion of the tax base should be considered. The 2009 tax structure was based on the economy of the 1960s. He cautioned that the Regents would be faced with a fee increase again in March or May. The University has attempted to think creatively in managing its budget. The campuses have been seeking administrative efficiencies and attempting to protect classroom instruction and student services.

President Yudof reported that he has examined the campus budgets with the chancellors in great detail. There will be a certain number of reductions. The administration has tried to spare academic programs and student services and to avoid across-the-board cuts. President Yudof expressed regret about internal reductions made on the campuses but felt that these reductions should be made before the University considers raising fees. He stated that private funds would not fill this gap in funding and recalled the importance of effective advocacy for the University in Sacramento. While the University has been successful to some extent in its advocacy, success in the current environment could be defined as fewer cuts rather than increased funding, when in fact the University needs a 30 percent increase in its budget.

President Yudof recalled that the University was temporarily advancing funds to ensure Cal Grant awards. He asked if the University were drawing on any other reserves at this time. Mr. Lenz responded that historically, the State has provided the University's complement of General Funds directly to the University at the beginning of the fiscal year. This year there was a provision in the budget that affected this flow of General Fund money. The State asked the University to first exhaust its student fee revenue, about \$500 million, with the understanding that the University would receive this money in the second half of the fiscal year. Mr. Lenz stated that he did not believe this \$500 million to be at risk, but he noted that the University has paid a cost in lost interest of approximately \$9 million to \$10 million due to this action.

Regent O'Connell asked about the potential effects on the University of reductions to the California Student Aid Commission and the potential effects of a constitutional spending cap, which would lock in expenditures at a lower rate. Mr. Lenz expressed serious concern about a reduction for Cal Grant awards. In the past, students who received Cal Grant awards were guaranteed funding increases commensurate with increasing fees. The Governor's budget proposes to provide only 60 percent, not the full 100 percent, of any fee increase. He noted that the Blue and Gold Opportunity Plan presented the previous day was intended to enhance student financial aid, not replace reductions in aid from the State. With regard to a spending cap, Mr. Lenz responded that he would have to examine its design. He anticipated serious concerns for the University, which already experiences significant constraints on its budget. Ninety-two percent of the State's budget is earmarked for mandated programs and therefore restricted. This left only a small amount, eight percent, with flexibility. In an environment of decreasing State General Fund revenues, the imposition of a spending cap would have serious implications for the future.

Regent Garamendi discussed past and ongoing efforts by the University and other California educational institutions to educate the general public about the important role of education in the economy. He urged the University to renew its efforts to work with other educational and public sectors to raise the issue and make the point that continued starvation funding of education would have detrimental effects on the short- and long-term health of the California economy.

Mr. Lenz indicated that the University has undertaken an extensive planning process with CSU and CCC on how to respond to this challenge. President Yudof has had preliminary discussions with CCC Chancellor Scott and CSU Chancellor Reed.

Faculty Representative Croughan reported that the President has appointed her and UC Santa Barbara Executive Vice Chancellor Lucas to co-chair a joint Academic Senate-administration task force to examine every possible option for funding strategies. Comments and ideas gathered from the campus budget meetings have been one starting point for the task force's work. She requested ideas and input from the Regents and chancellors.

Regent Schilling asked about the distribution of federal stimulus money to the State. Mr. Lenz responded that different parts of the federal stimulus funding would be governed in different ways. To his knowledge, most of the federal stimulus money would be channeled through a particular State entity. The University hoped that this entity would be either the Department of Education or the Governor's Office.

Regent Reiss indicated that the White House website provides information on federal stimulus aid to California. The Governor's Office has submitted a list of projects to the federal government, including a number of UC projects. With regard to creative funding strategies, Regent Reiss noted that State support for UC has been diminishing for the last 20 years. She reported that the California Teachers Association and the Education Coalition was considering a ballot initiative for a sales tax increase for K-12 education,

pending resolution of the State budget. She suggested the possibility of a ballot initiative with CSU and CCC at some point in the future.

Regent Lansing opined that the University needed to pursue multiple courses of action, including ballot initiatives and increased efficiency. She suggested that the University should seek a small contribution, as low as \$5 or \$10, from alumni and parents. This approach, similar to campaigns for cancer research or the March of Dimes, had the potential to raise significant funds. The University had not engaged the private sector in this fashion. This represented a missed opportunity for the University.

Committee Chair Gould stated that this was an area of focus for the Committee on Long Range Planning.

Regent Marcus observed that the University's economic circumstances may have been unusual over the last ten years, an inflated economic environment with inflated tax revenues. Resources may be scarce for a long time into the future. He stated that the President, the Chairman, and the Chair of the Committee on Finance should form a planning committee charged with providing scenarios for more efficient use of fewer resources, or some form of long range planning activity concerned with the details of reducing the University's cost structure.

Committee Chair Gould responded that the President was already engaged in examining this question. He acknowledged the possibility that the current situation was more than a downturn and that the University would now receive fewer resources from the State on a permanent basis. He stressed that the Regents needed to be engaged with this issue.

Chairman Blum remarked that greater efficiency had been a concern for the University for some time before the current economic crisis. He noted that the University has been making more progress toward efficiency since the arrival of President Yudof. Unfortunately, the University's savings were now necessary simply to maintain the institution at its current level rather than enhancing programs. He expressed his conviction that the University would be more efficiently run in the future.

### 3. **REPORT ON NEW LITIGATION**

[Background material was mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

General Counsel Robinson presented his **Report on New Litigation**, shown in Attachment 1. By this reference the report is made part of the official record of the meeting.

The meeting adjourned at 10:25 a.m.

Attest:

Secretary and Chief of Staff

**NEW LITIGATION AND ARBITRATION PROCEEDINGS***Report Period: 8/19/08-10/17/08**Regents Meeting**November 2008*

<b><u>Plaintiff</u></b>	<b><u>Location</u></b>	<b><u>Nature of Dispute Alleged by Plaintiff</u></b>	<b><u>Forum</u></b>
<b><u>Employment Cases</u></b>			
Barr, Cheri (Medical Asst. II)	UCDMC	Disability Discrimination, Wrongful Termination (constructive discharge), Breach of Contract	Yolo County Superior Court
Neavill, Martha (Sr. Vocational Nurse)	UCLA	Pregnancy Discrimination and Retaliation	Los Angeles County Superior Court
Nishi-Schnier, Kayoko (Asst. Research Biochemist)	UCDMC	Gender Discrimination, National Origin Discrimination, Retaliation, Wrongful termination (constructive discharge), and Breach of Contract	Yolo County Superior Court
Said, Nebiyou (Computer Operator)	UCOP	Discrimination (national origin), Retaliation and Termination of Employment	U.S. District Court (Northern District) of California
<b><u>Professional Liability Cases</u></b>			
Basquez, Harold	UCSF	Damages, General Negligence, Intentional Tort, Loss of Consortium	Butte County Superior Court
Booth, Lataviah S.	UCI Affiliate – Long Beach	Negligence, Negligent Infliction of Emotional Distress	Los Angeles County Superior Court

Memorial

Day, Stephen	UCSD	Refusal to Transmit Medical Records	Yolo County Superior Court
Feldman, Harry Cole	UCLA	Professional Negligence	Los Angeles County Superior Court
Highsmith, Jennifer	UCD	Damages, Medical Malpractice and Loss of Consortium	Sacramento Superior Court
Holland, Deborah	UCLA	Medical Negligence/Battery	Los Angeles County Superior Court
Hurtado, Jose (decedent), Fanny Hurtado, et al.	UCLA- Harbor	Damages, Professional Negligence (Wrongful Death)	Los Angeles County Superior Court
Kuklin, Howard	UCLA- Santa Monica	Personal Injury, Medical Malpractice, General Negligence	Los Angeles County Superior Court
Lugo-Garcia, Angelo	UCSF	Damages for Professional Negligence	Sonoma County Superior Court
McMahon, Thomas	UCLA	Personal Injury, General Negligence	Los Angeles County Superior Court
Porrello, Anthony	UCSD	Damages, Medical Negligence	San Diego County Superior Court
Potts, Mickell	UCSD	Wrongful Death/Medical Negligence	Los Angeles County Superior Court
Raffulls, Jesus	UCLA	Damages, Medical Malpractice, Loss of Consortium	Los Angeles County Superior Court
Van, Xuan Luong	UCI	Medical Malpractice, General Negligence	Orange County Superior Court
Washington, Michael	UCLA	Professional Negligence and Battery Due to Lack of Informed Consent; Loss of Consortium; Intentional Infliction of	Los Angeles County Superior Court

Emotional Distress

Winic, Mary (decedent) Brian and Todd Winic	UCLA	Damages, Wrongful Death	Los Angeles County Superior Court
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**Other Cases**

Antrim, James (individual)	UC location not identified	Asbestos	San Francisco County Superior Court
BODEE, LLC (business)	UCD	Cross-Complaint - Contractual Indemnity, Equitable Indemnity	Los Angeles County Superior Court
Care Medical Transportation, Inc. (corporation)	UCSD	Breach of Contract	San Diego County Superior Court
City of Riverside (public entity)	UCR	Eminent Domain for Construction Easement	Riverside County Superior Court
Ellis-Lingenfelter, Robbin (individual)	UCIMC	Personal Injury – Slip and Fall	Orange County Superior Court
Haase, Warren (individual)	UC location not identified	Personal Injury – Asbestos	San Francisco County Superior Court
Hamedani’s Enterprises, Inc. (business)	UCSB	Breach of Contract, Breach of Covenant of Good Faith and Fair Dealing	Santa Barbara County Superior Court
Krause, Melinda (individual)	UCDMC	Personal Injury – Slip and Fall	Sacramento County Superior Court

McCracken, Ted (individual)	LANL	Personal Injury – Radiation Exposure	U.S. District Court – Eastern, New York
Quijano, Lazaro and Tonia (individuals)	UCLAMC	Complaint in Interpleader regarding medical expenses/insurance coverage	Los Angeles County Superior Court
Tutor-Saliba-Perini (construction company)	UCLA	Cross Complaint for Breach of Contract, Implied Indemnity, Contribution, Comparative Fault and Declaratory Relief	Los Angeles County Superior Court
Witt, Debra (individual)	UC location not identified	Personal Injury – Asbestos	San Francisco County Superior Court

**Public Employment Relations Board (“PERB”)**  
**Unfair Practices Alleged by Charging Party**

AFSCME (American Federation of State, County, and Municipal Employees) SF-CE-872-H	UCD/UCB	Failure to provide union with prior notice or opportunity to bargain unilateral changes to terms and conditions of employment.	PERB
Shannon (former employee) SF-CE-871-H	UCSF	Retaliation for filing unpaid wage and compensation claim against the University.	PERB
Ascencio (former employee) LA-CE-1049-H	UCLAMC	Wrongful termination.	PERB
SETC (State Employees Trade Council) LA-CE-1048-H	UCLA	Threatened reprisals and discrimination against union shop stewards and members for exercising their union rights.	PERB
Hauglie (former employee) LA-CE-1046-H	UCLA	HEERA violation regarding layoff. Charge dismissed: 8/29/2008.	PERB