

# THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

November 17, 2005

The Regents of the University of California met on the above date at the Clark Kerr Campus, Berkeley Campus.

Present: Regents Blum, Dynes, Gould, Hopkinson, Island, Johnson, Juline, Kozberg, Lansing, Lozano, Marcus, Parsky, Preuss, Rominger, Rosenthal, Ruiz, and Schilling (17)

In attendance: Regent-designate Ledesma, Faculty Representatives Brunk and Oakley, Secretary Trivette, General Counsel Holst, Senior Vice Presidents Darling and Mullinix, Vice Presidents Hershman and Hume, Chancellors Birgeneau, Bishop, Carnesale, Córdova, Drake, Fox, and Vanderhoef, Executive Vice Chancellor Ashley representing Chancellor Tomlinson-Keasey, Laboratory Director Anastasio, and Recording Secretary Nietfeld

The meeting convened at 12:45 p.m. with Chairman Parsky presiding.

## 1. APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Upon motion of Regent Marcus, duly seconded, the minutes of the meetings of September 2005 were approved.

## 2. REPORT OF THE PRESIDENT

President Dynes presented the report concerning University activities and individuals.

Upon motion of Regent Preuss, duly seconded, the President's report was accepted, and it was directed that notes of thanks be sent to the donors of the gifts mentioned in the report, that congratulations be extended to those faculty and staff members who have been awarded honors, and that notes of sympathy and regret be sent to the families of those whose deaths were reported.

[The report was mailed to all Regents in advance of the meeting, and a copy is on file in the Office of the Secretary.]

## 3. REPORT OF THE COMMITTEE ON FINANCE

### A. *Approval of the University of California Financial Report, 2005*

The Committee recommended approval of the **University of California Financial Report, 2005**.

[The report was mailed to all Regents in advance of the meeting, and a copy is on file in the Office of the Secretary.]

B. ***Amendment of Standing Order 110.2—Matters Relating to Residency: Nonresident Tuition Waiver for Employees Assigned to Work Out of State***

The Committee recommended that:

- (1) Service of notice be waived.
- (2) Standing Order 110.2—Matters Relating to Residency be amended as follows:

STANDING ORDER 110.2  
MATTERS RELATING TO RESIDENCY

**Additions shown by underscoring; deletions shown by strikeout**

110.2 Matters Relating to Residency

- (a) The residence of each student shall be determined in accordance with the rules governing residence prescribed by the provisions of Sections 68000, 68010-68012, 68014-68018, 68022-68023, 68040-68044, but excluding the words “classified as a nonresident seeking reclassification” from Paragraph 1 and substituting the words “seeking classification” and excluding Paragraph 3 of Section 68044, 68050, 68060-68061, 68062 but excluding the words “including an unmarried minor alien” from 68062(h), ~~68070-68080~~, 68070-68078, 68080, 68083, 68130, and 68132-68134 of the Education Code of the State of California. Each nonresident student at the University of California shall pay a nonresident tuition fee for each term of attendance at the University, except that such fee, with the approval of the President of the University, may be remitted or waived in whole or in part in the case of any student who qualifies as a graduate student with a distinguished record, a foreign student, a teaching assistant or teaching fellow, or a research assistant; or in the case of a nonresident student who is an unmarried dependent son or daughter under age twenty-one, or a spouse or registered domestic partner of a member of the University faculty who is a member of the Academic Senate. A student who is a spouse or registered domestic partner or child of a resident law enforcement officer or fire fighter killed on active duty shall be exempted from nonresident tuition and mandatory systemwide fees in accordance with Section 68120 of the Education Code of the State of California. A student who is the child or dependent of a deceased or disabled veteran, or who is the dependent of or the surviving spouse who has not remarried or registered domestic partner (who has not subsequently married or registered as a domestic partner) of any member of the California

National Guard who was killed or permanently disabled while in active service of the state, shall not be exempted from nonresident tuition fees, but may be exempted from mandatory systemwide fees in accordance with Section 32320 of the Education Code of the State of California. A student meeting the requirements of Section 68130.5 of the Education Code of the State of California shall be exempt from paying nonresident tuition. A student meeting the requirements of Sections 66025.3 and 68120.5 of the Education Code of the State of California shall be exempt from paying mandatory systemwide fees and nonresident tuition. For purposes of defining financial independence pursuant to Section 68044, a student shall be considered "financially independent" if the applicant: a) is at least 24 years of age by December 31 of the year the applicant requests residence classification; b) is a veteran of the U.S. Armed Forces; c) is a ward of the court or both parents are dead; d) has legal dependents other than a spouse or registered domestic partner; e) is married, or in a registered domestic partnership, or a graduate student or professional student, and will not be claimed as an income tax deduction by any individual other than his or her spouse or domestic partner for the tax year immediately preceding the request for residence classification; or is a single undergraduate student, and was not claimed as an income tax deduction by his or her parents or any other individual for the two years immediately preceding the request for residence classification, and demonstrates self-sufficiency for two years. The student is considered self-sufficient if he or she had total income and other resources of at least \$4,000. The two years used to demonstrate self-sufficiency are the two years immediately preceding the request for residence classification. Nonresident tuition fees shall be payable at the time of registration.

\* \* \*

(d) Los Alamos National Laboratory and Other Out-of-State Employees.

- (1) An individual who is a full-time University employee assigned to work outside the State of California, or the dependent child, spouse, or registered domestic partner of such an employee, shall be entitled to resident classification for tuition purposes.
- (2) If, following the expiration of the longstanding University/DOE contract for the management of the Los Alamos National Laboratory (LANL), the University continues to participate in the management of LANL as a principal in a separate legal entity that is awarded the successor contract, an individual who is an employee of such entity, or a dependent child, spouse, or registered domestic partner of such an employee, shall be entitled to resident classification for tuition purposes to the same extent as if the employee were an employee of the University assigned to work outside of California.
- (3) An individual who is a full-time employee of the University assigned to work at LANL or elsewhere outside of California, or who is a full-time employee of a successor LANL contractor in which the University is a principal, and who transfers without a break in service to full-time University employment within the state of California, shall be entitled to resident classification for tuition purposes. Any dependent child, spouse or registered domestic partner of such an employee also would be entitled to resident classification for tuition purposes.
- (4) An individual who is a full-time University employee at LANL, or any dependent child, spouse or registered domestic partner of such an employee, and who is enrolled as a student in a degree-granting program at a UC campus at such time as the University contract to manage LANL expires and the University's participation in the management of LANL ceases, shall be exempted from payment of nonresident tuition fees for the remainder of the current quarter or semester.

(d)(e) The General Counsel of The Regents may implement this Standing Order by promulgating regulations in accordance therewith.

C. *Proposed Authorization of the President to Indemnify Individuals Providing Service in an Advisory Capacity, and Amendment of Standing Order 100.4(dd) – Duties of the President of the University*

The Committee recommended that:

- (1) The President be authorized, in consultation with the General Counsel, to provide defense and indemnification in the event of claims or litigation related to service to the University, to individuals serving as advisors to the University in response to University requests for their services, the terms thereof to be acceptable to the President and General Counsel.
- (2) Following service of appropriate notice, the Committee on Finance recommend to The Regents that Standing Order 100.4 be amended as follows:

STANDING ORDER 100.4 (dd)

OFFICERS OF THE UNIVERSITY

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100.4 Duties of the President of the University

**additions shown by underscoring**

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- (dd) Except as otherwise specifically provided in the Bylaws and Standing Orders, the President is authorized to execute on behalf of the Corporation all contracts and other documents necessary in the exercise of the President’s duties, including documents to solicit and accept pledges, gifts, and grants, except that specific authorization by resolution of the Board shall be required for documents which involve or which are:

\* \* \*

- (9) Agreements by which the University assumes liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests. In circumstances where it is deemed necessary by the President, in consultation with the General Counsel, to indemnify non-University persons who have agreed at the

University's request to serve as advisors on operational matters for conduct within the scope of their role as advisors, the President is authorized to provide for defense and indemnification. This restriction does not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

D. ***Resolution to Adopt California Education Code Section 92630 Dealing with Distribution of Alumni Information to University and Alumni Association Affinity Programs***

The Committee recommended the adoption of California Education Code Section 92630 to permit the University of California and the campus alumni associations to continue their affinity programs.

Upon motion of Regent Blum, duly seconded, the recommendations of the Committee on Finance were approved.

4. **REPORT OF THE COMMITTEE ON GROUNDS AND BUILDINGS**

The Committee presented the following from its meeting of November 15, 2005:

A. ***Approval of University of California 2006-07 Budget for State Capital Improvements***

The Committee recommended that, subject to the concurrence of the Committee on Finance, the 2006-07 Budget for Capital Improvements be approved as presented in the document titled *2006-07 Budget for State Capital Improvements*.

B. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program for Cancer Center Expansion, Davis Medical Center, Davis Campus***

The Committee recommended that the 2005-06 Budget for Capital Improvements and the Capital Improvement Program be amended to include Davis: Cancer Center Expansion – preliminary plans, working drawings, construction and equipment – \$35.4 million to be funded from hospital reserves (\$10 million) and gifts (\$25.4 million).

C. ***Adoption of Mitigated Negative Declaration and Approval of Design, Engineering Unit 3, Irvine Campus***

Upon review and consideration of the environmental consequences of the proposed project as evaluated in the Mitigated Negative Declaration, the Committee reported its:

- (1) Adoption of the Tiered Initial Study/Mitigated Negative Declaration.
- (2) Adoption of the Findings and Mitigation Monitoring Program.
- (3) Approval of the design of Engineering Unit 3, Irvine campus.

[The Tiered Initial Study/Mitigated Negative Declaration, Findings, and Mitigation Monitoring Program were mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

D. ***Certification of Environmental Impact Report and Approval of the 2005 Long Range Development Plan, Riverside Campus***

Upon review and consideration of the Environmental Impact Report (EIR), the Committee recommended that The Regents:

- (1) Certify the Final EIR for the UC Riverside 2005 Long Range Development Plan.
- (2) Adopt the Mitigation Monitoring Program.
- (3) Adopt the Statement of Overriding Considerations included in the Findings.
- (4) Adopt the Findings pursuant to the California Environmental Quality Act.
- (5) Adopt the 2005 Long Range Development Plan, Riverside Campus.

[The Final EIR, 2005 Long Range Development Plan, Mitigation Monitoring Program, and Finding were mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

E. ***Adoption of Mitigated Negative Declaration and Approval of Design, Arroyo Student Housing, Riverside Campus***

Upon review and consideration of the environmental consequences of the proposed project as indicated in the environmental documents, the Committee reported its:

- (1) Adoption of the Final Initial Study/Mitigated Negative Declaration.

- (2) Adoption of the Findings and Mitigation Monitoring Program.
- (3) Approval of the design of the Arroyo Student Housing, Riverside campus.

[The Final Initial Study/Mitigated Negative Declaration, Findings, and Mitigation Monitoring Program were mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

Upon motion of Regent Hopkinson, duly seconded, the reports and recommendations of the Committee on Grounds and Buildings were approved.

## 5. REPORT OF THE COMMITTEE ON INVESTMENTS

The Committee presented the following from its meeting of November 14, 2005:

### A. *Treasurer's Annual Report, 2004-05*

The Committee forwarded to The Regents the Treasurer's Annual Report for the fiscal year ended June 30, 2005.

[The report was mailed to all Regents in advance of the meeting, and a copy is on file in the Office of the Secretary.]

### B. *Request for a Thorough Presentation on the Divestment of University Holdings in Four Foreign Companies Engaged in Substantial Business in Sudan and Thereby Assisting the Government of Sudan in its Genocidal Campaign in Western Darfur*

The Committee requested that the President present to The Regents at the January 2006 meeting a comprehensive plan for the University of California Retirement Plan (UCRP) and the General Endowment Pool (GEP) to divest from the following foreign companies engaged in significant business relations with the government of Sudan: PetroChina, Sinopec, Tatnef, and ABB, Ltd. The Committee further recommended that a policy of divestment from a foreign government shall be adopted by the University only when the United States government declares that a foreign regime is committing acts of genocide.

Upon motion of Regent Parsky, the report and recommendation of the Committee on Investments were approved.



6. **REPORT OF THE COMMITTEE ON OVERSIGHT OF THE DEPARTMENT OF ENERGY LABORATORIES**

*Authorization to Approve and Execute Modification to the Department of Energy Contract for the Lawrence Berkeley National Laboratory to Amend Clauses as a Result of Changes to the Federal Acquisition Regulations*

The Committee recommended that the President be authorized to execute a modification to the provisions of Lawrence Berkeley National Laboratory contract DE-AC02-05CH11231 in order to incorporate revisions to three clauses, as follows:

I.16 FAR 52.219-9 Small Business Subcontracting Plan (Jan 2002)

Date of clause changed to July 2005, and requirement added that contractor confirm HUBZone representations.

I.21 FAR 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation (SEPT 2000)

Date of clause changed to July 2005. Flowdown of clause changed to apply when subcontract may require or involve the employment of laborers and mechanics rather than when the subcontract was expected to exceed \$100,000.

I.22 FAR 52.222-11 Subcontracts (Labor Standards) (Feb 1988) (Deviation).

Date of clause changed to July 2005. Definition of construction expanded for the term “site of work” to include secondary sites where significant portions of the work might be constructed and then transported to the primary site of work.

Upon motion of Regent Preuss, duly seconded, the recommendation of the Committee on Oversight of the Department of Energy Laboratories was approved.

7. **REPORT OF INTERIM ACTIONS**

In accordance with authority previously delegated by The Regents, Secretary Trivette reported that interim action was taken on routine or emergency matters as follows:

- A. The Chairman of the Board, the Chair of the Committee on Grounds and Buildings, the Chair of the Committee on Finance, and the President of the University concurred in the following recommendations:

- (1) ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Approval of External Financing for LeConte Hall Renovations, Berkeley Campus***

**Pursuant to Standing Order 100.4(q)**

- a. Subject to the concurrence of the Chairman of the Board, the Chair of the Committee on Grounds and Buildings, and the Chair of the Committee on Finance, the President authorize that the 2004-05 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

Berkeley: A. LeConte Hall Renovations – preliminary plans, working drawings, construction, and equipment – \$13,440,000, to be funded from external financing (\$12,000,000) and campus funds (\$1,440,000).

**Pursuant to Bylaw 21.4(d) and Standing Order 100.4(nn)**

- b. The President be authorized to obtain external financing not to exceed \$12,000,000 to finance a portion of the cost of construction of the LeConte Hall Renovations project, Berkeley campus, subject to the following conditions:
- i. Repayment of the debt service shall be from the Berkeley campus' share of the University Opportunity Fund.
  - ii. The general credit of The Regents shall not be pledged.
- c. The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is exempt from gross income for purposes of federal income taxation under existing law.
- d. The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

*This project will renovate LeConte Hall, which was constructed in 1924 and added to in 1950.*

- (2) ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program for Central Plant Phase II, Medical Center, Davis Campus***

**Pursuant to Standing Order 100.4(q)**

The President be authorized to amend the 2004-05 Budget for Capital Improvements and the Capital Improvement Program as follows:

Davis: Central Plant Phase II – preliminary plans, working drawings, construction, and equipment – ~~\$12.4 million~~ \$15.9 million, to be funded from hospital reserves.

*The amendment will fund the installation of two chillers and other utility equipment to support requirements of the medical center.*

- (3) ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program for Mathematical Sciences Research Institute Addition and Renovation, Berkeley Campus***

**Pursuant to Standing Order 100.4(q)**

Subject to the concurrence of the Chairman of the Board, the Chair of the Committee on Grounds and Buildings, and the Chair of the Committee on Finance, the President authorize that the 2004-05 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

Berkeley: Mathematical Sciences Research Institute Addition and Renovation – preliminary plans, working drawings, and construction – ~~\$9 million~~ \$11.2 million, to be funded from campus funds.

*The budget augmentation was necessitated by bids that were nearly 40 percent above pre-bid estimates, reflecting an extremely volatile construction market.*

- B. The Chair of the Committee on Finance, the Chair of the Committee on Oversight of the Department of Energy Laboratories, and the President of the University concurred in the following recommendation:

***Revised Financial Terms for Fees and Costs Associated with the Lawrence Livermore National Laboratory Prime Contract Extension***

The President be authorized to:

- (1) Execute a modification to the provisions of contract W-7405-ENG-48 in order to incorporate revisions to the clauses indicated in **Attachment 1**.
- (2) Extend the term of contract W-7405-ENG-48 up to and including September 30, 2007.
- (3) Agree on revised financial terms for costs and fees associated with the extended period, with the concurrence of the Chair of the Committee on Oversight and the Chair of the Committee on Finance.

*The University and NNSA have concluded financial arrangements for the two-year extension of the LLNL contract and are ready to complete the modification.*

## 8. **REPORT OF COMMUNICATIONS**

Secretary Trivette presented summaries of communications received subsequent to the September 2005 meeting. Unless instructed otherwise, the residency appeals will be referred to General Counsel Holst and the remaining communications will be referred to President Dynes for response as appropriate.

## 9. **AMENDMENT OF STANDING ORDER 100.4(Q) – DUTIES OF THE PRESIDENT OF THE UNIVERSITY, PERTAINING TO AMENDMENTS TO CAPITAL IMPROVEMENT PROGRAMS**

At the September 22, 2005 meeting of The Regents of the University of California, Regent Marcus served notice that at the next regular meeting he would move amendment of Standing Order 100.4(q), Duties of the President of the University, as follows:

### STANDING ORDER 100.

#### OFFICERS OF THE UNIVERSITY

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100.4 Duties of the President of the University

**additions shown by underscoring; deletions shown by strikeout**

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- (q) The President is authorized to approve amendments to the Capital Improvement Program for projects not to exceed \$10 million. The President is also authorized to approve amendments to the Capital Improvement Program for projects exceeding \$10 million up to and

including \$20 million, provided that concurrence is obtained from the Chairman of the Board; and the Chairman of the Committee on Grounds and Buildings, ~~and the Chairman of the Committee on Finance~~; and also provided that all actions taken in excess of \$10 million up to and including \$20 million under this authority be reported at the next following meeting of the Board. However, the following shall be approved by the Board: (1) projects with a total cost in excess of \$20 million, (2) for projects in excess of \$20 million, any modification in project cost over standard cost-rise augmentation in excess of 25 percent, or (3) capital improvement projects of any construction cost when, in the judgment of the President, a project merits review and approval by The Regents because of special circumstances related to budget matters, external financing, fundraising activities, project design, environmental impacts, community concerns, or substantial program modifications.

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Regent Hopkinson requested that the proposed amendment be postponed.

#### 10. **SUPPLEMENTAL REPORT ON COMPENSATION**

A. ***Approval of 2004-05 Incentive Award for David H. Russ as Treasurer of The Regents and Vice President–Investments, Office of the President***

The Committee on Finance recommended that a 2004-05 incentive award of \$248,130 be approved for David H. Russ, Treasurer of The Regents and Vice President–Investments, Office of the President. Only one-third of the award, \$82,710, will be payable under the terms and conditions of the Annual Incentive Plan, due to Mr. Russ' termination of employment on July 8, 2005.

B. ***2005-06 Salary Increases for the President, Vice Presidents, Chancellors, and Principal Officers of The Regents***

The Committee on Finance recommended that:

- (1) Pursuant to Standing Order 100.3(a), the 2005-2006 salary rate be approved for the President of the University as shown below, effective October 1, 2005:

<u>Name and Title</u>	<u>Current Salary Rate</u>	<u>October 1, 2005 Salary Rate</u>
Robert C. Dynes President of the University	\$395,000	\$405,000

- (2) Salary rates be approved for certain Officers of the University and Officers of The Regents, pursuant to Bylaw 12.3(m)(1) and Standing Order 100.3(b), as shown in [Attachment II](#), effective October 1, 2005.

Upon motion of Regent Blum, duly seconded, the recommendations of the Committee on Finance were approved.

## 11. **REPORT OF THE PRESIDENT**

President Dynes reported that on the dates indicated, the following informational reports were mailed to The Regents or to Committees:

### **To Members of the Committee on Audit**

- A. Internal Audit report for the quarter ended June 30, 2005. September 2, 2005 (Schedule of Reports)

### **To Members of the Committee on Health Services**

- B. Activity and Financial Status Report for the UC Medical Centers for the one month period ended July 31, 2005. September 8, 2005 (Schedule of Reports)
- C. Activity and Financial Status Report for the UC Medical Centers for the two months ended August 31, 2005. October 3, 2005 (Schedule of Reports)

### **The Regents of the University of California**

- D. Budget projections for all fund sources for fiscal year 2005-06 for each UC campus. September 6, 2005
- E. Report on *University of California: 10 Campuses working with 3 National Laboratories*, which discusses government-UC collaborations over more than 60 years. September 29, 2005
- F. Annual summary of University-operated housing fees to be charged in fiscal year 2005-2006. October 4, 2005

- G. Reports on CUCSA's activities over the past year, its *Workforce Evolution Work Group 2004-05*, and its *Diversity Work Group*. October 4, 2005
- H. New issue of "Our University," the President's periodic electronic Newsletter to the UC community. October 18, 2005

The meeting adjourned at 12:50 p.m.

Attest:

Secretary