

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

January 19, 2006

The Regents of the University of California met on the above date at the Price Center, San Diego campus.

Present: Regents Dynes, Gould, Hopkinson, Island, Johnson, Juline, Kozberg, Lansing, Lee, Moores, Parsky, Pattiz, Preuss, Rominger, Rosenthal, Ruiz, Sayles, Schilling, and Wachter (19)

In attendance: Regents-designate Coombs, Ledesma, and Schreiner, Faculty Representatives Brunk and Oakley, Secretary Trivette, General Counsel Holst, Interim Treasurer Berggren, Acting Provost Hume, Senior Vice Presidents Darling and Mullinix, Chancellors Bishop, Carnesale, Córdova, Denton, Fox, Tomlinson-Keasey, Vanderhoef, and Yang, Vice Chancellor Burnside representing Chancellor Birgeneau, and Recording Secretary Nietfeld

The meeting convened at 12:25 p.m. with Chairman Parsky presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Upon motion of Regent Sayles, duly seconded, the minutes of the meetings of November 2005 were approved.

2. REPORT OF THE PRESIDENT

President Dynes presented the report concerning University activities and individuals.

Upon motion of Regent Lee, 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. RESOLUTION IN APPRECIATION – DAVID S. LEE

Upon motion duly made and seconded, the following resolution was approved.

WHEREAS, the members of the Board of Regents wish to express their heartfelt gratitude to David S. Lee, who has served as a Regent with great distinction and dedication, one who has brought invaluable business experience, tremendous

enthusiasm, and common sense to the Board as it seeks to address the major challenges faced by higher education over the last 12 years; and

WHEREAS, the vast knowledge and keen insights he has acquired as a leader on the frontiers of California's high-tech industry have been of incalculable benefit to his colleagues in their efforts to maintain and broaden the University's tripartite mission of teaching, research, and public service in a complex educational and economic environment; and

WHEREAS, he has brought idealism, a global perspective, and genuine goodwill to the deliberations of numerous regental committees, including the Committees on Audit, Finance, and Oversight of the Department of Energy Laboratories, as well as the Committees on Investments and Grounds and Buildings, both of which he served with great energy and notable success as Chair; and

WHEREAS, his deep concern for the well being of the University's students has been exemplified in his steadfast commitment to student financial aid and in his establishment of the Regent David S. Lee Scholarship Fund in the Jack Baskin School of Engineering on the Santa Cruz Campus; and

WHEREAS, always thoughtful and considered in the Board's discussions, he has demonstrated time and again a firm commitment to the highest ideals of public service, a deep faith in traditional values, individual responsibility, and intellectual discipline, all of which have garnered him the lasting respect of the University community;

NOW, THEREFORE, BE IT RESOLVED that the Regents of the University of California do hereby convey to David S. Lee, on the occasion of his retirement from the Board, their lasting gratitude for all he has given to the University of California and, thereby, to the people of California and their future;

AND BE IT FURTHER RESOLVED that the Regents extend to David and Cecilia their affectionate good wishes for a full and happy life, and direct that a suitably inscribed copy of this resolution be presented to them in recognition of the Regents' warm regard and lasting friendship.

Regent Preuss observed that Regent Lee had always been engaged and well informed, as well as passionate in his love for the institution. He has been a strong advocate for the University in pointing out its benefits to the state and for geographic diversity among the student body. Regent Lee has been generous in his support of students both in California and abroad.

Regent Lee commented on the greatness of the University of California, noting in particular the fact that the faculty at the Santa Barbara campus have been awarded five Nobel Prizes

over the past seven years. He believed that this greatness was dependent in large part upon the chancellor, who oversees the recruitment of the faculty. Regent Lee observed that access to higher education is important because an educated populace will earn higher salaries and thus contribute more to the state in the form of higher taxes. He expressed his gratitude to Governor Wilson for appointing him to the Board of Regents. He believed that the makeup of the Board should represent the state's population.

4. **RESOLUTION IN APPRECIATION – THOMAS S. SAYLES**

Upon motion duly made and seconded, the following resolution was approved.

WHEREAS, The Regents of the University of California wish to express their deep and abiding gratitude and respect to Thomas S. Sayles upon his retirement from the Board following twelve years of devoted and loyal service to the University and the people of California; and

WHEREAS, the State of California has been the fortunate beneficiary of his superior judgment and outstanding leadership as Secretary of the California Business, Transportation and Housing Agency, California Commissioner of Corporations, Deputy Attorney General, as a member of the Board of Governors of the California Community Colleges, The Governor's Task Force on Diversity and Outreach, and the Commission on Building for the 21st Century; and

WHEREAS, the Board has benefitted mightily from his wealth of experience in business and government, rare wisdom and thoughtful insight, and steadfast adherence to the highest precepts of public service during some of the most challenging and eventful moments for higher education in recent memory; and

WHEREAS, from the outset of his tenure on the Board, he has been a passionate voice for maintaining and enhancing the diversity of the University's student body, a forthright proponent of the University's students and staff, as well as an enthusiastic advocate for improving the quality of education in California at all levels, from kindergarten through the graduate level; and

WHEREAS, he has greatly enhanced the Committees on Audit, Educational Policy, Finance, Health Services, Oversight of the Department of Energy Laboratories, Investments, and Grounds and Buildings with his keen and perceptive mind, manifest integrity, and exceptional grasp of the wide array of complex issues that routinely come before the Regents;

NOW, THEREFORE, BE IT RESOLVED that the Regents wish to commend and thank their good friend and colleague, Tom Sayles, for his warm friendship, for the pleasure of his company, as well as for his exemplary service to the Board, which at

all times has been rendered with quiet effectiveness, good humor, and high ideals that have been inspirational and heartening;

AND BE IT FURTHER RESOLVED that the Regents extend to Tom their best wishes for continued success in the years ahead, confident that his notable record of service will continue, and direct that a suitably inscribed copy of this resolution be presented to him as testimony to the Regents' great esteem and deep affection.

Regent Gould recalled that, as the Director of Finance for the State of California, he had known Regent Sayles in his role as the Secretary of Business, Transportation, and Housing, where he served as an advocate for California's economy through investment in the infrastructure. He praised Regent Sayles for his eloquent contributions to the Board's discussions and commented on his commitment to a diverse student body that represents the people of California.

Regent Sayles thanked Governor Wilson for appointing him as a Regent. He stressed that, while it may not have always been so in the past, the Board was now a collegial body, and he attributed much of that to Chairman Parsky. Regent Sayles expressed particular pride in the appointment of Dr. Michael Drake as chancellor of the Irvine campus. He observed that he has a unique vantage point on the Board because he has two children who are enrolled at the University; he encourages them to take advantage of all the University has to offer.

5. **RESOLUTION IN MEMORY OF DAVID STEPHEN SAXON**

Upon motion duly made and seconded, the following resolution was approved.

WHEREAS, the Regents of the University of California were profoundly saddened by the death on December 8, 2005 of David Stephen Saxon, fourteenth president of the University, Professor Emeritus of physics, President Emeritus of the University, a distinguished scientist, teacher, and academic leader who worked tirelessly on behalf of the University throughout the course of his academic career, devoting his considerable talents and energies to the cause of public higher education throughout the state and the nation; and

WHEREAS, he led the University with the same gallant courage and moral integrity that were the hallmarks of a noble life dedicated to the rigors and joys of academia, a man of great honor, whose character, vision, and strength of purpose carried the University of California through some of its most perilous moments, a passionate defender of academic quality at a time when financial difficulties threatened to undermine the very basis of the University's excellence; and

WHEREAS, his astute leadership of the University of California and indomitable spirit will forever be reflected in the campuses themselves—in the vast libraries, state

of the art classrooms and laboratories, and research programs, but most of all in the faces of our students who, through his unflagging efforts to create early academic outreach programs, innovative writing programs, and financial aid assistance, walk the halls of academe with pride; and

WHEREAS, the University of California stands as the world's greatest public research university due in no small measure to the high standards of excellence that he imparted to its faculty, staff, and students, as well as to his breadth of vision, his aspirations for the University, and, above all, to his deep and abiding love for this institution that he served with such honor and distinction; and

WHEREAS, those who were fortunate enough to have called him, "colleague," remember with admiration and respect his inquiring mind, his profound desire to ensure that the academic excellence of the University was never undermined or lost, his incisive wit, and his modest nature, all of which enriched beyond measure the University of California and his many friends and admirers;

NOW, THEREFORE, BE IT RESOLVED that The Regents of the University of California express their sorrow over the loss of an accomplished scientist, who was a towering figure in higher education, a man who fought valiantly for the very life of this University, one whose vision and superior ideals of life and work consistently exemplified the best the academy has to offer;

AND BE IT FURTHER RESOLVED that the Regents convey their most heartfelt sympathy to his beloved wife, Shirley, and to the entire Saxon family and direct that suitably inscribed copies of this resolution be presented to them as a symbol of the Regents and the University of California's deep regard, respect, and esteem for President Emeritus David S. Saxon, a superb leader, esteemed statesman of education, and, above all, treasured member of the UC family.

6. REPORT OF THE COMMITTEE ON FINANCE

Authorization to Submit Application for Proposition 61 Grant Funding and Take Related Action to Receive Proposition 61 Funding on Behalf of UCLA Medical Center

The Committee recommended that:

- A. The Regents approve the submission, on behalf of UCLA Medical Center, of the Proposition 61 grant application to the California Health Facilities Financing Authority (the Authority) under The Children's Hospital Program for grant funding in the amount of \$30 million less administration and issuance cost (the Grant).
- 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 (a) the establishment of a new bank account, (b) execution and delivery of such additional, related instruments, certificates, statements, and documents as are reasonably required to obtain the Grant, and (c) payment of such other fees and expenses and such other and further actions as the President or his designee, in their discretion, may deem necessary or desirable in connection with the Grant, the performance of obligations thereunder, and any extension or renewal thereof, the taking of such action or the preparation, execution, and delivery of such additional documents, agreements or instruments to be conclusive evidence of the authority conferred hereby.

- C. Any action taken by the President or his designee, in furtherance of the matters authorized by the foregoing actions, is hereby ratified, approved, and confirmed as the act and deed of The Regents.

Upon motion of Regent Preuss, duly seconded, the recommendation of the Committee on Finance was approved.

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

The Committee presented the following from its meeting of January 17, 2006:

- A. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program for North Campus Housing, Phase 1, San Diego Campus***

The Committee recommended that the 2005-06 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

San Diego: North Campus Housing, Phase 1 – preliminary plans – \$5 million to be funded from the San Diego campus' share of the University of California Housing System Net Revenue Reserves.

- B. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Approval of External Financing for UCSD Medical Center Cardiovascular Center and Thornton Hospital Expansion***

The Committee recommended that:

- (1) The 2005-06 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

San Diego Campus: UCSD Medical Center Cardiovascular Center and Thornton Hospital Expansion – preliminary plans, working drawings, construction, and equipment – \$136,476,000 to be funded

from external financing (\$65,000,000), gifts (\$30,000,000), and hospital reserves (\$41,476,000).

- (2) The President be authorized to obtain external financing not to exceed \$65,000,000 to finance the project listed in (1) above, subject to the following conditions:
 - a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.
 - b. Repayment of the debt shall be from gross revenues of the UC San Diego Medical Center funds.
 - c. The general credit of The Regents shall not be pledged.
- (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
- (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

C. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Approval of External Financing for Social and Behavioral Sciences Building, Irvine Campus***

The Committee recommended that:

- (1) The 2005-06 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

Deletions shown by strike out, additions by underscore

Irvine: Social and Behavioral Sciences Building – preliminary plans, working drawings, construction, and equipment – ~~\$45,992,000~~ \$55,992,000 to be funded from State funds (\$43,212,000), ~~and~~ campus funds (\$2,780,000), and external financing (\$10,000,000).

- (2) The President be authorized to obtain external financing not to exceed \$10,000,000 to finance the Social and Behavioral Sciences project, subject to the following conditions:
 - a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.

- b. Repayment of the debt shall be from the Irvine campus' share of the University Opportunity Fund. If these funds are deemed insufficient, the campus pledges a portion of ground lease revenues from the Research Park.
 - c. The general credit of The Regents shall not be pledged.
 - (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
 - (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.
- D. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Amendment of External Financing for San Clemente Student Housing, Santa Barbara Campus***

The Committee recommended that:

- (1) The 2005-06 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

Deletions shown by strike out, additions by underscore

Santa Barbara: San Clemente Student Housing – preliminary plans, working drawings, construction, and equipment – \$116,702,000 \$153,805,000 to be funded from external financing (~~\$114,702,000~~) (\$151,805,000) and Santa Barbara campus UCHS Net Revenues (\$2,000,000).

- (2) The President be authorized to obtain external financing not to exceed ~~\$114,702,000~~ \$151,805,000 to finance the San Clemente Student Housing project, subject to the following conditions:
 - a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.
 - b. As long as this is outstanding, University of California Housing System fees for the Santa Barbara campus shall be established at levels sufficient to provide excess net revenues to pay the debt service and to meet related requirements of the proposed financing.
 - c. The general credit of The Regents shall not be pledged.

- (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
- (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

E. ***Adoption of Mitigated Negative Declaration and Approval of Design, Materials Science and Engineering Building, Riverside Campus***

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

- (1) Adoption of the Initial Study/Mitigated Negative Declaration.
- (2) Adoption of the Findings and Mitigated Monitoring Program.
- (3) Approval of the design of the Materials Science and Engineering Building, Riverside campus.

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

F. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Approval of External Financing for Doe Library Seismic and Program Improvements, Step 4, Berkeley Campus***

The Committee recommended that:

- (1) The 2005-06 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

Deletions shown by strike out, additions by underscore

Berkeley: Doe Library Seismic and Program Improvements, Step 4 – preliminary plans, working drawings, construction, and equipment – ~~\$44,020,000~~ \$55,205,000, to be funded from the State through General Obligation bond funds (\$31,920,000), and through gifts ~~(\$12,100,000)~~ (\$23,285,000).

- (2) The President be authorized to obtain standby financing not to exceed \$7,054,000 and interim financing not to exceed \$4,589,000, for a total of

\$11,643,000, prior to awarding a construction contract for any gift funds not received by that time and subject to the following conditions:

- a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.
 - b. Repayment of any financing shall be from gift funds and, in the event such gift funds are insufficient, from the Berkeley campus' share of the University Opportunity Fund.
 - c. The general credit of The Regents shall not be pledged.
- (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
 - (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

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

8. **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 Livermore 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 Livermore National Laboratory contract W-7405-ENG-48 in order to incorporate revisions to four clauses and add one clause, as described below:

I.007 FAR 52.203-12 Limitation On Payments To Influence Certain Federal Transactions (JUN 2003)

Date of clause changed to September 2005. Minor text changes in paragraph (b)(3).

I.012 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.016 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.017 FAR 52.222-11 Subcontracts (Labor Standards) (FEB 1988)

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.

I.109 DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (OCT 2005)

At the request of the Department of Energy, new clause I.109 added while retaining the existing Clause I.060, same title. The paragraph (l) of the new clause (Effective Date) acknowledges the presence of the other earlier clause and explains that (1) the old clause governs the indemnity for incidents occurring prior to August 8, 2005 and, (2) the new clause governs indemnity for incidents occurring on or after August 8, 2005 and (3) contractor's liability for violations remain the same as in the earlier contract, regardless of the language in paragraph (i) of the new clause.

As a result of the changes, the table of contents for the LLNL contract will be revised.

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

9. **REPORT OF THE COMMITTEE ON AUDIT**

The Committee recommended that The Regents' contract with the current external auditor, PricewaterhouseCoopers, be continued for an additional three-year period.

Upon motion of Regent Ruiz, duly seconded, the recommendation of the Committee on Audit was approved.

10. **REPORT OF THE SPECIAL COMMITTEE ON COMPENSATION**

A. *Adoption of Policy on Separation Agreements*

The Committee recommended that The Regents adopt the Interim Policy on Approval of Separation Agreements (Attachment A) effective immediately.

B. ***Approval of Salary Structure and Overview of Job Slotting for All Designated Officer Positions and for Campus and Office of the President Positions with Current Salaries Above the Indexed Compensation Level***

The Committee recommended adoption of the base salary structure described in Attachment B establishing interim salary grades and ranges for use in administering base compensation for the Senior Leadership Compensation Group (SLCG), which includes positions occupied by incumbents whose salaries exceed the Indexed Compensation Level (ICL), which is currently \$168,000 per annum, and certain designated Officer positions. The salary structure will be reviewed annually and adjusted by The Regents as appropriate, based on an assessment of changes in the market.

Implementation of this structure shall be conditioned on the following:

- (1) All salaries in excess of \$200,000 for the Senior Management Group (SMG) in 2005-06 be approved by The Regents.
- (2) Any salary increase for the SMG in excess of 7.5 percent in 2005-06 be approved by The Regents.
- (3) Positions included in the proposed Legislative audit be included in the 2005-06 annual report to The Regents. The positions are Vice Provost, Executive Vice Chancellor, Vice Chancellor, Associate Vice Chancellor, and Assistant Vice Chancellor.
- (4) The President's recommended priority for these funds is to use them to address the positions furthest below parity for those whose performance merits adjustment.

C. ***Amendment of the University of California Retirement Plans to Facilitate the Transition of the Los Alamos National Laboratory to the Los Alamos National Security, LLC, and Amendment of the University of California Retirement Plan to Clarify the Fiduciary Oversight Structure***

The Committee recommended that:

- (1) Effective March 31, 2006, or as soon as administratively feasible, The Regents shall amend the University of California Retirement Plan (UCRP) to:
 - a. Spin off liabilities and assets for active, inactive, and retired members who are or were employed at the Los Alamos National Laboratory (LANL) to a UC-sponsored plan (UCRP-LANL Plan) that provides

for the same monthly retirement benefit formulas as the UCRP, subject to approval by the Department of Energy (DOE). Assets will continue to be managed by the Office of the Treasurer under the investment policies approved by The Regents, and trustee duties will continue to be performed by The Regents.

- b. Retain the Capital Accumulation Payment (CAP) benefit for LANL members in the UCRP or spin it off to another plan, if necessary, to facilitate obtaining a favorable Internal Revenue Service (IRS) determination letter on the UCRP-LANL Plan, subject to DOE approval.
 - c. Under a reciprocal arrangement to be negotiated with the Los Alamos National Security, LLC (LANS) and the DOE, allow certain service and compensation accrued while employed at UC and at LANL under the LANS to be considered, but not double counted, in determining a member's final retirement benefits payable under UCRP and/or the new site-specific defined benefit pension plan maintained by the LANS (Corporate Plan). The Corporate Plan, which is described in the LANL Request for Proposal (RFP), will incorporate key provisions of UCRP.
 - d. Incorporate the provisions of paragraphs c and d from Section (2) below into UCRP, if the UCRP-LANL Plan is not approved.
- (2) If the UCRP-LANL Plan described in Section (1) above is approved, incorporate into the plan document all applicable UCRP provisions as well as certain additional provisions, including authority to:
- a. Provide an alternative to the CAP benefit provisions in UCRP, if necessary, to prevent a delay in the IRS's issuing a favorable determination letter on UCRP-LANL Plan.
 - b. Allow certain service and compensation accrued at LANL while employed by the LANS and certain service and compensation accrued while employed by UC to be considered, but not double counted, in determining a member's final retirement benefits payable under the UCRP-LANL Plan and/or the Corporate Plan under a reciprocal agreement to be negotiated with the LANS and the DOE.
 - c. Transfer assets and liabilities to the Corporate Plan attributable to certain active LANL employees who transfer employment to the LANS, provided the Corporate Plan has received all necessary and appropriate rulings.

- d. Arrange for interim funding for retirement benefits of LANL employees who retire after May 31, 2006, but prior to the final transfer of assets and liabilities to the Corporate Plan.
- (3) If the UCRP-LANL Plan is approved, effective March 31, 2006, or as soon as administratively feasible, the University of California 415(m) Restoration Plan (415(m) Plan) action be brought to The Regents for amendments to extend eligibility to employees who retire from the UCRP-LANL Plan and otherwise satisfy the eligibility requirements of the 415(m) Plan.
- (4) If the UCRP-LANL Plan is approved, effective March 31, 2006, or as soon as administratively feasible, action will be brought to The Regents to amend the UC Retirement Savings Program plans be amended to:
 - a. Provide that LANL employees whose mandatory participation in the University of California Defined Contribution Plan is defined with respect to a membership category in the UCRP also be defined with respect to a membership category in the UCRP-LANL Plan.
 - b. Permit rollover contributions between the UCRP-LANL Plan and the UC Retirement Savings Program plans to the same extent as permitted between the UCRP and the UC Retirement Savings Program plans.
- (5) The Regents shall retain the authority to (i) amend UCRP to clarify the fiduciary obligations of UC Human Resources and Benefits (HR/Benefits), the Office of the Treasurer, and The Regents with respect to the UCRP similarly to the action previously taken by The Regents with respect to UC's defined contribution plans (the UC Retirement Savings Program), (ii) incorporate similar fiduciary language in the UCRP-LANL Plan, if approved, and (iii) if the UCRP-LANL Plan is approved, implement any necessary amendments to the 415(m) Plan and the UC Retirement Savings Program plans to reflect the changes described herein.
- (6) The President bring action to The Regents to implement the amendments described above, other than those described in Sections (3),(4), and (5).
- (7) The Regents shall receive status reports at appropriate points in the implementation process. Any changes to the approved plan shall be presented to the Regents' Committee on Compensation for approval. Consultations shall be conducted with members of the Committee on Faculty Welfare.

- (8) Effective January 19, 2006, the President be authorized to permit eligible LANL employees who are in the process of a buyback or who are within the three year buyback eligibility window to establish or re-establish service credit for eligible leaves or prior periods of UC employment, prior to the termination date of their UC employment. Any such buybacks will be reported to The Regents.

Upon motion of Regent Hopkinson, duly seconded, the recommendations of the Special Committee on Compensation were approved.

11. **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:

The Chairman of the Board and the President of the University approved the following recommendation:

Approval of Charitable Fundraising Campaign for Hurricane Katrina Relief

That the President be authorized to approve the creation of a new employee charitable fundraising campaign to permit the contribution of accrued vacation leave to support victims of the recent hurricane disaster.

(The IRS has established a program whereby employees may donate accrued leave which their employer then will turn into cash contributions to benefit Hurricane Katrina relief efforts. The program will remain in effect until December 31, 2006. The University will designate up to three charities to receive contributions from University employees.)

12. **REPORT OF COMMUNICATIONS**

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

13. **AMENDMENT OF STANDING ORDER 100.4(dd)–DUTIES OF THE PRESIDENT OF THE UNIVERSITY**

At the November 17, 2005 meeting of The Regents of the University of California, Regent Blum served notice that at the next regular meeting he would move amendment of Standing Order 100.4(dd), Duties of the President of the University, as follows.

STANDING ORDER 100.4 (dd)

OFFICERS OF THE UNIVERSITY

* * *

100.4 Duties of the President of the University

additions shown by underscoring

* * *

- (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.

Upon motion of Regent Preuss, duly seconded, the recommendation was approved.

14. **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

* * *

100.4 Duties of the President of the University

additions shown by underscoring; deletions shown by strikeout

* * *

- (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.

* * *

Upon motion of Regent Gould, duly seconded, the recommendation was approved.

15. **PROPOSED DIVESTMENT OF UNIVERSITY HOLDINGS IN COMPANIES WITH BUSINESS OPERATIONS IN SUDAN**

Senior Vice President Mullinix recalled that at the November meeting the Board had adopted the following recommendation of the Committee on Investments:

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 recommends 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.

Mr. Mullinix explained that while there is no formal Regental policy on divestment, The Regents has acted to divest from certain holdings on two occasions, the first being divestment from South Africa in 1986. At that time, the Legislature had passed indemnification legislation and had made legislative findings regarding the prudence of investing in South Africa. In 2001, the decision was made to invest in a tobacco-free index fund. The Treasurer's Office has calculated that, in the period from January 1, 2001 to November 30, 2005, the Russell 3000 Tobacco Free Equity index had underperformed the entire index by 14 basis points, with an opportunity cost on the passive portfolio of \$109 million.

Senior Vice President Mullinix outlined some of the rationales for divestment, which include affecting the behavior of a political entity, changing the behavior of a corporate entity, and avoiding association with or profiting from inappropriate activities. Typically the first effort prior to a decision to divest is the exercise of voice, i.e., requesting the companies themselves to cease a particular activity. In this case, the proponents of divestment indicate that efforts to use voice have not been successful.

Mr. Mullinix provided a brief history of Sudan, which achieved independence from Great Britain and Egypt in 1956. Since then the country has been in a state of political turmoil, except for a period of relative calm between 1972 and 1983. The principal problem has been continuous tribal, religious, and economic friction between the north and the south. These frictions were somewhat moderated by a North – South Peace Treaty in 2002, which provided a theoretical framework for self-determination, exemptions from Islamic law, and oil revenue sharing. In 2003, a separate rebellion began in Darfur, which was basically unrelated to the conflict between the north and the south. A number of movements emerged in opposition to the government, including the Sudanese Liberation Movement and the Justice and Equality Movement. There is no dispute that the reaction of the government in Khartoum was harsh.

A Library of Congress study in December 2004 estimated that four million persons had been displaced by the north-south conflict, with two million deaths in two decades. For Darfur, the estimate was that 1.6 million people had been displaced, with 70,000 dead. Many more have lost their lives in 2005. Sudan is one of the poorest countries in the world, but oil exports that started in 1999 offer some opportunity for economic development.

Senior Vice President Mullinix turned to the issue of the potential impact of the University's divestment from Sudan. While UC action alone may not be significant, it could launch a

national divestment program, and broad divestment action could encourage companies to cease doing business in Sudan. Foreign corporate exits could force some change in government processes in Darfur. On the other hand, there is uncertainty regarding the impact of Sudan divestment, and there could be some unintended negative consequences.

To date, there have been three principal University divestments from Sudan: Harvard University has divested from PetroChina stock; Stanford University has divested direct holdings in PetroChina, Sinopec, Tatneft, and ABB, Ltd. and has sent letters to managers indicating concerns about these companies; and Samford University has divested holdings in PetroChina. In addition, the states of Illinois, Oregon, and New Jersey have taken significant steps to pursue divestment from Sudan. CalPERS has sought data on companies doing business in Sudan, and its board has approved a resolution demanding that three companies end dealings with the government of Sudan.

The number of targeted companies ranges from four (Stanford University), to 75 (Institutional Shareholder Services), to 120 (KLD Sudan Compliance Service). The UC student task force selected 17 companies that it felt were particularly egregious with respect to their activities in Sudan. ISS and KLD are consumer services that continually update their data. UC investments in targeted companies range from \$19.9 million in the Stanford list to \$2.6 billion in the ISS list or \$2.8 billion in a comprehensive list. Costs of divestiture include the transactional costs associated with portfolio readjustment, monitoring costs, costs of establishing and maintaining separately managed accounts, potential adverse returns, and potential limitations on the selection of managers.

Mr. Mullinix observed that four options exist for institutions with respect to divestment: do nothing; investigate and exercise voice; investigate, exercise voice, and study and decide on divestment; or divest now. A major issue concerns which entities to target for divestment. If there is a specified list of companies determined in advance with relatively little change over time, it is far easier to measure the impact of divestment. Consideration must be given to which portfolios will be included in any divestment decision.

Recommendation

- A. Contact firms and managers expressing concerns about Sudan activities, noting the consideration of divestment and seeking information regarding Sudan activities and responses to the University's concerns.
- B. Condition any divestment decision on enactment of legislation providing indemnification for individual Regents for all costs and defense of any claim arising from the decision to divest.
- C. Form a study group with the following charge to meet as necessary, not fewer than three times, and report to The Regents in March:

The task force shall analyze the issues implicated by proposals for the University to divest investments in companies doing business in Sudan. The issues to be addressed shall include criteria for identifying companies to be divested and identification of companies proposed for divestment; the scope of the proposed divestment, including direct and indirect investments; the financial impacts of the proposed divestment; and the legal implications of any proposed divestment.

D. The Regents will vote on the study group report in March.

The membership of the proposed study group will include representatives from The Regents, the Investment Advisory Committee, the Treasurer, the General Counsel, the Senior Vice President – Business and Finance, the student study group, the faculty, the University of California Retirement Plan Advisory Board, and will be supported by The Regents' investment advisor.

Regent Rosenthal recalled that at the November 14, 2005 meeting of the Committee on Investments, the Committee had supported his request that The Regents vote on a comprehensive divestment plan at today's meeting. He believed that the compromise that is represented by the recommendation would allow for involvement by students in the discussion. He urged the Regents not to lose sight of the fact that genocide is ongoing in Darfur. As a public institution, the University has a responsibility to respond through divestment from companies that are profiting from doing business in Sudan. Regent Rosenthal acknowledged the contributions of two student leaders, Adam Sterling and Jason Miller.

Regent Pattiz observed that, while he had hoped that the issue would have been brought before the Board for a vote at today's meeting, he acknowledged that the Regents lack the information necessary to make an informed decision. He believed that the recommendation represents the best option at this time, but he stressed that a vote should be taken in March. He believed that the work done on the issue by Regent Rosenthal had been exceptional.

Regent Lee pointed out that the Sudanese government holds all of the power in that country. He suggested that an action such as divestment could cause the poor citizens to suffer further and urged that great care be taken.

Chairman Parsky noted that it is important to bear in mind that the Regents have an obligation for sound investment of the University's endowment. Divestment is a tool that needs to be used carefully. The situation in Darfur cries out for the Regents to act. Chairman Parsky believed that the formation of a study group was an important step, and he suggested that student representatives should not only be part of the group but that one student should participate in the Board's discussion.

Regent Preuss commented on the civil nature of the student movement in favor of divestment, noting that his opinion had been influenced by the way in which the students had acted.

Upon motion duly made and seconded, the recommendation was approved, Regents Dynes, Gould, Hopkinson, Island, Johnson, Juline, Lansing, Parsky, Pattiz, Preuss, Rominger, Rosenthal, Ruiz, Sayles, Schilling, and Wachter (16) voting “aye,” and Regents Lee and Moores abstaining.

(For speakers’ comments, see the January 18 and January 19, 2006 minutes of the Committee of the Whole.)

16. **SUPPLEMENTAL REPORT ON COMPENSATION**

Approval of Job Slotting for Designated Officer Positions and for Campus and Office of the President Positions with Current Salaries Above the Indexed Compensation Level

The Special Committee on Compensation recommended approval of individual salary grades within the salary structure approved by The Regents for all Senior Leadership Compensation Group positions, i.e., jobs occupied by incumbents whose salaries are above the Indexed Compensation Level, which is currently \$168,000 per annum, as shown in Attachment C.

Upon motion of Regent Hopkinson, duly seconded, the recommendation was approved.

17. **REPORT OF THE PRESIDENT**

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

To Members of the Committee on Audit

- A. Internal Audit Activity report for the quarter ended September 30, 2005.
December 20, 2005 (Schedule of Reports)

To Members of the Committee on Finance

- B. Report on academic salary actions. December 20, 2005

To Members of the Committee on Health Services

- C. Annual Report of the Clinical Enterprise Management Recognition Plan for FY 2004-05. October 25, 2005.

- D. Activity and Financial Status Report for the UC Medical Centers for the three months ended September 30, 2005. November 21, 2005 (Schedule of Reports)
- E. Activity and Financial Status Report for the UC Medical Centers for the three months ended October 31, 2005. December 20, 2005 (Schedule of Reports)

The Regents of the University of California

- F. UCOP office space, assessment of current and future needs, and proposals. November 3, 2005
- G. *Statement of Ethical Values and Standards of Ethical Conduct.* November 4, 2005
- H. Academic Senate's adoption of Resolutions on UC Employee Compensation. November 15, 2005
- I. Announcement of search for a successor to UCLA Chancellor Carnesale. December 1, 2005
- J. Report of the death of President Emeritus David S. Saxon on December 8, 2005. December 8, 2005
- K. Letter issued by President Dynes regarding various actions taken by him and Chairman Parsky to address compensation issues. December 19, 2005
- L. Announcement of the Department of Energy's decision to award the future management of Los Alamos National Laboratory to the Los Alamos National Security LLC team. December 21, 2005
- L. Preliminary progress report to Department of Finance and State Legislature regarding accountability framework for Student Academic Preparation. December 22, 2005
- M. First annual report to the Department of Finance, *University of California Higher Education Compact Performance Measures.* December 22, 2005

The meeting adjourned at 1:15 p.m.

Attest:

Secretary