The Regents of the University of California

COMMITTEE ON FINANCE
November 17-18, 2010

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

Members present: Regents Blum, Cheng, DeFreece, Island, Lozano, Makarechian, Schilling, Varner, and Wachter; Ex officio members Gould and Yudof; Advisory members Mireles, Pelliccioni, and Simmons; Staff Advisors Herbert and Martinez

In attendance: Regents De La Peña, Hime, Johnson, Kieffer, Lansing, Marcus, O'Connell, Pattiz, and Zettel, Regent-designate Hallett, Faculty Representative Anderson, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Chief Compliance and Audit Officer Vacca, Provost Pitts, Executive Vice Presidents Brostrom, Darling, and Taylor, Senior Vice President Stobo, Vice Presidents Beckwith, Duckett, Lenz, and Sakaki, Chancellors Birgeneau, Block, Blumenthal, Desmond-Hellmann, Drake, Katehi, White, and Yang, and Recording Secretary Johns

The meeting convened at 11:15 a.m. with Committee Chair Lozano presiding.

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

Upon motion duly made and seconded, the minutes of the meeting of September 15, 2010 were approved.

2. **UNIVERSITY OF CALIFORNIA FINANCIAL REPORTS, 2010**

The President recommended that the Regents adopt the University of California Annual Financial Report 2009-10 and the June 30, 2010 audited financial statements for the University of California Retirement Plan, including the PERS-VERIP; the University of California Retirement Savings Program, including the Defined Contribution, 403(b) and 457(b) Plans; and the University of California Health and Welfare Program, including the retiree health benefit trust and the five University of California Medical Centers.

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

Associate Vice President and Systemwide Controller Peggy Arrivas began the presentation by reporting that the University's total assets increased by almost $4.5 billion from fiscal year 2009 to fiscal year 2010. Total liabilities increased by $5 billion during the same period. Net assets decreased by $525 million, but this was an improvement of $1.7 billion over the previous year, when net assets decreased by $2.2 billion.

Ms. Arrivas outlined significant factors in 2010 which helped account for this smaller decrease in net assets. The University's investment performance, including investment income and change in portfolio value, contributed $1.9 billion more than in 2009. State educational appropriations increased slightly over their 2009 level. Ms. Arrivas pointed out, however, that the level of State educational appropriations in 2010 is significantly below the 2008 level. In addition to the slight increase in State funding from 2009 to 2010, the University has received one-time federal American Recovery and Reinvestment Act (ARRA) funding.

Other factors which contributed to the 2010 results were an additional $224 million in student fee revenue, additional research funding, including ARRA awards, and medical center performance. These increases were offset by the cost of the UC Retirement Plan (UCRP). The University owed $1.6 billion to the UCRP, but paid only $65 million, so that the UCRP liability increased by more than $1.5 billion. Chief Financial Officer Taylor observed that this liability would continue into the following fiscal year, and would likely be in the range of $1.4 billion.

Ms. Arrivas noted that the University is currently paying in annual increments for market losses experienced in previous years. As the University's UCRP contributions fall short of those annual increments, the liability increases. Mr. Taylor added that the University will continue to have a liability until contributions are increased to the appropriate level.

Ms. Arrivas then discussed salaries and employee benefits. From 2009 to 2010, salaries and benefits other than the UCRP did not change significantly. The number of FTEs in the UC system remained flat. Savings achieved through the furlough plan were offset by scheduled salary increases for represented employees and academic merit increases for faculty. There was a slight increase in the cost of retiree health benefits and other employee benefits in 2010.

Ms. Arrivas presented a balance sheet showing the change in UC assets and liabilities from 2009 to 2010. The $4.5 billion increase in assets was primarily attributable to the investment portfolio performance, additional investments, and continued investment in capital assets. The increase in liabilities reflected additional debt taken on by the University to finance capital asset acquisitions and additional amounts owed for retiree health and UCRP benefits.

Turning to the topic of net assets, Ms. Arrivas observed that the University's unrestricted net assets decreased from $3.5 billion in 2009 to $2.5 billion in 2010. This decrease was largely due to the additional funding required for retiree health and UCRP benefits. Mr. Taylor added that unrestricted net assets were $5.3 billion in 2008. In the course of two fiscal years there has been a substantial decrease, and he anticipated that unrestricted net assets would likely be below $2 billion in the following year. He called attention to the fact that "unrestricted" does not mean "unallocated." The majority of these funds are medical center reserves, funds for capital projects, student fee payments, and housing payments. These monies are technically, in accounting terms, unrestricted, but are in fact allocated.

Ms. Arrivas then compared revenues and expenses in 2009 and 2010. Overall, both revenues and expenses increased in the current year. The University's revenue sources are diverse. Salaries, wages, and employee benefits account for over 76 percent of the University's operating expenses.

As of June 30, 2010, the campus foundations had over $4 billion in assets. The campus foundations raised $423 million in gifts in the current year and transferred $566 million to the campuses. The campus foundations enjoyed the benefits of strong performance in the equity and bond markets.

The overall contribution to the UC Retirement System for the year was $1.1 billion. Most contributions were made to the Defined Contribution Plan. Effective in April, these contributions have been redirected to the UCRP. The UCRP and the Defined Contribution Plan achieved a strong investment performance in the current year, returning $5.4 billion. The University paid $2.6 billion to over 50,000 retirement plan beneficiaries. Mr. Taylor added that there are currently more than twice as many retirees participating in the UC Retirement System than in 1995. In 1995 the University paid out over $600 million annually for retiree benefits, while it currently pays out more than $2 billion. The greater number of participants accounts for the stress on the UC Retirement System.

Regent Makarechian asked about a discrepancy in the presentation materials regarding the change in the University's total assets between 2009 and 2010. This amount was shown as $4.484 billion on page 1 and as $4.532 billion on page 4. Mr. Taylor responded that this was probably a reconciliation matter and that he would provide the correct figure.

Committee Chair Lozano concluded that there had been strong growth in the University's total assets.

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

3. **ANNUAL REPORT ON NEWLY APPROVED INDIRECT COSTS AND DISCUSSION OF THE RECOVERY OF INDIRECT COSTS FROM RESEARCH**

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

Vice President Beckwith explained that the Annual Report on Newly Approved Indirect Costs, an annual report to the Regents, generally concerns indirect cost rates. Currently the University is facing increasing financial challenges related to reimbursement of the indirect costs of research.

The indirect cost rates for UC campuses range approximately from 52 to 54 percent. This represents recovery of real costs of research, averaged for many different grants, not billed directly to each grant. The University's indirect cost rates, compared to many peer institutions, are relatively low, but its research costs are not equivalently low. In effect, the University is not recovering as much as the research costs.

The indirect cost rates pertain to facilities costs and administrative costs. UC and other universities receive an indirect cost rate of 26 percent for administrative costs. The rate is set at this limit, but is known to be too low relative to the administrative burden, which has increased because of new government regulations. There is a significant difference between UC and its peer institutions in their indirect cost rates for facilities costs. Mr. Beckwith discussed a chart displaying the indirect cost rate proposals submitted by UC and its peer institutions for 2010, and the actual rates assigned to these institutions by the Department of Health and Human Services. The proposed rates for UC Berkeley and UC Davis were approximately 70 percent, similar to the proposed rates for peer institutions. The rates assigned to UCB and UCD by a local agency of the Department of Health and Human Services were 16 to 18 percent below the proposed rates, a significant difference.

The University believes that its low indirect cost rates present a problem. Mr. Beckwith estimated that, if the University's indirect cost rates were equivalent to its costs, it would recover an additional $300 million annually from research grants. In many cases, the entities which fund research do not pay for indirect costs, either as a matter of policy or negotiating strategy. The federal government is supposed to pay all indirect costs, but in some cases program officers negotiate these costs down. Many foundations and other nonprofit organizations have policies not to reimburse indirect costs. Mr. Beckwith presented a chart showing estimated indirect cost recovery, including unrecovered amounts, by funding source, and independent of rates. The University believes that its total indirect costs are annually approximately $600 million more than it is able to recover. The University has been making efforts at the federal level and with foundations to rectify this situation.

Regent Varner asked if the University would incur some of the indirect costs referred to in the presentation even if the University were not engaged in research. Mr. Beckwith responded that research accounts for about 25 percent of the University's budget, comparable to the amount spent on instruction. The University plans for research when it develops construction projects. If the University does not recover research costs, this puts pressure on other parts of the budget. The University believes that the costs being discussed are attributable to research; because they are averaged, it is difficult to demonstrate the incremental cost in every case.

Mr. Beckwith then discussed indirect cost waivers, both individual and class waivers. He presented a chart and explained that it displayed waivers on proposals, not on actual grants, but that statistically the effect was the same. Over the past 20 years, the number of waivers has increased dramatically, a trend which causes concern to the University.

Mr. Beckwith noted that there may be a perception that high indirect cost rates affect the University's competitiveness or its ability to carry out research. He presented a chart comparing UC and peer institutions by rank and indirect cost rates. In general, universities with the highest ranking have relatively high indirect cost rates. He stated his view that this was an appropriate time for the University to address this issue; recovered funds could be invested in the University's infrastructure.

Committee Chair Lozano identified indirect cost waivers and the difference in indirect cost rates for UC relative to its peer institutions as essential issues of concern. She asked that Mr. Beckwith present an action plan addressing these issues to the Regents at a future meeting. He responded that the University is currently examining these issues. He noted that he would soon attend a National Academies meeting in Washington, D.C., where there would be a significant discussion of indirect costs and indirect cost recovery for research universities. The University is discussing these matters with the Council on Governmental Relations, the Association of American Universities, and the Association of Public and Land-grant Universities. This issue affects not only UC, but all public universities and some private universities.

Regent Kieffer asked about the background or causes of the different indirect cost rates for UC relative to peer institutions. Mr. Beckwith responded that, historically, the University's facilities costs were largely underwritten by the State. This is true of most public universities. When the State provided these costs, there was federal-State cooperation which allowed the University to maintain low facilities recovery rates for federal and other grants. Over the past ten years, the State has gradually withdrawn this support, while the federal rates are still low. By policy, some federal agencies do not raise rates more than one or two percent annually. Mr. Beckwith noted that this situation has become a problem for public universities across the U.S. and has gained attention; the federal government is beginning to examine it.

Regent Kieffer observed that some universities had begun to pursue this matter earlier than UC has. He asked if faculty members were concerned about the University's competitiveness in this context. Mr. Beckwith responded in the affirmative, but added that Harvard, the Massachusetts Institute of Technology (MIT), the California Institute of Technology, Yale, Princeton, and Stanford are competitive institutions with high indirect cost rates.

Regent Zettel emphasized the University's need to engage the California delegation in the U.S. Congress to achieve equity at the federal level, given that UC does not receive the same reimbursement rates as other institutions. Research at UC gives rise to startup companies; some UC research ideas are taken out of state and commercialized successfully. In order to receive a return on its investment, the University must argue more successfully in Congress and put pressure on the Department of Health and Human Services for more equitable rates. Mr. Beckwith concurred and observed that the solution to this problem could take the form of a policy statement by the Office of Management and Budget.

Regent Island identified as an essential conclusion the fact that it was not fair for the University to bear $600 million in unrecovered indirect costs. He asked if the Regents were being requested to take any action. Mr. Beckwith responded that the Office of the President was working toward a solution and expressed his wish that the Regents be aware that the indirect cost of research represents a large amount of money. Indirect cost rates and indirect cost waivers are two aspects of the problem, and these two aspects will be addressed in different ways. Mr. Beckwith indicated that the Regents could assist the administration in educating foundations and donors about the consequences of policies which do not reimburse indirect costs.

Regent Island asked about the purpose of the presentation. Committee Chair Lozano explained that this was a required annual report to the Regents. In response to Regent Island's question, she noted that the Regents might be called upon to have discussions with federal legislators in the future. She requested that Mr. Beckwith report to the Regents, perhaps before another year had passed, on what actions the Office of the President was taking to remedy the situation.

Regent Pattiz urged Mr. Beckwith to develop an action plan and offered the Regents' assistance in this endeavor. He asked Mr. Beckwith to provide further explanation about the nature of the University's research costs. Mr. Beckwith responded that most research grant funding is used to hire personnel, who are graduate, postdoctoral, or other researchers. These employees need offices, laboratories, facilities, and services. The University does not bill for this use of facilities and services. The maximum reimbursement the University receives for administrative costs related to research grants is known to be below the real level of these costs. Additional costs are imposed by reporting requirements. As an example, research supported by the American Recovery and Reinvestment Act requires quarterly reporting on the number of jobs created. There are costs of complying with reporting and review requirements related to the Health Insurance Portability and Accountability Act (HIPAA) and to human subject research. The University does not bill individual grants directly for costs of administration and reporting requirements. For the convenience mostly of the government, these costs are subsumed in a general indirect rate. The University is considering the possibility of billing directly for many of these costs rather than trying to recover full indirect rates, although this is not common practice at present.

Faculty Representative Simmons recalled Mr. Beckwith's statement about pressure put on other parts of the budget when the University does not recover research costs. Mr. Simmons expressed concern about representations made to the Board about the availability of indirect cost recovery to fund UC building projects. Mr. Beckwith responded that he could not address specific instances, but observed that this funding situation has changed over time. Ten years previously, the State supplied facilities costs and the University developed a particular approach to financing and costing; this is no longer the case. He suggested that campus finance offices work with campus research offices to ensure that there is a clear understanding of financing issues. Committee Chair Lozano suggested that Executive Vice Presidents Brostrom and Taylor provide a response to Mr. Simmons' concern at a later point. She noted that this topic would be addressed at the December meeting, when the Regents would consider the recommendations of the UC Commission on the Future.

Regent Hime referred to the $600 million in unrecovered indirect costs mentioned earlier and asked how much the University might recover as the result of an action at the federal level by the Office of Management and Budget. Mr. Beckwith responded that UC could recover $300 million. Regent Hime emphasized that the University and its advocates should act promptly on this matter and engage members of Congress. He expressed his readiness to assist in this effort.

Regent Makarechian referred to information presented about indirect cost recovery rates for UC and comparison institutions. He asked why some other institutions were receiving more favorable rates, and if this was because their grant funding was provided by other foundations. Mr. Beckwith noted as an example that MIT negotiates with the Office of Naval Research and that the rate proposed by MIT was identical to the rate it was assigned by the Office of Naval Research. The University negotiates with the San Francisco office of the Department of Health and Human Services. Indirect cost rates assigned by the Department of Health and Human Services vary across the U.S. by office, and the San Francisco office may be one of the most challenging with which to negotiate. The disparities in rate-setting have been noted in a recent report by the U.S. Government Accountability Office.

Regent Blum expressed doubt that the University's indirect cost rates would be increased. Referring to Mr. Simmons' earlier concern, he recalled that in the case of a building project at the UCSF Mission Bay campus, there was a very serious discussion of reimbursement rates before the project was undertaken.

Committee Chair Lozano stated that the Regents wish to be of assistance in this matter. Mr. Beckwith noted that he was optimistic about the solution of this problem and that there is now a will in the U.S. to treat different universities more equitably in this area.

4. **ANNUAL ACTUARIAL VALUATIONS FOR THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN AND ITS SEGMENTS (AND FOR THE 1991 UNIVERSITY OF CALIFORNIA-PUBLIC EMPLOYEES' RETIREMENT SYSTEM VOLUNTARY EARLY RETIREMENT INCENTIVE PROGRAM)**

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

Vice President Duckett recalled that the Segal Company, the Regents' consulting actuary, prepares an annual actuarial valuation which shows the funded position of the UC Retirement Plan (UCRP) as of the beginning of the current fiscal year and analyzes the experience of the past year. The valuation also determines the total funding policy contribution rate for the coming year. Included in the valuation are amounts owed to current retirees and survivors receiving benefits, active members who have earned and continue to earn benefits, and inactive vested members who earned benefits in the past and will be paid in the future. The current valuation is the third valuation reflecting the funding policy adopted by the Regents in September 2008 and is the first valuation which reflects the Regents' September 2010 amendment of the policy to increase the amortization period used for any actuarial gains or losses from 15 years to 30 years.

A separate valuation is prepared for each of the four segments of the UCRP – the campus and medical center segment, which is covered by the UCRP funding policy, and the three National Laboratory segments, which are funded based on contract provisions with the U.S. Department of Energy. The segment valuations are used only to allocate assets and liabilities for cost calculations. All assets are maintained in one trust and are available to pay benefits to all members.

Segal Company representative Paul Angelo briefly discussed UCRP demographics. From 2009 to 2010 there was a slight decrease in active members, about seven-tenths of a percent. There was an increase in retired members. The number of inactive vested members remained relatively stable.

Mr. Angelo presented a chart displaying UCRP investment rates of return, which he identified as a cause of recent cost volatility. The market value of assets has fluctuated, with a downturn in the early 1990s, the bursting of the dot-com bubble, and the most recent decline in 2008-09. The University's target rate of return since the early 1990s has been 7.5 percent. In order to maintain stable assets, the UCRP must earn a 7.5 percent return. Mr. Angelo pointed out that the 13.3 percent gain of the most recent year is in fact a gain of only about 5.5 percent from an actuarial standpoint, because past returns had fallen below the 7.5 percent level.

The actuarial value of assets, which incorporates five-year smoothing, is used to determine employer contribution rates. The funded status of the UCRP can be expressed in two ways, based either on the market value or on the actuarial value of assets. Mr. Angelo discussed a chart displaying the funded status of the UCRP from 2001. While the UCRP was funded over 100 percent for many years, the UCRP funded status has recently fallen below 100 percent, due to the fact that no contributions were made for a long period and because of investment performance. This has led to the resumption of UCRP contributions.

The market value of assets for the UCRP increased slightly between 2009 and 2010, from about $32 million to $34.6 million. The smoothed actuarial value of assets decreased because the valuation still recognizes the severe losses in the 2007-08 and 2008-09 years. As a result, the unfunded liability increased from $2.4 billion to $6.3 billion. On a market value basis, the unfunded liability was $12.9 billion in the previous year and continued to be $12.9 billion in the current year. It has remained at the same level because, while UCRP returns outperformed the 7.5 percent assumption in 2009-10, the University did not fully fund the normal cost. The funded status of the UCRP can also be expressed as a percentage. On a smoothed, actuarial value of assets basis, the UCRP funded status decreased from 95 percent to 87 percent; this is due to the losses in 2007-08 and 2008-09. On a market value basis, the UCRP funded status improved slightly, from 71 percent to 73 percent. The normal cost remained fairly stable at $1.4 billion, roughly 17 percent of pay. Mr. Angelo anticipated that the mid-year normal cost would be approximately 17.5 percent of pay. The funding policy contribution is calculated as the sum of the normal cost and a 30-year amortization of the unfunded liability. On that basis, the target for the funding policy contribution increased from 20.4 percent to 23.25 percent, mainly because of the recognition of the deferred 2007-08 and 2008-09 losses.

Expressed in dollar amounts, the total funding policy contribution for 2011-12 includes two amounts, the normal cost of about $1.4 billion and $457 million, which represents the 30-year amortization used to pay off the unfunded liability. The unfunded liability totals approximately $6 billion.

Mr. Angelo then discussed the actual contribution. He recalled that contributions to the UCRP were resumed in April 2010, during the 2009-10 fiscal year. In September 2010, the Regents approved employer contribution rates of four percent for 2010-11, seven percent for 2011-12, and ten percent for 2012-13. UCRP member contributions are subject to collective bargaining for represented employees. Member contributions began in April 2010 with the redirection of the amount that had been contributed to the Defined Contribution Plan. Subject to collective bargaining, these rates will be 3.5 percent for 2011-12 and five percent for 2012-13.

Mr. Angelo emphasized the importance of the difference between the funding policy contribution and the actual approved contribution, which is perhaps the most significant financial factor identified in the valuation report. Actual approved and future projected contributions are below the funding policy level. The gap between the two is the additional unfunded liability. Every year, when the funding policy contribution amount is recalculated, it will grow because of this unfunded liability. This creates an additional cost resulting from the shortfall of the projected versus the policy contribution levels. These annual contribution losses will be stopped when the level of actual contributions reaches the level of funding policy contributions.

Regent Zettel asked what the consequences of another severe investment loss, such as ten percent, would be. Mr. Angelo responded that a ten percent market loss would represent a 17 percent loss from the actuary’s standpoint. The 17 percent loss would be converted to a dollar amount and amortized over a 30-year period, and would result in a higher funding policy contribution level each year. The Segal Company has carried out analysis projecting outcomes if the UCRP earns more or less than a 7.5 percent return.

Regent Zettel asked if such a loss would cause changes to the additional unfunded liability and the additional cost of the shortfall. Mr. Angelo responded that the funding policy contribution level would increase. Unless the actual contributions were increased as well, both the additional unfunded liability and the additional cost of the shortfall would increase.

5. **ANNUAL ACTUARIAL VALUATION OF THE UNIVERSITY OF CALIFORNIA RETIREE HEALTH BENEFIT PROGRAM**

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

Vice President Duckett explained that an annual actuarial valuation is performed for the retiree health benefit program to fulfill the University's financial reporting obligations in a manner similar to that for the UC Retirement Plan. The valuation, performed by Deloitte Consulting LLP, takes into account retirees currently receiving UC contributions for health insurance premiums and active employees who have earned eligibility or are earning eligibility for retiree health benefits. It analyzes the experience of the past year and reports the Unfunded Actuarial Accrued Liability (UAAL) and the Annual Required Contribution (ARC).

Under Governmental Accounting Standards Board requirements, the University must provide certain information about its retiree health benefit program, including pay-as-you-go cash costs, the ARC, the net "other post-employment benefits" (OPEB) balance sheet obligation, and the UAAL. The ARC is the normal cost for the current year plus an amortization charge for a portion of the unfunded liability. The ARC is not required to be funded but it must be recorded in the University's financial statements. The net OPEB balance sheet obligation is the portion of the unfunded liability included on UC's balance sheet.

Two plan changes have been made for calendar year 2011. The University contribution for non-Medicare retirees under age 65 and all Medicare retirees was reduced by three percent due to budget constraints and financial reporting obligations, and to bring the average UC cost for retirees closer to that for active employees. Retirees age 65 and older who are not eligible for Medicare will receive the same maximum University contribution as active employees in Pay Band Two. Because of these changes, the UAAL decreased by $394 million or 2.6 percent and the ARC decreased by $46 million or 2.4 percent. Even with these changes, the University anticipates that it will pay $269 million for retiree health benefits in calendar year 2011, compared to $252 million in the current calendar year. Mr. Duckett attributed this to medical cost inflation and the increased number of retirees participating in the program.

Deloitte representative Michael de Leon pointed out that the information in this presentation was based on the situation at the time the valuation was performed; it included the calendar year 2011 changes mentioned, but did not reflect any recommendations made by the President's Task Force on Post-employment Benefits.

Because the University does not pre-fund retiree health benefits, the pay-as-you-go cash costs are the only annual associated costs. These costs increased by approximately ten percent from fiscal year 2010 to the expected level necessary to fund fiscal year 2011. The ARC is not required to be funded, but is a hypothetical value which measures the amount that would be needed to fully fund these benefits. The ARC comprises the normal cost, or benefits earned during the year by active employees, and an amortization amount for the UAAL. The total ARC has increased by about $100 million over the past year. This result was expected due to the lack of pre-funding. As a percentage of payroll, the ARC increased by about one percent for the same reason.

The balance sheet obligation, which represents the cumulative effect of the difference between the ARC and the pay-as-you-go cash costs, increased by about $1.4 billion over the past year, also due to the lack of pre-funding. The UAAL, the total liability accrued to date for all the benefits of the program, increased by approximately $500 million dollars. The UAAL also increased because of the absence of pre-funding, but it would have increased by an additional $400 million without the calendar year 2011 changes.

Finally, Mr. de Leon presented charts which showed anticipated increases over the next ten years. Pay-as-you-go cash costs are expected to triple, due to medical cost inflation and the increasing number of retirees; the net OPEB or balance sheet obligation is expected to increase to about $20 billion, if there continues to be no pre-funding; and the UAAL is expected to double.

Committee Chair Lozano emphasized that this presentation was a reminder of the extent of the University's ongoing liabilities.

6. **CONSENT AGENDA**

Committee Chair Lozano explained that the item: *Consent to the Formation of a Limited Liability Company to Operate and Manage Deep Underground Science and Engineering Laboratory (DUSEL), Berkeley Campus*, would be discussed separately.

A. ***Authorization of Leases and Agreements for Various State Capital Improvement Programs***

The President recommended that, subject to adoption by the State Public Works Board (SPWB) of a resolution authorizing the issuance of State Public Works Board Lease Revenue Bonds for the following projects: Campbell Hall Seismic Replacement Building, Berkeley campus; CHS South Tower Seismic Renovation, Los Angeles campus; Sciences and Engineering Building 2, Merced campus; and Davidson Library Addition and Renewal, Santa Barbara campus, the President or the Secretary and Chief of Staff be authorized to:

(1) Execute an unsubordinated site lease from The Regents to the SPWB for each project named above, said lease to contain provisions substantially as follows:

a. The site shall comprise the approximate size of the footprint for each building named above. Said lease shall also include a license to the SPWB for access from campus roads to the site during the term of the lease.

b. The purpose of the lease shall be to permit construction of the project.

c. The term of the site lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds, and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full.

d. The rental shall be $1 per year.

e. The Regents shall have power to terminate the site lease in the event of default by the SPWB, except when such termination would affect or impair any assignment or sublease by the SPWB and such assignee or subtenant is duly performing the terms and conditions of the lease.

f. The Regents shall provide to the SPWB and any assignee of the SPWB access to the site and such parking and utility services as are provided for similar facilities on the campus.

g. The Regents shall waive personal or individual liability of any member, officer, agent, or employee of the SPWB.

h. The Regents shall agree to pay assessments or taxes, if any, levied on the site or improvements attributable to periods of occupancy by The Regents.

i. In the event any part of the site or improvements is taken by eminent domain, The Regents recognizes the right of the SPWB to retain condemnation proceeds sufficient to pay any outstanding indebtedness incurred for the construction of the project.

(2) Execute an agreement between the State of California, as represented by the SPWB and The Regents for each project named above, said agreements to contain the following provisions:

a. The SPWB agrees to finance working drawings and/or construction for the project, as authorized by statute.

b. The Regents agrees to provide and perform all activities required to plan and construct said project.

(3) Execute a facility lease from the SPWB to The Regents for each project named above, said leases to contain provisions substantially as follows:

a. The purpose of the building's occupancy shall be to use it as a facility for functions in furtherance of the University's mission related to instruction, research, and public service.

b. The SPWB shall lease the State-financed portion of the facility, including the site, to The Regents pursuant to a facility lease.

c. The terms of the facility lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds, and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full.

d. If the SPWB cannot deliver possession to The Regents at the time contemplated in the lease, the lease shall not be void nor shall the SPWB be liable for damages, but the rental payment shall be abated proportionately to the construction cost of the parts of the facility not yet delivered.

e. In consideration for occupancy during the term of the lease and after the date upon which The Regents takes possession of the facility, The Regents shall pay base rent in an annual amount sufficient to pay debt service on the bonds or other obligations of the SPWB issued to finance or refinance the facility and additional rent for payment of all administrative costs of the SPWB.

f. The Regents covenant to take such actions as may be necessary to include in the University's annual budget amounts sufficient to make rental payments and to make the necessary annual allocations.

g. During occupancy, The Regents shall maintain the facility and pay for all utility costs and shall maintain fire and extended coverage insurance at then current replacement cost or an equivalent program of self-insurance, and earthquake insurance if available on the open market at a reasonable cost.

h. During occupancy, the Regents shall maintain public liability and property damage insurance, or an equivalent program of self-insurance, on the facility and shall maintain rental interruption or use and occupancy insurance, or an equivalent program of self-insurance.

i. In the event of default by the Regents, the SPWB may maintain the lease whether or not the Regents abandons the facility and shall have the right to relet the facility, or the SPWB may terminate the lease and recover any damages available at law.

j. The Regents shall be in default if the lease is assigned, sublet, or transferred without approval of the SPWB, if the Regents files any petition or institutes any proceedings for bankruptcy, or if the Regents abandons the facility.

k. The Regents shall cure any mechanics' or materialmen or other liens against the facility and, to the extent permitted by law, shall indemnify the SPWB in that respect.

l. The Regents, to the extent permitted by law, shall indemnify the SPWB from any claims for death, injury, or damage to persons or property in or around the facility.

m. Upon termination or expiration of the lease, other than for breach or because of eminent domain, title to the facility shall vest in The Regents.

B. ***Approval of Delegation of Authority Authorizing the President to Execute a Joint Powers Agreement for the Purpose of Purchasing Natural Gas***

The President recommended that:

(1) The University be authorized to participate as a full voting member of the California Public Power Agency (Agency) including, without limitation, a Joint Exercise of Powers Agreement substantially in the form shown in the document entitled "California Public Energy Agency Joint Powers Agreement," such Agreement to include the following provisions:

a. The purpose of the Agency would be to produce, generate, acquire, own, manage, store, pool, bank, transmit and distribute Energy, Environmental Attributes and related services for its Members and participants with whom the Agency may enter into Project or Program Agreements.

b. The Agreement forming the Agency would remain in effect until the earlier of the withdrawal of all Members or termination by the then remaining Members.

c. The Agency would be authorized to do all acts necessary for the exercise of its powers, including, but not limited to those powers substantially as enumerated in Article III of the Joint Exercise of Powers Agreement.

(2) The President be authorized to administer the University's participation in the Agency, including, but not limited to, appointing the University of California representative to the Board of the Agency.

(3) The President be authorized to approve the allocation of and transfer of funds to the Agency for the purpose of providing initial start-up and operating capital for the Agency per the Final Business Plan substantially as shown in the document entitled "Business Plan: Transition of Department of General Services Gas Program to a Joint Powers Agency with the University of California," and as reviewed by the President prior to implementation of the Joint Powers Authority.

(4) The President, after consultation with the General Counsel, be authorized to approve and to execute any documents reasonably required for the University's participation in the Agency.

C. ***Amendment of Standing Order 110.2, Matters Relating to Residency, to Conform to Statutes Relating to Foster Youth and Former Members of the Military***

The General Counsel recommended that:

(1) Standing Order 110.2 be amended as shown in Attachment 1, such amendment to be effective fall quarter 2010.

(2) Pursuant to Bylaw 7.3, the notice requirement in Standing Order 130.1 be suspended.

[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.]

Upon motion duly made and seconded, the Committee approved the President's and the General Counsel's recommendations and voted to present them to the Board.

7. **CONSENT TO THE FORMATION OF A LIMITED LIABILITY COMPANY TO OPERATE AND MANAGE DEEP UNDERGROUND SCIENCE AND ENGINEERING LABORATORY (DUSEL), BERKELEY CAMPUS**

The President recommended that the Regents:

A. Authorize The Regents to participate in the formation of a limited liability company (LLC) to operate and manage DUSEL (Deep Underground Science and Engineering Laboratory).

B. Authorize the President or his designee to execute any documents reasonably required for such formation and participation.

C. Accept the recommendation of the General Counsel that the above actions are exempt from the California Environmental Quality Act because the DUSEL is located outside of California, will receive environmental impact review pursuant to the National Environmental Policy Act and similar environmental review under South Dakota law, and will not result in any emissions or discharges that would have a significant effect on the environment in California [Public Resources Code Section 21080(b)(14)].

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

Chief Financial Officer Taylor introduced Kevin Lesko, principal investigator and executive director, and Kem Robinson, acting project director, both at the Office of the Vice Chancellor for Research at UC Berkeley. The current item concerned the Deep Underground Science and Engineering Laboratory (DUSEL) project, a cooperative effort involving the Berkeley campus, Lawrence Berkeley National Laboratory (LBNL), and the State of South Dakota.

Mr. Lesko, a UC Berkeley physicist, stated that he has been carrying out underground research for 25 years. Underground research makes use of the underground environment to investigate processes which are rare and which require shielding from surface interference, such as cosmic rays. Mr. Lesko's research has taken place in Canada, Japan, and Italy. The current item proposed creation of an underground laboratory in the U.S. for research with the National Science Foundation (NSF) in physics, biology, geology, and engineering. The DUSEL would house a variety of experiments and make use of the Homestake Mine, a former gold mine in Lead, South Dakota. Title for the mine has been transferred to the State of South Dakota, which is actively rehabilitating the site for scientific research.

The proposed facility would be multidisciplinary and include an education and outreach center on the surface. Physics experiments planned for the DUSEL would pursue the understanding of dark matter, neutrinos, the difference between matter and antimatter, and the formation of elements inside stars. Biologists would be able to investigate many life forms which live in isolation in this extreme underground environment; geologists would study the origin and propagation of faults, and analyze carbon sequestration, the placement of liquefied carbon dioxide. UC Berkeley would provide leadership for this significant undertaking.

Mr. Robinson observed that the DUSEL is a joint project with LBNL, the South Dakota School of Mines and Technology, and the South Dakota Science and Technology Authority, the owner of the former Homestake Mine. As the project moves through preliminary and final design, construction, and operation, the goal is to establish an operating entity, a limited liability company (LLC), which would insulate the University from legal and financial liability. The LLC would allow unified onsite management, which is essential for environmental health and protection, and for safety of operations at the facility. The LLC would also allow effective contract and sub-award management. Mr. Robinson stated that the construction budget would total $875 million. Management by the LLC would simplify accounting and finance functions, while maintaining UC Berkeley's accountability to the NSF for oversight of the DUSEL science and funding structure.

Mr. Robinson explained that the LLC would become a sub-awardee to UC Berkeley. Responsibility for development of the DUSEL design would rest with the University and the principal investigator would remain at UC Berkeley. The LLC would be responsible for all major design subcontracting for those parts of the design and program at the South Dakota site.

The LLC structure would follow a standard model. The UC Regents, the South Dakota Regents, and the South Dakota Science and Technology Authority Board would be the members of the LLC board. The UC Regents would have a controlling interest. The LLC board would elect a board of managers, who would select a laboratory director. The chief financial officer, the chief operating officer, and the chief science officer would report to the laboratory director, providing a degree of separation between financial and operational functions.

The DUSEL project combines groundbreaking science with the ability to leverage and produce opportunity for the State of South Dakota and for UC research. Mr. Robinson outlined the project strategy: identification of stakeholders with a long-term interest in the project, establishment of an executive management team to oversee implementation, the current request to proceed with implementation of the LLC, and a presentation to the NSF for formal concurrence. The LLC would be a sub-awardee to UC Berkeley, would be developed during the transition funding phase, and would be active during the final design phase, beginning in January 2012.

Chairman Gould expressed support for the scientific research that would be enabled by the DUSEL and for the legal structure of the LLC, which would protect the University and provide appropriate governance.

Mr. Robinson discussed an organizational chart showing the UC Berkeley, South Dakota Science and Technology Authority, and South Dakota School of Mines and Technology members of the LLC transition task force. He reported that the transition team had just returned from meetings in South Dakota to address insurance and risk management issues. The project has a risk register, which is reviewed monthly.

The project would be presented to the South Dakota Regents in December and a presentation to the NSF would follow in January 2011. Mr. Robinson outlined the projected steps in the development of the LLC, including the election of the LLC board and the migration of contracts to the LLC. The LLC would become operational effective January 1, 2012.

Regent De La Peña asked how the project would be financed. Mr. Robinson responded that costs would be paid by the NSF, through a cooperative agreement, to the UC Regents.

Regent De La Peña asked about the duration of the contract and how the funding would be guaranteed over the longer term. Mr. Robinson responded that, when the NSF approves the construction – approval is expected during 2011 – it will have a funding commitment for the entire construction, and this commitment will extend into the operations phase. The funding is structured in phases. The project is now funded through the preliminary design phase. Transition funding will extend to the beginning of the final design phase. At that point, construction approval will have been received, and funding will extend seven to ten years.

Regent De La Peña asked if the LLC would be responsible only for operations, or if it would bear the financial responsibilities and obligations as well. Mr. Robinson responded that the LLC would bear the financial responsibilities and obligations, as well as responsibility for overseeing the construction.

Faculty Representative Anderson asked about responsibility for the performance guarantee. Mr. Robinson responded that the performance guarantee would be provided by members of the LLC.

Faculty Representative Anderson asked who would receive the indirect cost recovery for the project and at what rate it would be paid. Mr. Robinson responded that the rate had not yet been established. Because the project would receive some U.S. Department of Energy funds, the rate would be determined in compliance with Cost Accounting Standards. The indirect cost recovery would be used for the operations of the entity itself. UC Berkeley would collect indirect cost recovery funds on the award made by the NSF.

Faculty Representative Anderson asked about UC employees who might transition out of UC as a result of this project and about plans for the transitioning of their pension benefits. Mr. Robinson responded that relatively few UC employees would be transitioned. A majority of the UC employees might be secunded, or “loaned.” Most of the employees to be transitioned would come from the South Dakota School of Mines and Technology and the South Dakota Science and Technology Authority. Consideration has been given to ensuring that these employees are not negatively affected by the transition.

Mr. Taylor emphasized that the DUSEL project would engender outstanding scientific research, the NSF would pay the costs, and the LLC would insulate the University from risk.

Regent Hime asked when UC researchers would be able to begin working at the facility. Mr. Lesko responded that the State of South Dakota had already invested about $125 million for rehabilitation of the facility. Two physics experiments were being installed in the current year, and UC was a participant in both. Those experiments would begin work in the following year. UC earth sciences faculty currently have instrumentation in place and are already making use of access to the facility. There are currently about 20 scientists using the facility; Mr. Lesko anticipated that there might be 1,000 scientists at the DUSEL in the future.

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

8. **REPORT OF NEW LITIGATION**

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

General Counsel Robinson presented his **Report of New Litigation**, shown in Attachment 2. By this reference the report is made part of the official record of the meeting.

The Committee recessed at 12:30 p.m.

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The Committee reconvened on November 18, 2010 at 9:00 a.m. with Committee Chair Lozano presiding.

Members present: Regents Blum, Cheng, DeFreece, Island, Lozano, Makarechian, Schilling, Varner, and Wachter; Ex officio members Gould and Yudof; Advisory members Mireles, Pelliccioni, and Simmons; Staff Advisors Herbert and Martinez

In attendance: Regents De La Peña, Hime, Johnson, Kieffer, Lansing, Maldonado, Marcus, Pattiz, and Zettel, Regent-designate Hallett, Faculty Representative Anderson, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Provost Pitts, Executive Vice Presidents Brostrom and Taylor, Vice Presidents Beckwith, Duckett, Lenz, and Sakaki, Chancellors Block, Blumenthal, Desmond-Hellmann, Drake, Katehi, White, and Yang, and Recording Secretary Johns

9. **APPROVAL OF UNIVERSITY OF CALIFORNIA 2011-12 BUDGETS FOR CURRENT OPERATIONS AND FOR STATE CAPITAL IMPROVEMENTS**

The President recommended that:

A. The Committee on Finance recommend to the Regents that the expenditure plan included in the document, *2011-12 Expenditure Plan for Current Operations*, be approved.

B. The Committee on Finance concur with the recommendation of the Committee on Grounds and Buildings to the Regents that the 2011-12 Budget for State Capital Improvements be approved.

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

Committee Chair Lozano explained that two items, the *Approval of University of California 2011-12 Budgets for Current Operations and for State Capital Improvements* and the *Approval of 2011-12 Student Fees and Expansion of the Blue and Gold Opportunity Plan*, would be discussed together.

10. **APPROVAL OF 2011-12 STUDENT FEES AND EXPANSION OF THE BLUE AND GOLD OPPORTUNITY PLAN**

The President recommended the following actions on student fees for 2011-12:

A. For 2011-12, effective summer 2011, approve the mandatory systemwide fees shown in Display 1. Of the revenue generated from the increases in the Educational Fee and Student Services Fee from undergraduates, an amount equivalent to 33 percent shall be set aside to mitigate the impact of the fee increases on financially needy undergraduate students. Of the revenue generated from the increases in the Educational Fee and Student Services Fee from graduate academic students, 50 percent shall be set aside to provide additional funds for student financial support; and 33 percent of the revenue generated from the increases in the Educational Fee and Student Services Fee from students subject to professional fees shall be set aside for financial aid. These fee levels will generate revenue needed to maintain the quality of the academic program, as well as to help address funding shortfalls that have occurred because of reductions in State funding and unfunded mandatory cost increases. If the State is able to provide the funding requested by UC for 2011-12, as well as funding in excess of the request to help fill the total budget shortfall, the fee increases as proposed for the November 2010 meeting would be reviewed and a subsequent action to revise fee levels would be brought to the Board.

B. For 2011-12, effective fall 2011, approve adjustments in Nonresident Tuition for nonresident undergraduate students and nonresident graduate academic students as shown in Display 1.

C. Effective fall 2011, endorse the President's decision to expand the Blue and Gold Opportunity Plan to provide that financially needy California undergraduates with total family income under $80,000 and enrolled in their first four years (two years for transfer students) will have systemwide fees covered, up to the students' need, by scholarship or grant awards.

D. Effective fall 2011, endorse the President's decision to use return-to-aid funds described above to assist middle-income families by covering 100 percent of the 2011-12 fee increase for financially needy undergraduates from families earning less than $120,000.

DISPLAY 1: Proposed 2011-12 Fee Levels

	2010-11 Fee Levels	Proposed Adjustment[1]	Adjusted Fee Levels[2]	2011-12 Proposed Increase $	2011-12 Proposed Increase %	Proposed 2011-12 Fee Levels
Educational Fee[3]						
Undergraduate						
Resident	$9,402	$0	$9,402	$750	8.0%	$10,152
Nonresident	$10,260	($858)	$9,402	$750	8.0%	$10,152
Graduate Academic						
Resident	$9,402	$0	$9,402	$750	8.0%	$10,152
Nonresident	$9,810	($408)	$9,402	$750	8.0%	$10,152
Graduate Professional[4]						
Group 1						
Resident/Nonresident	$9,312	$90	$9,402	$750	8.0%	$10,152
Group 2						
Resident	$10,650	($1,248)	$9,402	$750	8.0%	$10,152
Nonresident	$11,106	($1,704)	$9,402	$750	8.0%	$10,152
Group 3						
Resident	$9,402	$0	$9,402	$750	8.0%	$10,152
Nonresident	$9,810	($408)	$9,402	$750	8.0%	$10,152
Student Services Fee						
All Students	$900	$0	$900	$72	8.0%	$972
Nonresident Tuition						
Undergraduate	$22,021	$857	$22,878	$0	0.0%	$22,878
Graduate Academic	$14,694	$408	$15,102	$0	0.0%	$15,102
Graduate Professional	$12,245	$0	$12,245	$0	0.0%	$12,245

[1] Over the course of 13 years and through a series of State and UC actions, the Educational Fee has evolved from a single amount charged to all students to six different amounts charged depending on student level, residency, and program of study. For 2011-12, the Office of the President proposes eliminating Educational Fee differentials that currently exist across student levels and programs. These changes would be accompanied by adjustments to nonresident tuition levels (as shown in this display) and professional degree fee levels such that the changes are cost-neutral to students and revenue-neutral to campuses.

[2] For calculation purposes only. During 2010-11, students are being charged the fee levels in the first column of the table.
[3] Includes $60 surcharge to cover costs associated with the injunction and judgment of the *Kashmiri* lawsuit.
[4] Professional students in these programs also pay a professional degree fee that varies by campus and program. In 2010-11, these fees range from $4,000 to $31,355. Proposed fee increases for 2011-12 range from 0 percent to 31 percent and are presented in the November 2010 Regents' item *Approval of 2011-12 Professional Degree Fees.*

- Group 1 includes students in Business; Dentistry; Law; Medicine; Nursing; Optometry; Pharmacy; Theater, Film and Television; and Veterinary Medicine professional degree programs.
- Group 2 includes students in International Relations and Pacific Studies, Physical Therapy, Preventive Veterinary Medicine, Public Health, and Public Policy professional degree programs.
- Group 3 includes students in Architecture, Environmental Design, Information Management, Social Welfare, and Urban Planning professional degree programs.

Display 1 above reflects increases in mandatory systemwide fees only.

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

[Regents were provided with a packet of correspondence received regarding this item, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Vice President Lenz recalled that the Legislature had completed its deliberations on the 2010-11 State budget on October 8; the Governor signed the budget the following day. The University received $199 million in ongoing State General Fund monies to restore a portion of the $637.1 million budget reduction of the previous year. The University received $51.3 million in enrollment funding for approximately 5,100 students, $14.1 million for annuitant health benefits, and $353 million for capital facilities projects. In addition, the University received $106 million in one-time federal American Recovery and Reinvestment Act (ARRA) funds. The University was also successful in having statutory language removed which prohibited the State from providing any new State General Fund monies for its UC Retirement Plan (UCRP) obligations.

The State faced an overall fiscal crisis of $18.3 billion in the current year and there were significant budget reductions in many State programs. Mr. Lenz emphasized the fact that of all these programs, the University received the highest single budget augmentation in the 2010-11 State budget, an augmentation of 12.2 percent. He expressed his view that the University's advocacy efforts were outstanding and noted that the Regents' communications with policymakers were an important part of this advocacy.

Mr. Lenz briefly reviewed the funding gap faced by the University in 2010-11 and how the University addressed this shortfall through restructuring of its debt service, student fee revenue, ongoing State funding, State funding for student enrollment and annuitant benefits, and ARRA funds. He then discussed the anticipated 2011-12 budget gap, noting that assumptions about State funding would change if there were any mid-year budget reductions. Mandatory costs are expected to grow by $270 million in 2011-12, mainly due to the increase in the employer contribution to the UCRP and projected compensation costs. Many revenue assumptions for 2011-12 would remain the same as they were in the previous year. For a second year, campuses would continue to experience the impact of an earlier $237.1 million reduction, and, unless there is an increase in revenue, the campuses' shortfall is expected to increase by $451 million. Mr. Lenz attributed this $451 million increase to mandatory costs and to the fact that $75 million in debt restructuring, used over the past two years, was no longer available.

Mr. Lenz then discussed future projections for the University's budget gap and emphasized that a long-term perspective is essential. Such a perspective includes an awareness that State funding for the University is currently more than $400 million below its 2007-08 level and an awareness of future cost drivers. He presented a chart which indicated that, without any additional State General Fund support, and with an assumption that the University would not raise any student fees in the future, the University's current $1 billion budget gap could grow to $4.7 billion over a five-year period.

Cost drivers include inflation, estimated at three percent, as well as pension costs, annuitant health liability, faculty and staff salaries, and UC initiatives. Based on the facts of the 2010-11 budget, even assuming a five percent budget increase from the State and a seven percent increase in student fee revenue, the University would still face a budget shortfall of $1.6 billion by fiscal year 2019-20.

Mr. Lenz anticipated that the University would be challenged over the coming 18 months to maintain the level of support it had received in the 2010-11 budget. In its fiscal forecast, the Legislative Analyst's Office has indicated that California will experience a two-year deficit of $25.4 billion, $6.1 billion in 2010-11 and $19.3 billion in 2011-12. The expiration of $8 billion in temporary taxes and $4.5 billion in federal stimulus funds is a factor in the projected $19.3 billion deficit for 2011-12.

The University anticipates that funding from the State for 2011-12 will be $438 million below its 2007-08 level. This assumes that $106 million in ARRA funds will not be replaced. The State budget in 2009-10 included two assumptions for restorations to UC. The first was the restoration of a one-time reduction of $305 million; Mr. Lenz noted that $106 million of this restoration was achieved with ARRA funds rather than ongoing State support. The second assumption would be that the State would restore $167.5 million in 2011-12. Even with these restorations, State funding would be $164.6 million below its 2007-08 level.

Mr. Lenz presented a list of estimated cost increases for 2011-12, which totaled $365.9 million, and a list of UC initiatives which have not received funding, including the expansion of the University's Program in Medical Education (PRIME), nursing enrollment growth, and development of the medical school at UC Riverside. The University still has an enrollment funding gap of $115.7 million; it is serving more than 11,500 students for whom it currently receives no funding from the State.

Mr. Lenz enumerated the University's budget needs for 2011-12, which include restoration of the 2007-08 base budget, mandatory costs, UC initiatives, deferred maintenance, and unfunded student enrollment. Together these needs total over $1 billion. The University's 2011-12 operating budget request to the State, nearly

$600 million, includes ongoing restoration of the $106 million for which ARRA funds were used; restoration of the $167.5 million mentioned earlier; funding for the UCRP; funding for annuitant health benefits; increased funding for student enrollment; and funding for PRIME, nursing enrollment growth, and the UCR Medical School. Only $24.6 million of the total is being requested for new programs.

The University's recommendation for meeting costs in the 2011-12 fiscal year includes the almost $600 million request for State funding; an eight percent student fee increase which would generate $115.8 million to support operating costs; $26.7 million in additional UC general funds provided by indirect cost recovery and nonresident student tuition; and $101 million in administrative efficiencies. Mr. Lenz discussed a chart displaying a scenario with a more modest request for State funding, only a five percent increase, or $145 million. This amount would be insufficient to cover the State's obligation to the UCRP and the other 2011-12 costs.

Mr. Lenz commented on how the University could apply the revenue that would be generated by an increase in student fees. An eight percent student fee increase would provide $115.8 million in support of operating costs and $63.7 million in student financial aid. An amount of $100 million is equivalent to 21 percent of the UC fee-supported institutional financial aid for undergraduates, equivalent to the cost of serving 10,000 California resident students or the cost of salaries and benefits for more than 1,000 staff employees or 775 faculty members. Mr. Lenz emphasized that it was essential to support the recommendation for a fee increase.

The University's 2011-12 capital budget request to the State totals approximately $768 million. This includes $276 million for enrollment-related expansion, $121 million for seismic and life-safety improvements, about $308 million for capital renewal, and $63.2 million for new program initiatives.

Mr. Lenz presented a chart comparing UC undergraduate and graduate resident fees with four comparison institutions. After an eight percent increase in UC student fees, UC undergraduate fees would be lower than corresponding fees at two of the comparison institutions, and UC graduate fees would be lower than fees at three of the comparison institutions.

Mr. Lenz noted that, despite student fee increases in recent years, UC is experiencing growing demand for its programs. There has been no change in the percentage of low-income and middle-income students at the University. Nor has there been a decrease in the number of low-income students or students from underrepresented groups, which Mr. Lenz attributed to the availability of UC financial aid, Cal Grants, increased funding from Pell Grants, and the federal tuition tax credit. Financial aid and tax credits provided more than $2 billion to UC undergraduates in 2009-10. Fifty-seven percent of undergraduates received $1.3 billion in grants and scholarships, with an average award of $12,800. Over one-third of UC undergraduates are low-income Pell Grant recipients, a greater proportion than at any other comparable research university in the U.S.

Financial aid was enhanced in 2010-11. There were large augmentations to Cal Grants and UC grants to cover fee increases for lower-income students. An expansion of the Pell Grant raised the maximum award by an additional $200 to $5,550. Tax credits continued to provide higher maximum credit and a higher income ceiling. The expansion of the Blue and Gold Opportunity Plan ensured coverage of systemwide fees to students with family income up to $70,000; in 2011-12, this will be further expanded to cover students with family income up to $80,000.

In 2011-12, the University proposes to continue its return-to-aid policy at 33 percent for undergraduates and 50 percent for graduate students, to support augmentations to Cal Grants to cover fee increases, to expand the Blue and Gold Opportunity Plan as mentioned earlier, and to provide one-time coverage of 100 percent of the 2011-12 fee increases for needy families earning between $80,000 and $120,000. Mr. Lenz noted that the last-mentioned proposal is not a new approach for the University; in the past it has sometimes covered 50 percent of fee increases, while in this case it would cover 100 percent of the increase for one year.

The cost of living continues to rise for students. Mr. Lenz stated that without a fee increase, costs for needy students would rise by $583 per student. With an eight percent fee increase, additional UC grant money generated from the return to aid and Cal Grant funds would offset about $170 of this increase. Without a fee increase, the University would forgo over $40 million in additional Cal Grant funds.

Associate Vice President Marsha Kelman discussed the expected impact of the proposed fee increase on undergraduate students. She stated that, given the proposed expansion of the Blue and Gold Opportunity Plan, the one-time coverage of 100 percent of the fee increase for families with income up to $120,000, and the increase in Cal Grants, 55 percent of UC undergraduates, or 99,000 students of 181,000, would have the fee increase covered in the following year.

Ms. Kelman presented a chart showing the estimated net increases in fees for undergraduates in 2011-12 by family income groups. For students with family income below $90,000, the entire fee increase would be covered by increased financial aid. For students in the $90,000 to $120,000 income group, the increase would be under $500; for those in the $120,000 to $180,000 income group, it would be under $700; for those with family income over $180,000, the increase would be over $800. Ms. Kelman stated that UC’s financial aid package was generous.

Committee Chair Lozano summarized some essential information from the presentation. The University is faced with a long-term structural problem. The current budget gap of $1 billion could increase to $4 billion in the coming five years if no action were taken. There are increasing mandatory costs and greater uncertainty regarding State contributions. The current request to the State was for $600 million. The administration was proposing to close the budget gap through administrative efficiencies, use of UC general funds, and an increase in student fees which would be accompanied by an increase in financial aid. Committee Chair Lozano noted that the Regents are interested in a long-term fee policy.

Regent Varner observed that the current budget situation presented unfortunate choices for the University. This was a difficult decision, but it would not be good to postpone it. Timely action would allow families of UC students to plan for the increased fees. In addition, the University must continue its efforts to secure financial aid for students and continue its advocacy in Sacramento. Regent Varner stated that the University should have a comprehensive fee policy and anticipated that student fees would continue to be a major component of the University's revenue in future years.

Regent Island emphasized the importance of diversity, access, and affordability. He recalled that he had refused to vote for fee increases until the previous year. He anticipated that fee increases would continue in the coming years. While student fee increases to date had not materially harmed the University, they had caused indirect harm to its long-term viability. Student fee increases allowed the University to continue its business as usual, but prevented it from making difficult choices which could change its cost curve. Regent Island urged the University to find a better approach to funding than reliance on student fee increases. He noted that President Yudof had achieved restructuring and cost reduction at the Office of the President and administrative efficiencies on the campuses, but the University would need to consider more aggressive action to bring down its costs substantially. Regent Island observed that the Regents were being offered a single difficult choice and stated that, although he would support the President's recommendation, he would have preferred an array of options. He stated that student fee increases should be a last resort, and expressed his view that the University had yet to carry out some other difficult measures.

Regent Pattiz acknowledged that UC student fees had increased significantly over time, but observed that fees had increased from an original low base. For many years, UC kept student fees low because it was in a financial position to do so, while other institutions raised their fees incrementally. The University achieved excellence and provided the best value in public education, but it was now struggling to maintain that excellence in nearly impossible conditions. Regent Pattiz recognized that the Regents were not being presented a variety of choices, but expressed confidence that the Office of the President had examined a variety of options and had engaged in broad consultation in developing its recommendations. He recalled that the California State University had recently approved a 15 percent tuition increase. A more Draconian option could have been presented to the Board, but this recommendation is an equitable action to address the situation. In the current difficult situation, Regent Pattiz stated that he saw no other option than to support the proposed fee increase.

Regent Makarechian referred to the information presented earlier about unfunded student enrollment and observed that whenever the State does not meet its obligation to fund student enrollment at UC, the University is obliged to raise student fees. He stated his view that the increase represented a tax on middle-income families, those earning above $120,000, by the Legislature. He encouraged students and their families to focus on the

State's responsibility for this situation. Regent Makarechian urged the UC Commission on the Future to examine the possibility of further increasing revenue from nonresident student enrollment. Increasing nonresident enrollment might involve a relatively small number of students, but provide a substantial increase in revenue. Regent Makarechian also suggested that the University could achieve greater reimbursement of indirect costs. He expressed his support for the proposed fee increase, but stated that the University should examine these other sources of revenue. Executive Vice President Brostrom responded that the University is actively examining these sources, including more effective recapture of indirect cost rates, more effective use of private philanthropy, increased administrative efficiencies, and revenue from nonresident tuition and from existing quasi-business enterprises within UC.

Regent-designate Mireles expressed students' opposition to the proposed fee increase. He stated that this was not merely a one-year increase of eight percent, but part of a broader problem of continuing annual fee increases with no end in sight. While the State bore responsibility for the current situation, the University was embarking on an unsustainable path. The expansion of the Blue and Gold Opportunity Plan would assist middle-income students this year, but it was unclear how middle-income students would fare in the following year; if there were another similar fee increase the following year, these students might face an overall 15 to 20 percent increase. AB 540 students continue to be the most disadvantaged students in an environment of fee increases. They will pay increased fees and contribute to return to aid, but will be unable to access financial aid. He asked the Regents to vote against an increase in student fees.

Regent Cheng emphasized that students believe in the mission, values, and purpose of the University. Students advocated successfully in Sacramento with the Office of the President. He expressed his opposition to the student fee increase and stated that it was not a long-term solution, both because of its effect on students and because it represented a step away from the California Master Plan for Higher Education. The State was not being held accountable for the $115 million in revenue represented by the fee increase. Regent Cheng suggested that the University should request this funding from Sacramento and postpone a fee increase.

Regent Marcus stated that the Regents do not wish to raise student fees but that they are responsible for protecting the quality of the University. He stated his view that the Governor and the Legislature had been remarkably generous to the University this year. He noted that he came to this meeting with the intention of voting against a student fee increase unless there were a compelling argument that this increase was necessary to maintain the quality of the University. Given the University's $20 billion budget, he believed it should be possible to achieve $100 million in savings through other means; however, a compelling case had been presented. For that reason, he would support the fee increase, but he emphasized that the University must seek efficiencies more actively. He hoped that, at a future point, it would be possible to save $200 million and avoid another student fee increase.

Regent Blum expressed concern about the future long-term quality of the University. The taxation system in California makes funding of State programs difficult. He questioned the priorities of the State, given the fact that the University would receive about $2.5 billion, as it did 11 years previously, while State funding for prisons has increased from $5.5 billion to $11 billion. The effort to make the State reconsider its priorities was just beginning. The lack of support for higher education in the U.S. could represent a long-term loss in favor of countries with developing economies, such as China, India, and Korea, which are training more scientists and engineers. Regent Blum stated that the University could accelerate its administrative savings. Savings have been achieved at the Office of the President, but Regent Blum stated his view that the administration has not received the cooperation from the campuses that it should have for efforts such as centralized purchasing. He underscored the Regents' authority regarding financial matters at the campuses. He hoped that the University's goal of saving $500 million in five years could be accomplished in half this time. For example, campuses should eliminate unnecessary committees. Returning to the question of maintaining quality in the future, he expressed his concern about retention of outstanding younger faculty, who are subject to recruitment by competing institutions which can offer substantially higher salaries.

Despite her concern about raising fees, Regent Lansing expressed confidence that President Yudof had thoroughly examined this issue from all angles and expressed her reluctant support for the student fee increase, support which was motivated by the desire to preserve the quality of the University. At the same time, Regents should accept the responsibility of lobbying State legislators to redirect their priorities and to support the University, the California State University, and the California Community Colleges. The Regents must also examine new potential sources of revenue for UC.

Regent Wachter stated his view that the Governor and Legislature had been generous to the University in the last budget, but noted that the University was facing a long-term problem. Although the economy would improve and more funding might be allocated to the University in the future, this would not solve the problem. The University is now in a situation of significant risk. Even if the economy were to make an excellent recovery, the University would still be forced to continue to seek revenue and to raise student fees in order to balance its budget. The University has examined and must continue to examine its costs and efficiencies. However, the solution to long-term financial challenges must include an examination of revenue as well as costs. Regent Wachter expressed his support for the recommended fee increase but urged the President and the Regents to focus more attention on new revenue sources. As one example, he expressed his opinion that the University has not optimized alumni participation, and there are many other ways an institution the size of UC could produce revenue.

Regent Schilling noted that public enterprises are more costly to operate than private sector enterprises. Public institutions have higher construction and pension costs, and decision-making takes more time. She expressed support for the fee increase and concurred that the University must examine alternative revenue sources. Regent Schilling emphasized that public universities are enormously expensive to operate and that one should not expect efficiencies at UC like those possible in the private sector. She expressed confidence in President Yudof's leadership during this difficult period.

Regent DeFreece concurred that the University is facing a long-term structural problem. He stated his view that UC needs a long-term predictable fee policy, so that students entering the institution will know what their fees will be during the years they attend. Without such a policy, the Regents would find themselves increasing student fees every year. Regent DeFreece praised the University's efforts to cover the cost of the fee increase for low-income students, but expressed his concern about the effect of fee increases on middle-income students, the population which forms the core of UC's alumni community. The University repeatedly asks this constituency for philanthropic support and the State looks to this same group for tax increases. The University must give consideration to the situation of middle-income families.

Regent Kieffer emphasized that the effect of the fee increase would be felt by middle-income rather than by low-income students. Given the fact that the middle class is dwindling, this is a serious problem for the University. He stated that the University had achieved administrative savings, but could achieve savings in other areas with creativity and flexibility. Regent Kieffer stressed that, notwithstanding the economic crisis, the Regents intend to maintain the quality and stability of the University, and to prevent raiding of UC faculty by other institutions. In response to Regent Blum's concern about the future quality of the institution, Regent Kieffer asserted that the Regents' present action conveyed this message about commitment to UC's future excellence. He expressed support for the recommendation for a fee increase.

Regent Maldonado echoed the sentiment that the Regents do not wish to raise student fees. He asked if the University had exhausted every option before resorting to this measure and if an increase in student fees was the only choice available. He recalled measures taken by the State during the fiscal crisis, including the difficult decision to raise revenue from the people of California. Regent Maldonado stated that he was not certain that every alternative had been considered in this case and that he would vote "no" when this matter came before the full Board.

Regent Zettel expressed support for the work of President Yudof and Office of the President staff who developed the proposal for the student fee increase, but stated that she could not support the proposal. She expressed her view that the University must advocate for the group of students affected by the proposed fee increase. The University was currently correcting problems which were not addressed in earlier years. In the past, the University should have been raising student fees and employer and employee contributions to the UCRP in a responsible manner. The proposed fee increase unfairly burdened current students to address circumstances that should have been addressed earlier. Regent Zettel stated that the University would face fee increases in the future and that she would support increases if she felt that all other avenues had been exhausted.

Chairman Gould stated that the Regents were faced with a difficult choice, but that their duty was to preserve the University and its quality. There is a structural problem at the

State level. The State is unable to provide the University the necessary support or has not made such support a priority. The University, in turn, has its own structural problem due to the costs of retirement benefits, health care, and fundamental operations; it is a long-term problem. He stated that President Yudof had presented a balanced plan. Other institutions had decided to implement even higher fees. The University had chosen to limit its student fee increase and to accompany it with an aggressive financial aid program. Chairman Gould expressed agreement with statements made by the Regents about the University's need to continue to work on efficiencies. The Regents must push the institution, with policy decisions if necessary, to achieve $500 million in annual savings. The Regents must also ensure that the University develops more efficient ways to educate students, and that faculty plans for such efficiencies are successful. Chairman Gould expressed his support for a multi-year fee structure to ensure predictability and moderation, but emphasized that, in order to implement such a plan, the University needs a reliable partner at the State level. This matter would also require advocacy by the entire UC community. He concluded by noting that all the Regents wish to maintain the excellence of the University and expressed his support for the President's recommendations, which would help accomplish this.

Committee Chair Lozano observed that these were difficult decisions and that the Regents would seek long-term solutions in the months ahead.

Upon motion duly made and seconded, the Committee approved the President's recommendation for the *Approval of University of California 2011-12 Budgets for Current Operations and for State Capital Improvements* and voted to present it to the Board.

Upon motion duly made and seconded, the Committee approved the President's recommendation for the *Approval of 2011-12 Student Fees and Expansion of the Blue and Gold Opportunity Plan* and voted to present it to the Board, Regents Cheng and DeFreece voting "no."

11. **APPROVAL OF 2011-12 PROFESSIONAL DEGREE FEES**

The President recommended that the Regents:

A. Approve the proposed professional degree fees for 2011-12 for the 22 programs, shown in Display 2, that are compliant with the Regents' *Policy on Fees for Selected Professional School Students*. Included is Dental Hygiene at San Francisco, which plans to charge a professional degree fee for the first time in 2011-12. These fee levels will generate revenue needed to maintain the quality of the academic program, as well as to help address funding shortfalls that have occurred because of reductions in State funding and unfunded mandatory cost increases.

B. Approve as an exception to the Regents' *Policy on Fees for Selected Professional School Students* professional degree fees for 2011-12 for the 27 programs, shown in Display 3, that are compliant with all aspects of the Regents' Policy except that their in-State fees are expected to exceed the average of estimated 2011-12 fees at their public comparison institutions. Included are Art at Los Angeles, Educational Leadership at Davis, Engineering at Berkeley, and Health Informatics at Davis, which propose charging professional degree fees for the first time in 2011-12. These fee levels will generate revenue needed to maintain the quality of the academic program, as well as to help address funding shortfalls that have occurred because of reductions in State funding and unfunded mandatory cost increases.

DISPLAY 2: 2011-12 Proposed Professional Degree Fees for Programs Fully Compliant with Regents' Policy

	Residents (a)	Nonresidents (b)
Business		
Berkeley	$31,430	$26,164
Davis	$22,176	$22,176
Irvine	$21,384	$18,714
Los Angeles	$29,717	$24,667
Riverside	$21,354	$21,354
San Diego	$25,824	$17,644
Dental Hygiene		
San Francisco	$12,036	$12,036
Environmental Design		
Berkeley	$6,000	$6,000
International Relations and Pacific Studies		
San Diego	$7,100	$7,100
Law		
Berkeley	$35,148	$27,110
Davis	$31,218	$27,110
Irvine	$29,404	$27,004
Los Angeles	$29,404	$27,004
Medicine		
Berkeley	$18,636	$18,636
Los Angeles	$18,636	$18,636
Riverside	$18,636	$18,636
San Diego	$18,636	$18,636
San Francisco	$18,636	$18,636
Nursing		
Davis	$5,730	$5,730
Irvine	$5,730	$5,730
Los Angeles	$5,730	$5,730
San Francisco	$5,730	$5,730

(a) AB 540 students enrolled in a professional degree program listed above shall be charged at the program's resident professional degree fee level, pursuant to Regents' policy and consistent with State law.
(b) Some schools have opted to set professional degree fee levels for *nonresident* students lower than those for *resident* students in the same program in acknowledgement of the $12,245 in Nonresident Tuition that nonresident students must pay in addition to mandatory fees and professional degree fees. Total charges for nonresident students continue to be significantly above those for resident students.

DISPLAY 3: 2011-12 Proposed Professional Degree Fees for Programs with Proposed Total In-State Fees Higher than the Average of Public Comparison Programs

	Residents (a)	Nonresidents (b)
Architecture		
Los Angeles	$8,000	$8,000
Art (MFA)		
Los Angeles	$8,000	$5,000
Dentistry		
Los Angeles	$24,160	$21,115
San Francisco	$25,068	$25,068
Educational Leadership		
Davis	$4,002	$4,002
Engineering (M.Eng.) (c)		
Berkeley	$30,000	$22,000
Health Informatics		
Davis	$6,000	$6,000
Information Management		
Berkeley	$6,400	$6,400
Medicine		
Davis	$18,636	$18,636
Irvine	$18,636	$18,636
Optometry		
Berkeley	$14,674	$14,674
Pharmacy		
San Diego	$18,354	$18,354
San Francisco	$18,354	$18,354
Physical Therapy		
San Francisco	$11,772	$12,108
Preventive Veterinary Medicine		
Davis	$5,742	$6,198
Public Health		
Berkeley	$6,758	$6,758
Davis	$6,810	$7,266
Irvine	$5,612	$5,612
Los Angeles	$6,811	$7,267
Public Policy		
Berkeley	$7,290	$7,746
Irvine	$5,563	$5,563
Los Angeles	$6,811	$7,267

(a) AB 540 students enrolled in a professional degree program listed above shall be charged at the program's resident professional degree fee level, pursuant to Regents' policy and consistent with State law.
(b) Some schools have opted to set professional degree fee levels for *nonresident* students lower than those for *resident* students in the same program in acknowledgement of the $12,245 in Nonresident Tuition that nonresident students must pay in addition to mandatory fees and professional degree fees. Total charges for nonresident students continue to be significantly above those for resident students.
(c) The Professional Degree Fee for Berkeley's Engineering program as approved by the Regents would be charged to M.Eng. students in all Engineering departments except the M.Eng. students in the Department of Civil and Environmental Engineering (CEE).

(continued)

DISPLAY 3: 2011-12 Proposed Professional Degree Fees for Programs with Proposed Total In-State Fees Higher than the Average of Public Comparison Programs (continued)

	Residents (a)	Nonresidents (b)
Social Welfare		
Berkeley	$4,000	$4,000
Los Angeles	$5,563	$5,971
Theater, Film, and Television		
Los Angeles	$8,659	$8,659
Urban Planning		
Los Angeles	$5,563	$5,971
Veterinary Medicine		
Davis	$15,216	$15,216

(a) AB 540 students enrolled in a professional degree program listed above shall be charged at the program's resident professional degree fee level, pursuant to Regents' policy and consistent with State law.
(b) Some schools have opted to set professional degree fee levels for *nonresident* students lower than those for *resident* students in the same program in acknowledgement of the $12,245 in Nonresident Tuition that nonresident students must pay in addition to mandatory fees and professional degree fees. Total charges for nonresident students continue to be significantly above those for resident students.
(c) The Professional Degree Fee for Berkeley's Engineering program as approved by the Regents would be charged to M.Eng. students in all Engineering departments except the M.Eng. students in the Department of Civil and Environmental Engineering (CEE).

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

[Regents were provided with a packet of correspondence received regarding this item, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Provost Pitts explained that the Regents were being asked to approve professional degree fees for 49 programs. The proposed fees for 22 of these programs were fully compliant with policy. The proposed fees for 27 of these programs were not in full compliance because they exceeded public comparison institution fee levels for 2011-12. The comparison institution fee levels were estimates; some of the fees now being proposed exceeded that average, largely because comparison is limited to public institutions.

The submitted proposals were part of a three-year plan, although the Regents approve the fees annually. This year the plan review process was more rigorous than in previous years. Staff at the Office of the President carefully developed a template to which the campuses responded. For 32 of the 49 programs, campus submissions were sent back to campuses for further work.

Four programs were proposing fees for first time: Art (M.F.A.) at UCLA, Educational Leadership at UC Davis, Engineering (M.Eng.) at UC Berkeley, and Health Informatics at UC Davis. In addition, the UCSF Dental Hygiene program, approved in 2009, would begin charging fees in 2011-12.

Proposed professional degree fee levels for resident students range from $4,000 in the Social Welfare program at UC Berkeley to over $35,000 for the Law program at that same campus. In percentages, six programs propose no increases; 17 programs propose four to seven percent increases; 14 programs propose seven to ten percent increases; and seven programs propose increases greater than ten percent.

Dr. Pitts outlined how the increased professional degree fee revenue would be expended in 2011-12 to 2013-14: 36 percent would be spent on financial aid, more than the required 33 percent; 25 percent on faculty salary adjustments and improving the student-faculty ratio; nine percent on benefits and non-salary cost increases, additional costs for instructional support staff, and retirement plan contributions; and the remainder would be spent on classroom and laboratory development, and program enhancements.

The University is concerned about the ability of students to pay for professional degree programs and about student debt. Each program requesting a professional degree fee increase has made a commitment to devote at least 33 percent of fee revenue to financial aid. The Social Welfare program at UC Berkeley plans to spend 50 percent of fee revenue on student financial aid in the coming year. Although access is a goal for all programs, grants and scholarships are insufficient to cover the full cost of attendance; loans are therefore necessary.

Dr. Pitts presented a chart showing the rising debt level for graduates of UC professional degree programs in recent years. Students in the four-year health sciences programs leave with the highest levels of debt, followed by students in the law and business programs. Dr. Pitts stated that, because these disciplines have relatively high income potential, the relative loan repayment obligation associated with the fee levels is manageable for most students. Students with lower income can take a number of approaches to manage their debt. There are federal, State, and University loan repayment assistance plans for borrowers employed in public service areas and income-based repayment plans for federal student loans, which cap loan payments at 15 percent of net earnings, a reasonable debt level. All UC professional degree programs communicate information about financial aid and loan programs to their students.

One indication of the socioeconomic status of professional degree program students is provided by the number of those who received Pell Grants as undergraduates. Pharmacy and dentistry programs have the highest proportions of such students, while business programs have the lowest. The percentage of professional degree students who received Pell Grants as undergraduates has fluctuated over time, but there is no downward trend in their enrollment.

The University also focuses on diversity in its professional degree programs, studying enrollment trends, diversity strategies, and the experience of peer institutions. Dr. Pitts discussed a chart displaying underrepresented minority (URM) student enrollment in medicine, business, and law programs in three recent academic years. Medicine and law programs continue to increase their diversity. UC schools of medicine are among the most diverse in the U.S. UC law schools stand at about the national average for diversity, while diversity in UC business schools is still below the national average. Dr. Pitts observed that the deans of the UC business schools are aware of this fact and expressed hope that programs put in place would produce results in the current year.

Dr. Pitts then presented a chart showing the relationship between the proposed UC fees and fees at public comparison institutions. Regents' policy requires that UC programs carry out marketplace analysis in pricing their programs. The Regents were now being asked to approve fees for 27 programs as exceptions to policy, because their in-state total fees were expected to exceed the average estimated fees at public comparison institutions. In many instances, UC professional degree programs compete most closely with private institutions, rather than public institutions, for students, faculty, and national rankings. Dr. Pitts concluded by observing that, if Regents' policy required that estimated total charges for the professional degree programs be compared to the average total charges at both public and private competitors, the proposed fees for 46 of the 49 programs would be in compliance with that change in policy.

Regent-designate Mireles expressed concern about the proposed increases, especially for public service professional degrees such as nursing and social work. He questioned the need for a 31 percent fee increase for the nursing program at UCSF and stated that information presented in the UCSF proposal, according to which the median salary for recent graduates was $120,000, was inaccurate. He noted that recent graduates are struggling to find employment. The average debt for UCSF nursing graduates has doubled over the past ten years from $20,000 to over $40,000. One reason given for the increase was to standardize fees at all UC nursing programs. Mr. Mireles noted that this may be an appropriate goal, but stated that is was not worthwhile if it caused fees to rise precipitously for one group of students. The number of nursing students at UCSF is larger than at other campuses. He expressed concern that UCSF nursing graduates who wished to work with underserved populations would not be able to do so, but would be forced to seek employment situations based on their need to pay off debt.

Dr. Pitts responded that the UCSF programs in nursing, dentistry, and pharmacy have been first in the nation in receipt of National Institutes of Health grants for many years. For the first year, the UCSF School of Nursing has slipped to the number two position. There is concern about the School's ability to recruit and retain faculty. Fee growth has been restricted by request of the dean. The decision in the current year to increase fees to the level of other UC nursing programs results in a disproportionately higher increase; this is due to the fact that fees were kept lower in previous years. The need to maintain faculty and provide a training ground for additional faculty is essential to the UC nursing programs.

Regent Makarechian asked if the use of professional degree fees for debt service on construction is prohibited. Vice President Lenz responded that this restriction applies to the Educational Fee. Dr. Pitts added that some income generated by the professional degree fees is used for capital improvements. A portion of the UCLA Art (M.F.A.) fees would be used to equip studios and performing arts facilities.

Regent Cheng referred to the proposed fee for the social welfare program at UC Berkeley and asked what change was being proposed. Dr. Pitts responded that there was no increase in the fee for this program. He noted that the School of Social Welfare had submitted a request for an increase, but the request was subsequently modified and the fee remained at the level it had been the previous year.

Regent Cheng asked about consultation which took place with the UC Berkeley School of Social Welfare students. Dr. Pitts responded that, in the current year, the professional degree fee proposal was communicated to the student body in mid-September. There had been a number of meetings between social welfare students and the dean and associate dean in the following months. Those consultations were still under way. The request for information made by the students concerned not only the proposed fee, but the School's budget as well. That matter was still being discussed.

Regent Cheng asked if the financial aid package for the School of Social Welfare was based on need, or based on class or cohort. Dr. Pitts responded that he could provide this information at a later point. He recalled that the School had a return to aid of almost two-thirds the previous year. The package for the current year included a 50 percent return to aid. Even as the proportion of the fee returned to aid has been reduced, it is still projected to be close to 40 percent several years into the future. The School is attentive to the use of funds for student aid.

Mr. Lenz referred to Regent Makarechian's earlier question. He confirmed that campuses may use the professional degree fee for debt service on facilities. Campuses are precluded from using the Educational Fee for this purpose.

Faculty Representative Simmons noted that the proposed professional degree fees for the UC law schools were listed as being fully compliant with Regents' policy. He stated that there are no comparable public law schools in California. UC law school fees are equivalent to or higher than fees at private law schools. He asked which public comparator institutions served as a benchmark for UC law school fees. Dr. Pitts responded that he could provide this list. The public and private comparator institutions are determined by the UC law programs when they submit fee proposals.

Mr. Simmons asked if it was possible for a program to choose the public comparators with the highest fees. Dr. Pitts responded that Mr. Simmons could make this determination after a list had been provided.

Mr. Simmons noted a lack of clarity regarding financial aid at the UC Berkeley School of Social Welfare, the calculations for comparison institutions, and the use of professional degree fees for debt. He stated that the current item provided little information on the individual programs. While the Board should not micromanage these decisions, proposals to the Board have generally been considered in great detail through consultation with the Academic Senate and other committees. Detailed discussions of some matters are essential to maintain the operations of the University. He criticized what he described as a failure in this instance. He stated that committees of the Academic Senate received confusing communications on the professional degree fees and that the list of 49 professional degree fee proposals was not received until the day before the last Academic Council meeting. Mr. Simmons expressed concern about the level of consultation with students and faculty regarding fees at the UC Berkeley School of Social Welfare and in other programs. He reported that the Academic Senate's Coordinating Committee on Graduate Affairs had found that the UC Berkeley engineering program (M.Eng.) fee represented a significant revision in the academic nature of that program. The Coordinating Committee asked to review this matter and was not given the opportunity to do so.

Committee Chair Lozano noted that Mr. Simmons' overarching concern was about a lack of in-depth consultation. She recalled that the Regents have a three-year review process for professional degree fees and stated her expectation that the consultation process would be consistent from year to year.

Mr. Simmons reported that the Graduate Council at UC Davis has formally protested its exclusion from the deliberations leading to the proposal of new professional degree fees in Health Informatics and Educational Leadership. The Graduate Council at UCLA had only recently been made aware of the proposed new Art (M.F.A.) professional degree fee. Dr. Pitts responded that there was consultation with students regarding the proposed Art (M.F.A.) fee at UCLA. While students were not happy about the increased fee, they desired improvement of the facility and reinstitution of visiting faculty in the arts and supported the fee after extensive consultation. There was also consultation with faculty.

Dr. Pitts addressed the question of when consultation occurs. He acknowledged that much of the consultation this year occurred at the end of summer. For the following year, consultation would be requested in spring. He recalled that most of the proposed professional degree fees are part of an ongoing three-year plan. Faculty have been aware of this plan for years. Dr. Pitts expressed willingness to share professional degree fee information when it becomes available. He observed that the Academic Senate has not generally been involved in setting fees. The Academic Senate reviews programs for academic quality. He expressed his view that in the case of fees for programs which are already approved, additional fee revenue would enhance the educational opportunities for students. He suggested that there could be discussion of faculty review, but reiterated that faculty have not usually been involved in fee-setting.

Committee Chair Lozano concurred that there is a need to ensure sufficient time for communication and consultation on these matters. She asked that, in the future, the faculty advise Regents in advance of highly specific concerns in order to allow time for response to be prepared.

Dr. Pitts recalled that he sent a query to the Academic Senate the previous February, requesting that the Senate review a number of topics regarding professional degree fees. The issues raised by Mr. Simmons were not included in the Senate's response.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board, Regent Cheng voting "no."

The meeting adjourned at 10:50 a.m.

Attest:

Secretary and Chief of Staff

Additions shown by underscoring; deletions shown by strikethrough

STANDING ORDER 110.2 Matters Relating to Residency

Includes amendments through ~~July 2007~~November 2010

a. The residence of each student shall be determined in accordance with the rules governing residence prescribed by the provisions of Sections 68000, ~~68010~~ 68011-68012, 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,~~ 68044; 68050, 68060-68062, ~~68061~~ but excluding the words "including an unmarried minor alien" from ~~68062(h),~~ 68062(h); 68070-68075.5, ~~68078, 68080~~ 68076-68078, 68083, 68085, amended to read: "Notwithstanding any other provisions, a student who resides in California and is 19 years of age or under at the time of enrollment, and who is currently a dependent or ward of the state through California's child welfare system, or was served by California's child welfare system and is no longer being served either due to emancipation or aging out of the system, shall be entitled to a resident classification as long as he or she remains continuously enrolled"; ~~68130,~~ and ~~68132~~ 68133-68134 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 and 68120.5 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~~ 66025.3 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.

b. A student classified as a nonresident shall retain that status until that student makes application in the form prescribed by the University and has been reclassified.

c. A student classified as a resident shall be classified as a nonresident whenever there are found to exist circumstances which would have caused that student to be classified as a nonresident. If the cause of incorrect classification is due to any concealment of facts or untruthful statements, the student shall be required to pay all tuition fees which would have been charged but for such erroneous classification and shall be subject also to appropriate University discipline.

d. Out-of-State Employees and Non-University Employees at Los Alamos and Lawrence Livermore National Laboratories (LANL and LLNL).

(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) So long as the University continues to participate as a member of a limited liability company holding the contract for the management of LANL or LLNL, an individual who is an employee of such company, 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 company described in (2) above 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 LLNL, 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 or LLNL expires and the University's participation

in the management of LANL or LLNL ceases, shall be exempted from payment of nonresident tuition fees for the remainder of the current quarter or semester.

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

Attachment 2

NEW LITIGATION AND ARBITRATION PROCEEDINGS

Report Period: 8/17/10 – 10/8/10
Regents Meeting
November 2010

Plaintiff	Location	Nature of Dispute Alleged by Plaintiff	Forum
		Employment Cases	
Costello, Richard Allen	UCB	Discrimination (race/ethnicity), failure to accommodate, retaliation	Alameda County Superior Court
Friedman, James	UCLA	Discrimination (age, religion), retaliation, wrongful termination	Los Angeles County Superior Court
Ostrach, David	UCD	Discrimination (disability), harassment, retaliation, wrongful termination	Yolo County Superior Court
Ruano, Sylvia	UCIMC	Discrimination (sex), retaliation, wrongful termination	Orange County Superior Court
Tran, James	UCSDMC	Wrongful termination	San Diego County Superior Court
Uhler, Brian	UCSF	Retaliation	San Francisco County Superior Court
		Professional Liability Cases	
Barton, David E.	UCIMC	Medical malpractice	Orange County Superior Court
Beltran, Juan Manuel	UCSDMC	Medical malpractice	San Diego County Superior Court
Brown, Cleveland (decedent)	UCLAMC	Medical malpractice - wrongful death	Los Angeles County Superior Court
Cox, Jesse	UCIMC	Medical malpractice	Orange County Superior Court
Dekker, Gerrie	UCDMC	Medical malpractice	Sacramento County Superior Court

Donnelly, Nanette	UCSDMC	Medical malpractice	San Diego County Superior Court
Duncan, Patricia and William Duncan	UCDMC	Medical malpractice	Sacramento County Superior Court
Ellman, Beverly B.	UCSDMC	Medical malpractice	San Diego County Superior Court
Fields, Nykia	UCSFMC	Medical malpractice	San Francisco County Superior Court
Garibay, German	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Goldman, Patricia	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Griffin, Timothy	UCSDMC	Medical malpractice	San Diego County Superior Court
Hess, Michael (decedent); Barbara Hess	UCLAMC	Medical malpractice - wrongful death	Los Angeles County Superior Court
Hurtado, Andres and Lorena Cesena	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Janelly, Giron	UCSFMC	Medical malpractice	San Francisco County Superior Court
Lovano, John A.	UCLAMC	Medical malpractice	Alameda County Superior Court
McDonald, Howard P.	UCSDMC	Medical malpractice	San Diego County Superior Court
Morgan, Connie (decedent); Gwendolyn Grays	UCLAMC	Medical malpractice - wrongful death	Los Angeles County Superior Court
Shaw, Malia and Mia Shaw	UCSFMC	Medical malpractice	Alameda County Superior Court
Simantob, Helen	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Snow, Barbara Ann	UCDMC	Medical malpractice	Sacramento County Superior Court

Soussana, Simone Mimi	UCLAMC	Medical malpractice, negligence, and premises liability	Los Angeles County Superior Court
Thompson, Robert	UCDMC	Medical malpractice	Sacramento County Superior Court
Voss, Diane	UCSFMC	Medical malpractice	Alameda County Superior Court
		Other Cases	
Clements, Sterling Wesley and Nancy	ANR	Negligent operation of a motor vehicle, loss of consortium	Kern County Superior Court
Donselman, Travis	UCR	Breach of contract, fraud and deceit, and negligent and intentional infliction of emotional distress	Riverside County Superior Court
Donselman, Travis	UCR	Violation of civil rights, first amendment, due process, equal protection	U.S. District Court, Central District of California
Ha, Hung	UCB	Violation of civil rights, unlawful arrest	U.S. District Court, Northern District of California
Habitat and Watershed Caretakers	UCSC	California Environmental Quality Act (UCSC application to the Santa Cruz Local Agency Formation Commission for extraterritorial water and sewer service)	Santa Cruz County Superior Court
Laumas, Mary Ann	UCD	Motor vehicle, personal injury, property damage	Yolo County Superior Court
Lincoln General Insurance Company	UCD	Declaratory judgment	U.S. District Court, Eastern District of California
Pacific Indemnity Co.	UCSF	Subrogation for worker's compensation benefits paid	San Francisco County Superior Court
Rocha, James et al.	UCLA	Personal injury, premises liability	Los Angeles County Superior Court

State of California, Regents et al.	Systemwide	Anti-trust (Cartwright Act) action filed by the Attorney General on behalf of numerous state agencies	San Francisco County Superior Court

<u>Public Employment Relations Board ("PERB")</u>
<u>Unfair Practices Alleged by Charging Party</u>

CUE (Coalition of University Employees) Local 6 SF-CE-897-H	UCLA	Unilateral change	PERB
CUE SF-CE-958-H	UCI	Bad faith bargaining	PERB
UPTE SF-CE-896-H	Systemwide	Unilateral change	PERB
SETC SF-CE-960-H	Systemwide	Failure to meet and confer	PERB
UAW (United Auto Workers) Local 2865 SF-CE-961-H	Systemwide	Bad faith bargaining	PERB
Estes, Jeffrey LA-CE-1120-H	UCDMC	Discrimination/retaliation	PERB
UPTE (University Professional and Technical Employees) CWA 9119 LA-CE-1121-H	UCLAMC	Failure to provide information	PERB