

AGENDA

COMMITTEE ON GOVERNMENTAL RELATIONS

Meeting: 9:00 a.m., Wednesday, January 26, 2005
Glenn S. Dumke Auditorium

Debra S. Farar, Chair
Roberta Achtenberg, Vice Chair
Jeffrey L. Bleich
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Robert G. Foster
George G. Gowgani
Eric Guerra
Ricardo F. Icaza
Melinda Guzman Moore
Kyriakos Tsakopoulos

Consent Items

Approval of Minutes of Meeting of November 17, 2004

Discussion Items

1. Adoption of Trustees' Statement of Legislative Principles, *Action*
2. 2005/2006 Legislative Report No. 1, *Action*
3. California State University Federal Agenda for 2005, *Action*

**MINUTES OF THE MEETING OF
COMMITTEE ON GOVERNMENTAL RELATIONS
Office of the Chancellor
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

November 17, 2004

Members Present

Debra S. Farar, Chair
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Robert G. Foster
Murray L. Galinson, Chair of the Board
George G. Gowgani
Eric Guerra
Ricardo F. Icaza
Melinda Guzman Moore
Frederick W. Pierce, IV
Charles B. Reed, Chancellor

Approval of Minutes

The minutes of September 14, 2004 were approved.

2004/05 Legislative Report No. 12

Trustee Farar announced the item was the final legislative report for 2004/2005. She indicated the item would consist of a status report of the trustees legislative program as well as notable CSU and higher education related legislation that introduced this year.

Trustee Farar asked Ms. Karen Zamarripa, assistant vice chancellor, advocacy and institutional relations, to present the report. Before commencing the report, Ms. Zamarripa introduced several legislative guests from Sacramento who were present to observe the board meeting and visit the CSU, Long Beach campus.

Ms. Zamarripa provided a brief report given the detailed written report in the agenda. The report highlights the outcome of CSU-sponsored legislation as well as priority measures in the 2004/05 session. Ms. Zamarripa reported an overall success rate of 93% on priority and sponsored bills.

She noted there were two disappointments. The governor did not sign the accountability proposal (Senate Bill 1331) developed in conjunction with the Master Plan committee and authored by

Dede Alpert. The other was the passage of Senate Bill 1757 (Denham) dealing with vehicle purchases.

Ms. Zamarripa indicated a special publication; the *Elections Report* will be released before the end of the year. The report will provide readers a complete report on legislative races, propositions and an overall assessment of the election's impact for CSU.

Ms. Zamarripa concluded her remarks with recognition of the contributions and hard work of the Board of Trustees, campus presidents, and others to ensure the system was so successful even during these difficult and challenging times on legislative and matters. She thanked everyone for their support.

Chair Galinson said one of his goals for the coming year was to facilitate greater communication and coordination among trustees, faculty, students, staff, and communities to advocate for and support the CSU. He emphasized the importance of all board members coordinating with Ms. Zamarripa on their ideas and activities on legislative matters.

The trustees thanked Ms. Zamarripa and her staff for their hard work and tremendous success achieved during the past year.

The committee recommended approval of the proposed resolution (RGR 11-04-08).

Chair Farar adjourned the meeting.

COMMITTEE ON GOVERNMENTAL RELATIONS

Adoption of Trustees' Statement of Legislative Principles

Presentation By

Karen Y. Zamarripa
Assistant Vice Chancellor
Advocacy and Institutional Relations

Summary

This item consists of a briefing on the Trustees' Statement of Legislative Principles, which are adopted by the Board of Trustees at the beginning of each legislative session.

Background

At the beginning of each two-year legislative session, the Board of Trustees adopts a formal Statement of Legislative Principles for the California State University. The principles provide basic parameters to guide positions taken by the Chancellor and system representatives on matters pending before the California Legislature. No revisions are proposed for the 2005-2006 Session.

Statement of Legislative Principles, As Proposed for Adoption

Statement of Legislative Principles

The following constitute the core principles guiding recommendations on legislation:

1. Preserve the California State University's statutory and traditional authority over academic affairs and matters relating to internal governance of the university.
 - a. Continue efforts to enhance and expand flexibility on internal matters and decision making by the Board of Trustees.
 - b. Preserve the integrity of the collective bargaining process.
 - c. Preserve and enhance the California State University's ability to accomplish its mission, as adopted by the Board of Trustees in November 1985.
2. Remain neutral on matters in which the state appropriately seeks to legislate the general public health and safety while not singling out the California State University uniquely.
3. Preserve the integrity of the California State University's budgetary process, and seek adequate funding for ongoing operations, mandatory costs, contractual obligations, increased enrollment, and state-mandated programs.

- a. Provide that all funds must be appropriated to the Board of Trustees.
 - b. Proposals for operational and academic programs, and capital outlay needs must be approved and placed in priority order by the Board of Trustees through the budgetary process.
4. Preserve the integrity of the California State University's efforts to prepare teachers and administrators for K-12 schools in California and encourage the development and maintenance of partnerships with K-12 schools to improve student achievement and teacher quality at all levels.
 5. Seek to influence the outcome of issues which, while not affecting the California State University alone, would have a disproportionate impact on the university's activities.
 6. Seek to provide for representation of the California State University on appropriate boards, commissions, task forces, study groups, etc., that may have an impact on the system.
 - a. Representatives to such bodies shall be appointed by the Board of Trustees or the Chancellor.
 - b. Remain neutral on proposals for studies, so long as funding is provided to cover any substantial costs which are above the base needs of the system budget associated with the study that may be incurred by the system.
 7. The Chancellor is recognized as the spokesperson for positions on behalf of the Board of Trustees and the California State University system. Whenever practical, the positions taken should be discussed with the chair of the Committee on Governmental Relations and the chair of the Board of Trustees.

Adoption of the following resolution is recommended:

RESOLVED, By the Board of Trustees of the California State University, that the Statement of Legislative Principles be adopted as amended, and be it further

RESOLVED, By the Board of Trustees of the California State University, that the Chancellor is authorized to take positions on pending legislation on behalf of the Board of Trustees and California State University system, but in taking such positions, the Chancellor shall consult, when practical, with the Chair of the Committee Governmental Relations, the Committee on Governmental Relations, the full Board, or the Chair of the Board of Trustees; and be it further

RESOLVED, That the Chancellor shall keep the Board regularly informed of the positions taken and of such other matters affecting governmental relations as is deemed desirable and necessary.

COMMITTEE ON GOVERNMENTAL RELATIONS

2005/2006 Legislative Report No. 1

Presentation By

Karen Y. Zamarripa
Assistant Vice Chancellor
Advocacy and Institutional Relations

Summary

This item contains a presentation of proposals for inclusion in the Trustees' 2005 Legislative Program.

Background

The Legislature convened on December 6, 2004 to begin the 2005-2006 Regular Session.

The following dates correspond with the key milestones in the first year of session:

January 21	Last day for bill requests to be submitted to Legislative Counsel
February 18	Last day to introduce bills
April 29	Last day for policy committees to hear bills for referral to fiscal committees
May 27	Last day for fiscal committees to report bills to the floor in the house of origin
June 3	Last day for bills to be approved on the floor in house of origin
July 8	Last day for policy committees to hear and report bills in their second house
July 15	Summer Recess begins, provided Budget Bill has been enacted
August 15	Legislature reconvenes
August 26	Last day for fiscal committees to report bills to the floor in the second house
September 9	Last day for any bill to be passed; Final Recess begins upon adjournment

Proposals

The following initiatives are recommended for sponsorship in the new legislative session. Campuses and/or Chancellor's Office professionals submitted legislative proposals at the request of the Chancellor and the Advocacy and Institutional Relations team. Staff has conducted research as to the need for each proposal, programmatic and fiscal implications, as well as both internal and external political issues. In addition, campus presidents and vice presidents as well as the Chancellor's leadership team have reviewed all of these proposals and concur with our recommendations.

Affinity Cards – Information Practices Act: The California Information Practices Act (IPA) prohibits public institutions, including the California State University (CSU) and the University of California (UC), from distributing the name and contact information of any individual (Civil Code Section 1798.60) to third parties. The law also expressly prohibits institutions from doing so even with the approval of the individual.

Campus alumni associations have been established at all 23 campuses in order to maintain relationships and build long-term connections with recent graduates and alumni, the ultimate goal being to support the University in the form of donors, scholarships, and advocacy with the community and elected officials. It is common practice throughout the country (and in California for private institutions) to offer benefits and services through affinity partnerships with commercial vendors to graduates and alumni members as a means of maintaining their connection to the University. In fact, the vast majority of association revenues are generated through affinity programs. The proposal would amend the Education Code to authorize CSU and UC alumni associations, like private colleges and universities in the state, to implement affinity programs for recent graduates and members of alumni associations. UC will jointly sponsor this legislation with CSU.

Community Distributed Generation: Due to rapid economic growth throughout the Western United States and limited generation capacity, demand for electricity in California has exceeded supply over the past two decades. As a result, California has been forced to purchase power from neighboring states. Current forecasts by the California Energy Commission and the Department of Energy project that existing demand capacity and planned replacement capacity will not be adequate to meet electricity demand in coming years. In addition to this shortfall in generation capacity, the state is now experiencing congestion problems in the transmission grid. This has created a need for more distributed generation (DG) facilities throughout California. While the CSU has been at the forefront of developing DG facilities on campuses, utilities currently charge the CSU “exit fees” for generating its own power. Moreover, campuses are currently prohibited from “wheeling” excess power to other CSU campuses or to the utility distribution company for use in the local community. This proposal would waive the exit fees for all qualified facilities (QFs) built on CSU campuses. The proposal would also enable campuses with a QF to wheel excess power back onto the local distribution grid for use at other CSU campuses or in local communities. This proposal would benefit the State, local communities and the CSU by disconnecting 150 MW of power from California’s transmission grid and returning unused power for re-use in local communities. This would not only help resolve the problems of local grid congestion and high voltage transmission, but would also result in significant long-term savings to the state and energy reliability for the CSU.

Whistleblower Protection: Government Code Sections 8547 through 8547.12 are known collectively as the California Whistleblower Protection Act. Government Code Section 8547.2 states that for the purposes of this Act, employee includes any employee of the California State University. Statutes stipulate that the identity of a “whistleblower” shall not be disclosed without the written permission of the person providing the information unless the disclosure is to a law enforcement agency that is conducting a criminal investigation. Additionally, Section 8547.7 (c) states that every investigative audit shall be kept confidential, except that the State Auditor may issue any report of an investigation that has been substantiated, keeping confidential the identity of the individual or individuals involved, or release any findings resulting from an investigation conducted pursuant to the Act that is deemed necessary to serve the interests of the state.

In order to further the intent of the California Legislature with respect to the Act, the CSU issued Executive Order 821, *Reporting Procedures for Protected Disclosures of Improper Governmental Activities and/or Significant Threats to Health or Safety*, dated May 23, 2002. This Executive Order established procedures for employees and applicants for employment at

CSU to make protected disclosures as defined by the Act to a designated CSU administrator. Although the Executive Order states that care shall be taken to keep confidential the identity of the complainant in so far as feasible and consistent with the law, the CSU cannot shield the complainant's identity or keep every investigative audit confidential, as can the State Auditor, because the CSU is subject to the California Public Records Act (Government Code Section 6251.) This may deter these individuals from making protected disclosures, expose them to acts of retaliation should their identity become known, and expose the CSU to potential fines and legal liability should acts of retaliation occur.

This proposal would add language to the Education Code to further the intent of the California Legislature that CSU employees be free to report on improper governmental activities to a designated CSU administrator with the same shield to identity protection and confidentiality that is protected by disclosure to the State Auditor.

Dormitory Revenue Fund: The amount of interest income earned in current construction and revenue accounts that are maintained in the dormitory revenue fund, which are invested in the Surplus Money Investment Funds held in the State Treasury, has been extremely low. This is because of the highly conservative design of the funds (primary emphasis on protection of principal with very short duration, and little or no attention paid to interest earnings).

To maximize the interest earned within the Board of Trustees investment policies, the CSU currently uses a management investment firm for its trust funds. The CSU would benefit from higher yields on invested funds, which will provide additional revenue to be used for a particular project or program. This change would decrease the amount of funds to be borrowed through public financings. The Trustees investment policies are conservative and would continue to emphasize protection of principal.

This proposal would amend Sections 90073, 90074, 90075, and 90077 of the Education Code to permit the investment of dormitory revenue, dormitory construction, dormitory interest and redemption, and dormitory maintenance and repair accounts to be invested outside of the State Treasurer's accounts that remain in compliance with the Board of Trustees investment policy.

Independent Authority for Selected Professional Doctorates:

Current statute allows the California State University to award the doctorate jointly with the University of California or with an accredited independent university. This proposal would authorize the independent (i.e. not joint) award of selected professional doctorate degrees by the CSU, including the Doctor of Audiology (Au.D.) and the Doctor of Physical Therapy (D.P.T.). Other professional doctoral degrees would also be authorized by this legislation, which would identify a "professional" doctorate category rather than specific degrees. Considerations of cost, CSU mission, and University of California mission lead us specifically not to seek authority for the CSU to independently award the Ph.D., the M.D., the J.D., the D.D.S. (dentistry), the O.D. (optometry), the D.V.M. or D.Sc.V.M. (veterinary medicine). CSU proposals to offer professional doctoral programs would be subject to review by an independent body such the California Postsecondary Education Commission (CPEC), which would assess state needs for graduates of such programs.

Outside Employment: In response to recommendations made by the Bureau of State Audits in its report on the CSU's Common Management Systems initiative, the Trustees sponsored

legislation with former Senate pro Tempore John Burton in the 2003/04 session to require all Executive, Management Personnel Plan (MPP), and Academic employees to disclose outside employment to ensure that such activities do not constitute a conflict of interest with CSU employment or conflict with normal work assignments or the performance of duties. The CSU and Senator Burton did not move the bill from the Assembly to the Governor's Desk after it was double-joined to another bill.

Omnibus Proposals: The CSU frequently sponsors “omnibus” legislation containing non-controversial and/or technical changes to the various codes. For the past several years, the omnibus proposals have been included in legislation authored by the Assembly Higher Education Committee. It is expected that the committee will again author the bill this year. Six proposals appear to be viable candidates for this year’s omnibus bill:

Cal Trans Directional & Identifying Signs: Highway 101. CSU Monterey Bay has repeatedly requested that CalTrans install campus directional and identity signs on Highway 101 since 1995. While CalTrans is sympathetic, they cite Vehicle Code Section 21375 (a) and (c) as restricting their ability to provide for the necessary signs. CSU Monterey Bay is requesting that these subsections be amended to allow for a CalTrans installed and maintained sign for CSU Monterey Bay.

Protection of Subcontractors in Design-Building Contracting. The Subletting and Subcontracting Fair Practices Act assumes a design-bid-build approach. That is, the Act requires the prime contractor, when it submits its bid for the public work, to include with its bid a list of all subcontractors where work is in excess of ½ of one percent. However, in the design-build context of Public Contract Code § 10708, where the prime contractor teams with an architect to both design and build public works, the design phase of the project has not yet concluded, thus making it impossible to bid the work to subcontractors at the time the prime contractor, the design-build team, submits its bid. The proposed amendment seeks to conform the protections of the Subletting and Subcontracting Fair Practices Act to the design-build environment. As soon as the subcontractors are identified by competitive bid, they enjoy the rights provided in the Act.

Disability Access Review. The CSU currently reviews and approves its own building construction contract documents for seismic safety, constructability and adherence to the California Building Code. Under current law, however, the CSU is required to secure confirmation that its plans are in conformance with the *access compliance* chapter of the California Building Code from the Department of General Services, Division of the State Architect (DSA) prior to undertaking any construction project over \$25,000. Under this legislation, DSA would no longer review the CSU’s access compliance documents and would not be required to certify them. Instead, the CSU would self-certify these documents, which is consistent with the CSU’s authority to approve plans for compliance with the rest of the Building Code.

Auxiliary Board Meetings: Change to Annual Meetings. Under the California Corporations Code, the Board of Directors of a nonprofit organization is required to hold a general meeting annually in every year in which directors are to be elected. However, the Education Code requires auxiliary organization governing boards of the CSU to meet *at least quarterly*. Since it is unclear which standard applies to governing boards of CSU auxiliary organizations, the CSU

proposes to amend Section 89903(b) of the Education Code to require them to meet at least annually.

Elimination of False Diplomas/Degrees. The advent of the Internet and e-commerce has precipitated the emergence of a cottage industry that sells counterfeit diplomas and transcripts from college and universities throughout the world. Because it is extremely difficult to prosecute these cases, federal law enforcement authorities no longer investigate these diploma mills. In an effort to stem this practice, this legislation would make it a misdemeanor to peddle false academic credentials (including diplomas and transcripts) to secure a job or promotion, or to gain admission to college.

Sale of Real Property: CSU Channel Islands Lemon Orchard. SB 323 (Chapter 402, Stats. of 2001) authorized the Trustees to exchange a portion of the 262-acre lemon orchard parcel for a parcel of land adjacent to the CSUCI campus. By acquiring the parcel adjacent to campus, CSUCI hopes to construct a new campus entrance that will provide better access for students. Unfortunately, the campus has been unable to complete the exchange with the owner of the property. This proposal would provide the campus with additional flexibility by allowing it to sell (rather than exchange) all or a portion of the lemon orchard parcel and by extending the deadline for utilizing the proceeds from any such sale beyond January 1, 2007.

Budget Trailer Bill Proposals: Two proposals are candidates for inclusion in budget trailer bills this summer.

Victim Compensation Fund: The General Government Budget Trailer Bill of 2004 (SB 1102), captured the CSU in a provision dealing with the handling of tort claims by the Victim Compensation and Government Claims Board (VCGCB) that resulted in increased costs to the CSU. The change allowed the VCGCB to assess a surcharge to the affected state agency of up to 15 percent of the total approved claim.

Apparently, the CSU is considered a “state agency” for this purpose and all claims against the CSU are to be filed through the VCGCB. We believe that claims against the CSU should be directed to the CSU’s own Risk Management Department and no longer to the VCGCB Board. In reality, the CSU has been adjusting its claims for many years. The VCGCB Board is a ministerial function to the CSU for tort claims against the university. The VCGCB has transmitted claims filed with it to the CSU and acted on the CSU’s recommendations.

This proposal would amend Government Code 905.2 to allow the tort claims process to file directly with the CSU Office of Risk Management and not pay the VCGCB any fee when we settle a claim.

Vehicle Purchase: Senate Bill 1757 (Denham), Chapter 929, Statutes of 2004 required that all contracts for acquisition of motor vehicles or general use mobile equipment for an executive branch officer or agency (including the CSU) be made by or under the supervision of the Department of General Services (DGS) and permitted DGS to collect a fee to offset the cost of the services provided.

In 1993, the Legislature approved AB 1191 (Aguiar), which authorized CSU to conduct all procurements without having to obtain approval from DGS. At that time, the Legislature and the Governor agreed that the CSU’s policies and procedures to obtain best value for procurements

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were effective and that the duplicative layer of approval at DGS did not result in any added value to the procurement process.

This proposal would amend Government Code 13332.09 to delete the provision that requires the CSU to purchase motor vehicles under the supervision of the Department of General Services.

Adoption of the following resolution is recommended:

RESOLVED, By the Board of Trustees of The California State University, that the legislative proposals described in this item are adopted as the 2005 Board of Trustees' Legislative Program.

COMMITTEE ON GOVERNMENTAL RELATIONS

California State University Federal Agenda for 2005

Presentation By

James M. Gelb
Assistant Vice Chancellor
Federal Relations

Summary

This item contains a presentation of items for inclusion in the 2005 CSU Federal Agenda.

Background

In January 2004, the Board of Trustees adopted the 2004 CSU Federal Agenda, a federal legislative program for the system that included both policy and project priorities for the second and final session of the 108th Congress. Over the past year, the CSU's Office of Federal Relations ("OFR") and system leaders worked in Washington to advance those priorities. With regard to the system's policy priorities, the CSU had a significant "behind the scenes" impact on the primary focus of those priorities, the still developing reauthorization of the Higher Education Act ("HEA"). During the 108th Congress, the OFR prepared detailed system-wide responses to requests for input on reauthorization from the Secretary of Education and the House and Senate authorizing committees, and letters outlining system priorities were sent by Chancellor Reed to key leaders on the Hill and in the Administration. During the previous Congress, majority-party reauthorizing legislation was introduced in the House concerning six subject areas (teacher preparation and retention, access to higher education, college affordability, accountability and student financial assistance programs, international education programs, and graduate and postsecondary improvement programs). The OFR worked to ensure system views were communicated and considered in all of these measures. On May 12th, 2004, Chancellor Reed was asked to testify before the House Committee on Education and the Workforce, where he again emphasized these priorities and commented on pending legislation affecting the CSU and its students. A detailed discussion of reauthorization legislation and items of interest to the CSU can be found in Attachment A to this Item. Ultimately, the 108th Congress failed to reauthorize the HEA, and instead merely extended earlier provisions through the fall of 2005.

With regard to project priorities, during 2004 the system garnered over \$32 million in federal earmarks for a variety of CSU research and infrastructure initiatives, including both system-wide priorities and system-supported campus priorities. For example, the FY 2005 omnibus

appropriations bill contained \$2.5 million for the CSU system's signature coastal research initiative, CICORE, which leverages the strengths of eight CSU campuses along the entire California coastline. Earmarks were also obtained in the areas of defense, nursing, health care, space sciences and distance learning, among others.

This past fall the OFR, in coordination with the Chancellor's Office, again set in motion the annual process designed to produce a well-honed federal agenda. In September, Chancellor Reed sent a memo to all 23 CSU presidents and the Executive Staff soliciting recommendations and outlining criteria for the system-wide 2005 Federal Agenda. As in the past, the Chancellor's memo solicited proposals in two distinct areas: (1) federal legislative and regulatory policy; and (2) CSU projects for which direct federal funding will be sought. With respect to both project and policy recommendations, the solicitation emphasized that the federal agenda must be consistent with the CSU system's core objectives, as described in the state's Master Plan, *The Mission of the California State University*, and with the 1998 *Cornerstones Report*, and they must contribute to system goals of preserving access, providing quality instruction, and preparing students for the workforce. While these principles have their own relevance in the federal arena, it was stressed that the federal agenda should also complement and be consistent with our state program in Sacramento.

The items proposed below for inclusion in the 2005 Federal Agenda are based upon submissions received in response to the Chancellor's solicitation, and have advanced through several levels of review, including the Executive Council, and the Chancellor and his executive leadership staff.

Recommendations for the 2005 Federal Agenda

Federal Policy Proposals for 2005

The 109th Congress will almost certainly reauthorize the Higher Education Act of 1965 ("HEA"), many aspects of which significantly impact the CSU and its students. For example, in 2003-04, CSU students and their families benefited from \$1.15 billion in federal financial assistance. Accordingly, the OFR will continue to work to ensure that the system's interests are advanced during the reauthorization process. While the CSU will frequently be called upon to respond to HEA proposals made by others, including members of Congress and the U.S. Department of Education, the following items will be the subject of proactive pursuit:

Pell Grants: The CSU will advocate for overall funding increases for the Pell Grant program, as well as an increase to the maximum award. The CSU will also advocate for the availability of a second Pell award for students to pursue year-round study.

Campus-Based Aid Programs Allocation Formula: The CSU will advocate altering the current formula, which affects the Supplemental Educational Opportunity Grants, Work-Study, and Perkins Loans programs, to assure allocation of these funds on a fair-share basis to institutions with growing student populations and to newer campuses, which have been most disadvantaged by the current formula.

Community Service Provisions in Work Study Program: The CSU will advocate increasing incentives for campus participation in community service activities, including reallocation of campus-based funds to give a larger share to schools that spend a greater percentage of their Federal Work Study funds for community service placements.

Perkins Loans: The CSU will advocate for the reinstatement of a federal capital contribution for schools that participate in the Perkins Loan program, thereby enhancing available resources for needy students.

Early Intervention Programs: The CSU will advocate expanding GEAR UP and TRIO, vital to preparing underrepresented students for college and decreasing the need for remediation. GEAR UP and TRIO, which serve different cohorts of students in distinct ways, should remain as separate programs.

International Education Programs: The CSU will advocate expansion of HEA programs that promote global awareness and understanding in the post 9/11 world, including providing incentives for development of international education programs, and creating opportunities for students and faculty to study abroad and for campuses to host those from abroad.

Science, Technology, Engineering and Mathematics (STEM) fields: The CSU will advocate programs promoting the participation and success of diverse California students in STEM fields.

Developing and Hispanic Serving Institutions: The CSU will work to assure that its campuses receive a fair share of the benefits of programs in Title III and Title V of the HEA that are designed to strengthen developing and Hispanic Serving institutions, and will advocate for a graduate program within Title V designed specifically to strengthen graduate programs at Hispanic Serving Institutions.

Federally supported research: The CSU will advocate broadening the federally supported applied research base to include more support for comprehensive universities and authorization of programs to fund the vital workforce preparation conducted by the CSU system.

Federal Project Proposals for 2005 (FY 2006)

More than 60 projects, including both campus and multi-campus proposals, have been submitted by the campuses in response to this year's solicitation. It is recommended that the system's project priorities for 2005 be broken in two categories. The first category would encompass five broad-based, multi-campus initiatives consistent with ongoing system collaborative efforts in core areas of CSU strength:

- **Agricultural Research Initiative (ARI):** a multi-campus initiative supporting high impact applied agricultural and related environmental research, development, and technology transfer, as well as public and industry education and outreach.
- **California's Regional Intersegmental, Multi-Use Biotechnology Training Facilities:** a proposed multi-campus initiative, led by the California State University Program for Education and Research in Biotechnology (CSUPERB), to create three biotechnology workforce training centers to address this vital industry's documented need for innovative, applied training of its specialized workforce.
- **California Center for Integrative Coastal Research (CICORE):** a multi-campus coastal research initiative to provide real-time access to extensive near shore environmental data to regulatory agencies responsible for the development and enforcement of management policies.
- **Pacific Area Port Security Center (PAPSCEN):** a proposed multi-campus consortium to conduct pilot projects involving port security in Pacific region seaports and related facilities in cooperation with port authorities and local, state and federal agencies.
- **Multidisciplinary Perspectives on Civic Programs (MPCP) project:** a proposed multi-campus project that would utilize CSU service learning students to perform outreach to targeted populations to enhance access to existing food security, health care, and small business development and develop related service learning curricula.

The OFR will work to achieve the broadest possible support for these proposals from all members of the California Congressional delegation.

The second category would include campus-oriented projects, provided they are endorsed and prioritized by the campus president, and meet the following criteria:

- The project significantly impacts a major need or priority of the campus or the system, including:
 - The extent to which the project will benefit a university's students, its programs, the local community, the State of California and/or the nation

- The extent to which project is well-tailored to the particular competencies and strengths of the university or universities
- The project is well developed including:
 - How clearly articulated and detailed it is
 - Whether the project has additional supporters and advocates among business, alumni, non-profit or political entities
 - Whether the project has partners that are able to assist with the project's success and/or are willing to invest in the project (cash or in-kind) so as to provide a "match" for federal funds being sought
- The project is well suited to the federal appropriations process, including:
 - The past history of federal funding for the project, if relevant
 - The manner in which federal funds will be used
 - The likely availability of the federal dollars from the account/source proposed
 - The extent of known Congressional sponsorship and support
- The project fits within a balanced program of requests for the CSU for reasonable amounts across different areas of funding

Because the Congress only recently completed its work on most FY '05 appropriations, and in light of the inherently shifting nature of campus, state and national priorities, project requests may change from time to time. The OFR will continue to work with the campuses to refine and develop project proposals, and to assist them in working productively with their representatives in Congress as they seek support in the relevant appropriations venues for federal funding in FY '06.

Adoption of the following resolution is recommended:

RESOLVED, By the Board of Trustees of the California State University, that the federal legislative program described in this item are adopted as the 2005 CSU Federal Agenda.

Reauthorization of the Higher Education Act: Status and Prospects 2005

Background

The Higher Education Act (“HEA”) of 1965 authorizes the majority of federal student financial assistance programs, as well as a number of programs to aid developing institutions (Hispanic Serving Institutions (HSIs), Historically Black Colleges and Universities (HBCUs), etc.), graduate and international education programs, and teacher education programs. In federal Fiscal Year 2005, it is estimated that the HEA leveraged approximately \$100 billion in assistance for higher education, most of which was provided to students in the form of grants, loans, and Work Study programs. In 2003 - 04, CSU students and their families received in excess of \$1.1 billion in federal student financial assistance from programs authorized under the HEA.

The Higher Education Act was last reauthorized for five years in 1998, and was due for reauthorization in 2003. However, due to a number of factors including the Administration’s focus on implementation of the No Child Left Behind (NCLB) Act and an extremely contentious atmosphere in the run up to last year’s national elections, reauthorization was not completed during the 108th Congress. Instead, in the fall of 2004, Congress passed HR 5185, which extended the HEA as last reauthorized until October 1, 2005.

The 108th Congress passed one additional significant piece of higher education legislation. HR 5186, the Taxpayer-Teacher Protection Act, partially closed a loophole in the HEA that allowed some lenders to earn inflated interest rates on student loans financed with certain types of bonds. Under HR 5186, savings from curtailing these excess payments will fund increased student loan forgiveness for highly qualified math, science, and special education teachers serving in disadvantaged or low-income areas. These teachers, who currently qualify for up to \$5,000 in student loan forgiveness, will receive up to \$17,500.

Also of interest in the 108th Congress, and despite objections from the higher education community, the Department of Education updated the tax tables used to calculate student financial aid eligibility for the first time since 1994. Under the HEA, such updates are supposed to be done on a yearly basis. While most higher education organizations favor using the most recent data available to target resources to those with the greatest need, concerns were raised that the tax information used by the Department was out of date, and did not accurately reflect the tax burden of students and parents in a number of states including California. The Department had planned on making similar changes last year, but was prevented from doing so by an amendment offered to the FY 04 omnibus-spending bill by Sen. Jon Corzine (D – NJ). Though the Senate again adopted a similar amendment this year, it was not included in the final FY 05 omnibus package, clearing the way for the Department to make the changes. It is estimated that under the new tables, as many as 84,000 students could lose eligibility for Pell Grants, and 1.2 million may

see there total financial aid packages reduced. In December, Chancellor Reed sent a letter to Education Secretary Paige, asking that he postpone the revisions until more accurate data were available. The Department recently went ahead with the changes, and this issue may be revisited during reauthorization of the HEA.

During the 108th Congress, the House did introduce, hold hearings on, and in some cases pass a comprehensive set of bills to reauthorize the HEA, which are discussed in greater detail below. Since the 108th Congress, little has changed in the House, and the key players remain the same. It is therefore expected that the House will again take up reauthorization legislation early in the 109th Congress, and will again propose changes similar to those introduced or passed in the 108th Congress. In the Senate, where Sen. Mike Enzi (R-WY) has just replaced Sen. Judd Gregg (R-NH) as chairman of the Health, Education, Labor, and Pensions (HELP) Committee, the picture is less clear. Under Sen. Gregg, the HELP Committee did not take up legislation to reauthorize the HEA, and it was rumored that he wanted only modest changes to the Act. However, Sen. Enzi has in the past been very engaged in higher education issues, and has tried to work with the House authorizing committee to move legislation affecting distance education and regulatory reform. While it is unclear when the Senate Committee might introduce or consider reauthorization legislation, it can be expected that Sen. Enzi will be focused on proposals to better prepare the workforce for high growth industries, improve distance education, and improve access to higher education for students in rural areas.

Like the Senate, during the 108th Congress the Administration was not overly engaged in the reauthorization process, and instead devoted most of its efforts to implementation of the “No Child Left Behind” (NCLB) Act, as well as reauthorization of the Individuals with Disabilities Education Assistance (IDEA) act, and the Workforce Investment Act (WIA). For his second term, President Bush has appointed Margaret Spellings to replace Roderick Paige as Secretary of Education. While in Texas, Ms. Spellings was responsible for building the model on which NCLB is based, and will certainly continue to be focused on NCLB implementation. However, staff at the Department indicate that they intend to play a major role in reauthorization this year.

In anticipation of the reauthorization of the Higher Education Act, during the fall of 2002 the CSU Office of Federal Relations (OFR), in coordination with system leaders and as part of the CSU’s annual process to produce a federal agenda, began formulating system priorities related to the upcoming reauthorization of the HEA. In January 2003, the Board of Trustees approved a relevant set of CSU priorities, and the Chancellor emphasized these in detailed letters to the Secretary of Education, and to the Chairmen and Ranking Minority Members of the House and Senate committees and subcommittees with jurisdiction over the HEA. On May 12th, 2004, the Chancellor was asked to testify before the House Committee on Education and the Workforce, where he again emphasized these priorities and commented on pending legislation affecting the CSU and its students. System leaders continue working to refine the CSU’s positions with

respect to reauthorization, and OFR staff continues to make these views known to policy makers in Washington.

While it is expected that the House will consider a single reauthorization bill this year, it is expected that it will again center on six specific themes: 1) Teacher Preparation and Retention; 2) Access; 3) Affordability; 4) Accountability and Student Financial Assistance Programs; 5) International Education Programs; and 6) Graduate Education Programs. The discussion below describes changes proposed by the House during the 108th Congress, explains relevant Senate, Administration, and budget activities, and highlights items of particular interest to the CSU. It is expected that many of these proposals will again be in play during the 109th Congress.

U.S. House of Representatives Bills for Reauthorization of the HEA in the 108th Congress

1. Teacher Preparation and Retention – The House introduced and passed two provisions regarding teacher preparation. HR 2211, the “Ready to Teach Act,” would have reauthorized Title II of the HEA, and provided grants to states and to partnerships of Institutions of Higher Education and local school districts and other partners to improve teacher preparation programs. HR 438, the “Teacher Recruitment and Retention Act,” provides increased student loan forgiveness for teachers of math, science, and special education that serve in low-income schools. Finally, just prior to the close of the 108th Congress, the House and Senate passed HR 5186, the Taxpayer-Teacher Protection Act, which partially closed a loophole in the HEA that allowed some lenders to earn inflated interest rates on student loans financed with certain types of bonds. Under HR 5186, savings from curtailing these excess payments will fund increased student loan forgiveness for highly qualified math, science, and special education teachers serving in disadvantaged or low-income areas. These teachers, who currently qualify for up to \$5,000 in student loan forgiveness, will receive up to \$17,500. The President signed HR 5186 on October 25, 2004.

Of Interest – The CSU prepares approximately 60 percent of California’s teachers, and approximately 10 percent of America’s teachers. As introduced, HR 2211 contained a provision that required that at least 50 percent of “partnership grant” funding would go to local school districts, potentially reducing funding that could go to CSU teacher preparation programs. OFR staff successfully lobbied to have this provision removed. In the 109th Congress, OFR staff will continue to lobby for provisions that ensure that partnership grant funds are spent in accordance with the terms of agreements between local school districts and Institutions of Higher Education.

2. Access to Higher Education – In the 108th Congress, HR 3039, the “Expanding Opportunities in Higher Education Act,” was to be the vehicle used by the House to reauthorize the GEAR UP and TRIO programs (both of which work to ensure that low-income and first generation college

students pursue a postsecondary education, persist, and graduate), as well as programs to support Historically Black Colleges and Universities (HBCUs) and Hispanic Serving Institutions (HSIs).

The CSU has advocated keeping the GEAR UP and TRIO programs, which serve different student cohorts, separate and distinct. In addition, the OFR has been advocating for enhancing HSI programs, and in particular for creation of a program to enhance graduate studies at HSIs.

Of Interest – The House bill contained provisions to maintain separate TRIO and GEAR UP programs, despite rumors that the House would merge them. In addition, the House bill relaxed income provisions that hamper HSIs from participating in Title V programs. In the 109th Congress, OFR staff will continue to promote the TRIO and GEAR UP programs, and will continue to work to strengthen programs that support HSIs, including the creation of a program to support HSI graduate institutions. Notably, in the 108th Congress controversy emerged in this bill due to a provision included to merge the definitions of eligible institutions to include both for-profit and non-profit schools. Previously, for-profit institutions were only allowed to participate in a subset of HEA programs. This may prove to be a significant issue for reauthorization in the 109th Congress, as some are concerned that it could dilute funding available to non-profit institutions.

3. *College Affordability* – In what quickly became one of the central and most contentious themes of the reauthorization, Rep. Howard “Buck” McKeon (R – CA) introduced HR 3311, the Affordability in Higher Education Act of 2003. This legislation would have established a new “college affordability index” for institutions of higher education, created new reporting requirements and penalties for institutions that increase tuition and fees by more than twice the rate of inflation over any 3 year period, attempted to provide clearer information to parents and potential students, directed the GAO to conduct a study of procedures implemented by institutions to increase affordability, created a new College Affordability Demonstration Program, attempted to ease transfer of credits between institutions with different accreditors, and urged states and the Department of Education to consider the increased expense imposed on institutions prior to implementing new regulatory provisions.

Of Interest – At the heart of the Affordability in Higher Education Act was the college affordability index, which compared tuition and fee increases with the consumer price index (CPI) over a three-year period. Under the McKeon bill, starting in 2008 institutions that increased tuition and fees by more than twice the rate of inflation over the previous three-year period would have been required to publicly disclose the factors contributing to the increase, put in place a management plan to lower its affordability index, and file an action plan with a schedule for reducing tuition increases. Should institutions fail to comply with their management plans after two academic years, they would have been required to publicly account for all costs and expenditures. Failure for an additional academic year could have triggered

sanctions, such as the loss of eligibility for all Title IV aid except for guaranteed or direct student loans and Pell Grants.

In an attempt to recognize the problems that such a provision could have caused for institutions that have maintained comparatively low tuitions, the proposed legislation was modified to exempt from reporting requirements and sanctions colleges and universities that are in the lowest quartile of tuition and fees for their respective sectors (4-year public colleges and universities in the case of the CSU). It would also have exempted institutions that exceeded the affordability index, but did so by less than \$500 over the three-year period.

Also of interest were provisions that would create a new “College Affordability Demonstration Program.” Under this new program, the Secretary of Education could waive regulatory or statutory provisions of the Higher Education Act for up to 100 institutions or systems of institutions of higher education to demonstrate procedures that reduce costs to students or institutions by accelerating program completion, increasing access to distance education, and improving the delivery of student financial aid. Finally, the bill would have prohibited institutions from denying the transfer of academic credits solely based on the agency that accredited the originating institution.

As an alternative to the McKeon bill, Rep. John Tierney (D – MA) introduced HR 3519, the College Affordability and Accountability Act, which focused on state funding of public institutions of higher education and on “rewards” for schools that restrain tuition increases. While this legislation would not have penalized students directly, it did contain sanctions for states that reduced funding for postsecondary education.

The political outlook for this type of legislation remains uncertain. Democrat members of the committee should be expected to oppose any direct sanction provisions for institutions. It is also rumored that a number of Republican members of the committee were either opposed or leaning opposed to Rep. McKeon’s legislation. According to committee staff, Rep. McKeon will include a similar set of provisions in this year’s reauthorization bill. However, as an overture to the higher education community and committee Democrats, it will not include penalties for price increases. The fact that Republicans and Democrats alike had introduced college cost bills suggests that something may be done on this issue.

4. Accountability and Student Financial Assistance Programs – Title IV of the Higher Education Act authorizes the majority of direct federal student financial assistance programs. Title IV includes the Pell Grant Program, the Campus Based Aid programs (Supplemental Education Opportunity Grants (SEOG), The College Work Study program, and the Perkins Loan program), and the guaranteed and direct student loan programs. Title IV also contains accountability provisions governing the accreditation of institutions of higher education, agreements between

institutions of higher education and the U.S. Department of Education for participation in federal student financial assistance programs, and provisions related to state regulation of institutions of higher education.

Chairman John Boehner (R – OH) and Subcommittee Chairman Howard “Buck” McKeon (R – CA) introduced HR 4283, the College Access and Opportunity Act, as the vehicle to reauthorize the majority of the federal student financial assistance programs. This legislation would have made numerous changes to student financial aid programs including Pell Grants, Student Loans, and the Campus Based Aid program. Changes to the Pell program would have included allowing additional grants for year-round study at some institutions, increased Pell Grant awards for first and second year students who have completed the “State Scholars” program, and eliminated tuition sensitivity from the Pell Grant allocation formula. In addition, the bill would expand the use of the simplified needs test and allow the neediest students to earn more without reducing their student aid eligibility. In addition, the bill would phase out the base guarantee concept from the Campus Based Aid programs, and increase authorized funding for the TRIO and GEAR UP programs.

This legislation would also have made several changes to the federal student loan programs (Federal Direct Loans and the Federal Family Education Loan Program, or FFELP), including reducing origination fees in the programs from three percent down to one percent over several years, increase loan limits for first year students from \$2,625 up to \$3,500 and for second year students from \$3,500 up to \$4,500 without changing overall borrowing limits, change the interest rates on consolidation loans from a fixed rate to a variable rate, reduce certain lender subsidies, and increase student loan forgiveness for math, science, and special education teachers serving in the poorest school districts. Additionally, the bill would reduce the regulatory burden on some institutions and students by easing loan disbursement regulations for schools with student loan default rates below 10 percent, eliminating certain regulations pertaining to distance education, easing financial aid restrictions on students with drug convictions, and eliminating the two-year wait out period for an institution to receive a second Hispanic Serving Institutions grant.

As introduced, the legislation also contained some controversial proposals. These include the elimination of a provision requiring for-profit institutions to receive at least 10 percent of their revenues from non-federal sources, and allowing for-profit institutions to participate in certain federal higher education grant programs. (See #2, Access to Higher Education, above.)

Finally, the bill did contain accountability provisions that could potentially increase regulatory and reporting requirements on participating institutions. These include increased financial disclosures for institutions that routinely increase tuitions at a rate greater than twice the rate of inflation, and reporting requirements regarding the transfer of academic credit and transfer of credit policies. (See #3, College Affordability, above.)

Of Interest – Chancellor Reed presented the views of the CSU on this legislation in testimony before the House Committee on Education and the Workforce on March 12, 2004. Among the issues of interest to the CSU are ensuring that institutions (such as the CSU) which serve large numbers of non-traditional students are eligible to participate in any year-round Pell Grant program, improved terms and conditions in the federal student loan programs, potential changes to the Campus Based Aid programs, such the elimination or reduction of the effect of the base guarantee in the allocation formula to ensure that these funds are distributed more fairly, based on the number of students with need at an institution, and creating a program to strengthen graduate studies at HSIs. Changes to the accountability provisions within Title IV are also of great interest to CSU campuses, as they govern our participation in all federal student financial aid programs.

5. *International Education Programs* – Title VI of the HEA authorizes federal programs to improve international education opportunities. Programs authorized under Title VI include International and Foreign Language Studies, Business and International Education programs, and an Institute for International Public Policy. In general, these programs provide funds to colleges and universities to improve their international programs and to provide fellowships and stipends to students pursuing degrees in international studies.

Rep. Pete Hoekstra (R – MI) introduced HR 3077, the “International Studies in Higher Education Act of 2003,” to be the vehicle used to reauthorize Title VI. While it is unlikely that major changes will be made to federal international education programs during this reauthorization, HR 3077 did contain provisions of interest.

Of Interest – HR 3077 would have required that institutions participating in federal programs for improving international education provide materials that draw from diverse perspectives reflecting the full range of views on subject matter. This provision reflected a belief by some on the House Committee that a number of such programs are providing materials that are one-sided and often anti-American. In addition, HR 3077 would have allowed in some instances new partnerships with colleges of education in connection with training teachers in fields related to international studies. Finally, the legislation was designed to increase the participation of minority serving institutions, including Hispanic Serving Institutions, in these programs, and in some instances would have allowed the Secretary of Education to reduce the non-federal match required for such minority institutions to participate. While Rep. Hoekstra no longer sits on the Committee, it is still likely that similar provisions will be considered in the reauthorization bill in the 109th Congress.

6. *Graduate and Postsecondary Improvement Programs* – Title VII of the Higher Education Act authorizes federal programs to improve graduate education opportunities. Programs authorized

under Title VII include the Javits Fellowship program, Graduate Assistance in Areas of National Need (GAANN), The Thurgood Marshall Legal Educational Opportunity program, the Fund for Improving Postsecondary Education (FIPSE), and Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education. In general, these programs provide funds to colleges and universities to improve their graduate programs and to provide fellowships and stipends to students pursuing advanced degrees.

Rep. Pete Hoekstra (R – MI) introduced HR 3076, the “Graduate Opportunities in Higher Education Act of 2003” to be the vehicle used to reauthorize Title VII. While it is unlikely that major changes will be made to federal graduate education programs during this reauthorization, HR 3076 did contain provisions of interest.

Of Interest – HR 3076 contained provisions to enhance the training of teachers who teach students with limited English proficiency, and to better prepare math, science, and special education faculty to train highly qualified teachers. In addition, it would have amended FIPSE to allow grants to encourage the improvement of postsecondary education in general with a focus on non-traditional students, and to establish institutions and programs based on the technology of communications, including delivery by distance education. OFR staff have worked with Senate committee staff to consider a provision to overturn recent regulatory changes to the GAANN program that eliminate masters degree granting programs from eligibility unless they partner with doctoral degree granting institutions. This provision would reinstate eligibility for a CSU campus that had participated in the GAANN program prior to the regulatory change. While Rep. Hoekstra no longer sits on the Committee, it is still likely that similar provisions will be considered in the reauthorization bill in the 109th Congress.