



2017 Year-End Briefing UC Office of State Governmental Relations October 17, 2017

Annual Year-End Briefing recaps UC's legislative year

This 2017 edition of the University of California (UC) Office of State Governmental Relations (SGR) *Year-End Briefing* wraps up legislation that posed a “significant impact” to the University during the past year.

The University reviewed almost 3000 new bill introductions and about 2800 subsequently amended bills this year. SGR tracked approximately 340 “significant impact” bills in 2017 and UC took positions on over 130 measures that directly affected its academic affairs, business operations, and health sciences and services. UC staff testified over 30 times in 15 different policy and fiscal committees.

Among the most significant legislation this year were bills sponsored by the University, including: AB 114 (Ting), which removes the sunset on the Umbilical Cord Blood Collection Program; AB 616 (Aguiar-Curry), which authorizes the current tuition fee provisions for the COSMOS program; AB 1424 (Levine), which removes the sunset date on the Best Value Construction Pilot Program; SB 331 (Jackson), which amends the definition of what constitutes a “domestic violence victim service organization” to allow UC domestic violence counselors to hold privilege; and SB 440 (Hertzberg), which reauthorizes the tax check-offs for the California Breast Cancer Research Fund and the California Cancer Research Fund for the next seven years. Governor Brown signed all five UC sponsored measures. The University also actively opposed and ultimately sought gubernatorial vetoes on two bills: SB 201 (Skinner), which would allow graduate student researchers to unionize, and SB 574 (Lara) which would significantly alter the manner in which UC contracts for outside services. The Governor vetoed SB 574, but signed SB 201.

Other significant bills introduced and considered in 2017 included AB 21 (Kalra), which mitigates the impacts of immigration enforcement activities on campuses; AB 109 (Ting), which appropriates \$11 million to fund research to reduce carbon emissions; AB 134 (Budget Committee), which appropriates \$1 million to UC to augment the Dream Loan Program; AB 207 (Arambula), which authorizes CSU Fresno to award the doctor of medicine degree; AB 209 (Mathis), which authorizes CSU to award professional doctorate degrees in agricultural education and requires the degree to be distinguished from doctoral degree programs at UC; AB 848 (McCarty), which prohibits UC and CSU from engaging in any contract for service unless the vendor certifies that all workers on the contract are on U.S. shores; AB 1435 (Gonzalez Fletcher), which establishes the Athlete Protection Act under the administration of the Athlete Protection Commission; AB 1674 (Grayson & McCarty), which requires UC to ensure that implementation of any admissions policy it adopts regarding admission of nonresident undergraduate students includes guidance that the academic qualifications for admitted nonresident undergraduate students generally exceeds the academic qualifications of resident undergraduate students admitted at each campus; SB 68 (Lara), which allows two years of community college to count toward the three-year requirement for undocumented students to

qualify for in-state tuition under AB 540; SB 169 (Jackson), which requires higher education institutions to adopt rules and procedures for the prevention of sexual harassment; SB 171 (Hernandez), which increases contract services payments to designated public hospitals, including UC medical centers, by amounts determined under a directed payment methodology; and SB 349 (Lara), which establishes minimum staffing requirements for chronic dialysis clinics.

UC's 2017 Legislative Portfolio (Sponsored Legislation)

AB 114 (Ting) removes the sunset on the Umbilical Cord Blood Collection Program. This life-saving public service cord blood matching program, which addresses the critical need for ethnically diverse umbilical cord blood for transplantations, was set to end January 1, 2018. At SGR's request the Governor proposed eliminating the sunset date altogether in his January budget introduction, but UC took a "belt and suspenders" approach, sponsoring SB 23 by Senator Anthony Portantino (D-La Cañada Flintridge). Eventually, Mr. Portantino's bill was held in committee, and the sunset date was extended to 2025 in a budget trailer bill. AB 114 was signed by the Governor on July 10, 2017 (Chapter 38).

AB 616 (Aguiar-Curry) authorizes the current tuition fee provisions—which allows for annual tuition increases of up to 5%—on the California State Summer School for Mathematics and Science (COSMOS) program until January 1, 2023. COSMOS engages and cultivates the next generation of STEM students, over 9,800 students so far. In the past decade, at least three out of four COSMOS participants have enrolled in a college or university; over half of those students have enrolled at a UC campus. Failure to extend the sunset date—a challenge because of the inclusion of tuition—would have automatically reverted tuition levels to the year 2000. UC was able to achieve bipartisan support for the bill with no opposition and no "No" votes. The Governor signed the bill on October 14, 2017 (Chapter 781).

AB 1424 (Levine) removes the sunset date, currently December 31, 2017, on the highly successful Best Value Construction Pilot Program. Since the pilot program was first approved in 2006, UC has been authorized to consider bid factors beyond just lowest cost when awarding capital construction contracts – and use of this selection methodology has led to projects awarded being completed on time, on budget and consistent with UC's high quality standards. UC has also determined that approximately 3% of the overall project value is saved on buildings awarded and constructed pursuant to the Best Value pilot methodology. AB 1424 is the culmination of efforts on four separate bills over the past 13 years. The Governor signed the bill on October 15, 2017 (Chapter 850).

SB 331 (Jackson) seeks to amend the definition of "domestic violence victim service organization" to allow UC's campus-based domestic violence counselors to hold privilege, and thus ensure the complete confidentiality of all conversations between counselors and campus victims of domestic violence. Due to a deficiency in existing law, UC's counselors could not qualify to hold privilege, and thus SB 331 was pursued proactively by the University to rectify this situation. The University believes the bill will encourage more students, faculty, and staff at the UC and other public institutions of higher education to seek assistance for domestic violence issues. It provides all members of our counseling communities with statutorily guaranteed confidentiality, and will alleviate many of the fears and concerns that victims may have in seeking assistance. The Governor signed the bill on August 7, 2017 (Chapter 178).

SB 440 (Hertzberg) reauthorizes the tax check-offs for the California Breast Cancer Research (CBCRF) Fund and the California Cancer Research Fund (CCRF) for the next seven years. Tax check-off programs allow consumers to donate directly to certain programs annually through the tax process. Tax check-off programs are legislatively authorized for specified periods of time and must meet certain thresholds in order to stay on the tax check-off form. Currently there are only 20 programs listed on the tax form for donations. In 2015 Senator Hertzberg held a hearing and highlighted the CBCRF and the CCRF as model programs. This year, the American Cancer Society (ACS) co-sponsored the bill with UC. Obtaining the Governor's signature ensures continuation of these programs for seven more years. The Governor signed the bill on October 2, 2017 (Chapter 427).

Major Legislation Focused on the University of California

AB 21 (Kalra) requires the California State University (CSU), California Community Colleges (CCC) and each Cal Grant eligible independent institution of higher education, and request UC, to ensure they have policies and procedures that mitigate the impacts of immigration enforcement activities on campuses and support students, faculty, and staff that may be affected. The author made keeping all California higher education institutions—including the independents—a high priority, and was grateful for UC's persistent work to move the bill to a status that all segments could support. The University **supported** the bill and requested the Governor's signature, which he signed on October 5, 2017 (Chapter 488).

AB 109 (Ting) appropriates \$11 million to fund research on reducing carbon emissions. Legislative leaders passed an extension of the cap and trade program (AB 398) that, after advocacy by UC and a coalition of researchers, included clean energy and climate research as an appropriate category for future expenditure. Then, the Governor proposed \$2.5 million to fund UC research in clean energy. UC supported efforts to bring larger amounts of research grants to be issued on a competitive basis to institutions, including UC, CSU, federal research laboratories, and private non-profit colleges and universities. This is the first time that cap and trade legislation has included research for higher education institutions as a specified priority with millions of dollars of funding available for which UC national laboratories and campuses can compete. However, budget bill language severely limits expenditures for administrative cost, making pursuit of this funding challenging. UC intends to explore how to address this issue for possible future research funding in the cap and trade program. The bill was signed by the Governor on September 16, 2017 (Chapter 249).

AB 134 (Budget Committee) appropriate \$2 million for CSU and \$1 million for UC to assist Deferred Action for Childhood Arrivals (DACA) recipients through expanded availability of Dream Loan funds. UC worked with CSU, Department of Finance, Pro Tem de León, and Senator Lara on this budget bill. UC **supported** the bill, which was signed by the Governor on September 16, 2017 (Chapter 254).

AB 207 (Arambula) authorizes CSU Fresno to award the doctor of medicine degree. The University did not take a position on the bill. The bill remains in the Assembly Higher Education Committee.

AB 209 (Mathis) authorizes CSU to award professional doctorate degrees in agricultural education and requires the degree to be distinguished from doctoral degree programs at UC. The

University did not take a position on the bill. The bill remains in the Assembly Higher Education Committee.

AB 848 (McCarty) seeks to prohibit UC and CSU from engaging in any contract for service unless the vendor certifies that all workers on the contract are on U.S. shores. UC worked to secure amendments just prior to the legislative deadline that removes the University's major concerns with this measure, thereby allowing the University to move to a **neutral** position. The bill was signed by the Governor on October 15, 2017 (Chapter 844).

AB 1435 (Gonzalez Fletcher) establishes the Athlete Protection Act under the administration of the Athlete Protection Commission. The author intends to hold at least one informational hearing on the subject this fall. The University took an **oppose unless amended** position on the bill. UC worked with campuses, CSU and the private colleges and universities to stop the bill from moving forward this year. We continue this work over the interim and are preparing for an interim hearing to be held in December. The bill remains in the Senate Business, Professions & Economic Development Committee as a two-year bill.

AB 1674 (Grayson and McCarty) requests UC, in collaboration with the UC Academic Senate, to ensure that implementation of any admissions policy regarding admission of nonresident undergraduate students includes guidance that ensures the academic qualifications for admitted nonresident undergraduate students generally exceeds the academic qualifications of resident undergraduate students, and requests UC to report specified information to the Legislature annually regarding implementation of the policy. The University has a **neutral** position on the bill. The Governor signed the bill on October 14, 2017 (Chapter 803).

SB 68 (Lara) allows two years of community college to count toward the three-year requirement for undocumented students to qualify for in-state tuition under AB 540. UC initially sought to sponsor this bill, but Senator Lara instead introduced a version that we worked to ensure we could support for our Dreamers. The bill was amended to include students who complete their high school education at an adult or continuation school. The University **supported** the bill. However, UC's Office of General Counsel noted that subsequent amendments remove language that specifies any credits earned need to be obtained "in California" which is potentially problematic. The author has committed to ensuring that the language is corrected in 2018. The Governor signed the bill on October 5, 2017 (Chapter 496).

SB 169 (Jackson) requires higher education institutions to adopt rules and procedures for the prevention of sexual harassment, and adopt and post on their Web sites the grievance and investigation procedures to resolve complaints of sexual harassment. The bill intends to codify the provisions of a "*Dear Colleague Letter*" that was issued under the Obama administration in 2011 – guidance that has been understood to be under threat by the new Administration. Indeed, with Secretary DeVos announcing the rescission of this guidance on September 22nd, SB 169 seeks to solidify California's leadership on the pertinent matters relating to campus sexual harassment and sexual assault. The University **supported** the bill and requested the Governor's signature, but the Governor vetoed the bill on October 15, 2017. The Governor indicated that he will be putting together a working group of experts to evaluate progress in this area, and UC will offer its participation.

SB 171 (Hernandez) implements critical provisions of the federal Medicaid Managed Care rule related to supplemental Medi-Cal funding for California's public health care systems. SB 171

restructures these payments to comply with the regulation, enabling public health care systems to retain more than \$1 billion annually in federal Medicaid funding. This bill is of paramount financial importance to the UC medical centers and could potentially bring hundreds of millions to the hospitals to cover unfunded Medi-Cal expenditures. The University **supported** the bill and requested the Governor's signature, which he signed on October 13, 2017 (Chapter 768).

SB 201 (Skinner) is a reintroduced measure that allows graduate student researchers to unionize. UC/SGR has opposed this measure on three separate occasions – in 2012, 2013 and 2014. Despite significant efforts to pursue a potential compromise with the author's office, UC's suggestions for amendments were rejected. The University **opposed** the bill and requested the Governor's veto, but he signed the bill on October 15, 2017 (Chapter 854).

SB 349 (Lara) establishes minimum staffing requirements for chronic dialysis clinics, and minimum transition times between patients receiving services; a potential significant **cost** to UC. The bill remains in the Assembly Inactive File.

SB 574 (Lara) requires UC to pay specific lower-wage contracted workers (custodial, security, maintenance, etc.) an amount of total compensation, salary and benefits, that is commensurate with University employees performing similar tasks. This is Senator Lara's third effort (the first two bills were vetoed by the Governor). The bill has a cost of at least \$88 million. The University **opposed** the bill and requested the Governor's veto, which he vetoed on October 15, 2017.

Other Key Bills Followed Closely by UC

- Academic Affairs

AB 80 (Arambula) authorizes CSU Fresno to award the Doctor of Education (Ed.D.) degree in agricultural education rather than the Doctor of Philosophy (Ph.D.) in agricultural science. The University did not take a position on the bill. The bill remains in the Assembly Higher Education Committee.

AB 217 (Low) establishes the Office of Higher Education Performance and Accountability as the statewide postsecondary education coordination and planning entity. The University did not take a position on the bill. The bill was held in the Assembly Appropriations Committee.

AB 393 (Quirk-Silva) requires that the amounts of tuition and fees that are charged to students of CSU and CCC not be increased from the amounts that were charged as of December 31, 2016. The University **opposed** the bill and it was held in the Assembly Appropriations Committee.

AB 422 (Arambula) repeals the sunset and permanently establishes CSU's authority to award the Doctor of Nursing Practice degree. AB 867 (Nava), chaptered in 2010, allowed CSU to establish a Doctor of Nursing Practice degree pilot program at three campuses chosen by the Board of Trustees to award the degree. The program is due to sunset on July 1, 2018. Like AB 867, the University did not take a position on AB 422. The bill was signed by the Governor on October 12, 2017 (Chapter 702).

AB 951 (Cervantes) appropriates an unspecified sum of money from the General Fund to UC each fiscal year, commencing with the 2018-19 fiscal year, for the creation, construction, and establishment of the UC Riverside School of Law. The University did not take a position on the bill. The bill remains in the Assembly Higher Education Committee.

AB 1364 (McCarty) enacts the Higher Education Funding Formula under which additional state funding is provided to historically underrepresented groups of students through the annual Budget Act. The bill carries a \$1.6 billion price tag but unlike other proposals, does not propose “tuition free” college. The University did not take a position on the bill. The bill remains in the Assembly Higher Education Committee.

ACA 13 (Eggman) excludes the Higher Education Assistance Fund from the appropriations subject to constitutional limitation and also excludes revenues derived from a tax from being deemed to be General Fund revenues, state revenues, or General Fund proceeds of taxes for purposes of calculating the minimum funding requirements for school districts and community college districts. The measure is pending referral to a policy committee.

ACA 14 (Melendez) proposes an amendment to the California Constitution to establish the Campus Free Speech Act, and requires the Board of Regents to develop and adopt a policy on free expression that contains specified components. The constitutional amendment remains in the Assembly Judiciary Committee.

ACR 80 (Allen) urges the UC Regents to reverse recently adopted tuition and fee increases for UC students at campuses statewide. The measure is pending referral to a policy committee.

SB 5 (de León) enacts the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018. It is a general obligation bond and therefore requires a 2/3 vote and the Governor’s signature to qualify for the ballot. The bill garnered 54 yes votes, the bare minimum required, after hours of wrangling votes. The bill appropriates up to \$10 million to the UC Natural Reserve System for matching grants for acquisition of land, construction and development of research facilities to improve the management of natural lands, for preservation of wildlife resources, and to further climate change research. The bill was signed by the Governor on October 15, 2017 (Chapter 852).

SB 236 (Nguyen) prohibits UC and CSU from providing state-funded financial assistance to an undergraduate student who is statutorily required to pay tuition/mandatory fees at a rate higher than a California resident. The University **opposed** the bill and it failed to get out of the Senate Education Committee.

SB 307 (Nguyen) requests UC to convene a task force of UC, CSU, and CCC representatives to conduct a study on housing insecurity and homelessness of current postsecondary students and prospective applicants. The University had a **watch** position on the bill. The bill was held in the Assembly Appropriations Committee.

SB 472 (Nielsen) declares that the outdoor areas of UC, CSU and CCC are traditional public forums for the purposes of First Amendment law. The University did not take a position on the bill. The bill was held in the Senate Appropriations Committee.

SB 573 (Lara) was amended to authorize rather than require CSU, CCC, and UC to develop for each of their respective campuses a service learning program for AB 540 students with financial need. UC's Office of General Counsel continues to review legal concerns with the proposed program. The University had a **watch** position on the bill. The bill remains on the Assembly Inactive File.

SB 769 (Hill) expands the CCC's baccalaureate degree pilot program currently authorized under SB 850 (Block 2014). The University did not take a position on the bill. The bill was held in the Assembly Appropriations Committee.

- Business Operations

AB 262 (Bonta) requires successful bidders for a UC, CSU or state agency capital construction project to report the greenhouse gas emissions associated in the manufacturing and transport of specified "eligible materials" intended for use in that project. The University has a **watch** position on the bill. The bill was signed by the Governor on October 15, 2017 (Chapter 816).

AB 562 (Muratsuchi) provides that any officer, employee, or person who, with intent to deceive or defraud, commits obstruction of the California State Auditor in the performance of his or her official duties relating to an audit required by statute or requested by the Joint Legislative Audit Committee is subject to a fine not to exceed \$5,000. The University has a **watch** position on the bill. The bill was signed by the Governor on October 2, 2017 (Chapter 406).

AB 1655 (Grayson) modifies the requirements of UC to biennially report on its costs for education, as well as prohibiting UC campuses from coordinating responses with or seeking counsel from the UC Office of the President (UCOP) before submitting requested information to the California State Auditor's Office related to the "security of funds of UC." The University did not take a position on the bill. The bill was signed by the Governor on October 14, 2017. (Chapter 802).

SB 31 (Lara) prohibits a state or local agency or a public employee acting under color of law from providing or disclosing to the federal government personally identifiable information regarding a person's religious beliefs, practices, or affiliation, as specified, when the information is sought for compiling a database of individuals based on religious beliefs, practices or affiliation, national origin, or ethnicity for law enforcement or immigration purposes. The University did not take a position on the bill. The bill was signed by the Governor on October 15, 2017 (Chapter 826).

SB 54 (de León) enacts the California Values Act, which requires hospitals and public schools, colleges and universities to establish and make public policies that limit immigration enforcement on their premises. The University did not take a position on the bill. The bill was signed by the Governor on October 5, 2017 (Chapter 495).

SB 244 (Lara) requires that personal information/records containing personal information that are collected or obtained by the state or any subdivision of the state, including CSU and CCC, only be collected, used, and retained for the purpose of assessing eligibility for and providing those public services and programs for which the application has been submitted. The University requested amendments on the bill to ensure that University researchers would continue to have

access to appropriate data for future research and study. The bill remains in the Assembly Inactive File.

SCA 13 (Galgiani) prohibits UC – in any year in which it has more than 600 managerial employees earning more than the Governor’s salary (currently \$190,100) – from 1) increasing systemwide student tuition and fees, or 2) entering into a new services contract with a vendor paying wages lower than the rate of pay for UC employees performing similar work. The measure remains in the Senate Education Committee.

SCA 14 (Hernandez) prohibits the reappointment of members appointed to the UC Board of Regents before June 6, 2018 to additional terms after the completion of their current terms and specifies that new Regents appointed after that date serve only four-year terms – with an opportunity to be reappointed to two additional terms. In addition, new UC faculty, student, and classified employee representatives would be added to the Board of Regents (serving two-year terms), commencing with the expiration of 12-year terms on March 1 of 2020, 2021, 2022, and 2024. The bill would add the CCC Chancellor to the Regents as a voting ex officio member, and provide that the UC President be a nonvoting, rather than a voting, ex officio member. The bill would also require, on or before October 1 annually, UCOP to submit a written report to the Regents, the Governor, and the appropriate policy and fiscal legislative committees specifying its receipts and expenditures for the immediately preceding fiscal year, and that an appropriation for UCOP be made only pursuant to an annual budget bill item relating solely to that office. The measure remains in the Senate Education Committee.

- Health Sciences and Services

AB 387 (Thurmond) expands the definition of employer under provisions related to minimum wage, to include any person who directly or indirectly, or through an agent or any other person, employs or exercises control over wages, hours or working conditions of any person, including any person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional. The University **opposed** the bill, and it remains in the Assembly Inactive File.

SB 43 (Hill) requires general acute care hospitals that operate a clinical laboratory that conducts tests for antimicrobial resistance, and each clinical laboratory that is not part of a hospital that conducts tests for antimicrobial resistance, to submit an annual report containing an antibiogram of the facility for the previous year. The University requested amendments on the bill. The bill remains in the Assembly Health Committee.

SB 320 (Leyva) requires, as a condition for using state funds to operate on-campus health care centers, each UC campus with an on-site health care center to either offer abortion by medication techniques and scientifically accurate abortion counseling services to its students or arrange for the provision of abortion medication techniques at least three days per week at its on-campus health center through a contract or other arrangement with a qualified family planning provider. The University had **concerns** with the bill. UC has worked with Senator Leyva to establish a working group this recess to work toward a support or neutral position on the bill early next year. The bill remains in the Senate Education Committee.

SB 396 (Lara) requests UC by July 31, 2018, to develop and implement a California Medical Residency Training Pilot Program for students interested in medical training in California who meet requirements adopted by the Regents for receiving an exemption from paying nonresident tuition. The bill was amended to a different subject, but the author is expected to continue working on this issue in 2018. The amended version of the bill was signed by the Governor on October 15, 2017 (Chapter 858).

SB 538 (Monning) prohibits contracts between hospitals or any affiliate of a hospital and certain types of third-party administrators, health plans or health insurers from containing provisions that set payment rates or terms from nonparticipating providers. The University had **concerns** with the bill. The bill remains in the Assembly Health Committee.

SB 790 (McGuire) prohibits a manufacturer of a prescribed product from offering or giving a gift to a health care provider. The UC has a model vendor gift policy in place which has been referred to by Senator McGuire and Assembly Health Committee staff as a model policy. This bill raised a great deal of opposition. The University did not take a position on the bill. Instead, the University agreed to work with the Senator on some of the technical sticking points. The bill remains in the Assembly Inactive File.