Minutes of Regular Meeting
February 1, 2010

Meeting
Regular meeting of the full senate, 3:15 p.m., Kendall Cram Room, Lavin-Bernick Center.
Presiding: The chair, President Cowen.

Attendance
Ex Officio: Cowen (pres/chair), Long (vice chair), Bernstein (provost), Sachs (svp, dean SOM), Lorino (CFO), Y. Jones (exec vp), Clinton (pres, ASB), Barrera (chair, SAC), Mackin (secr), Wiese (parl)
Deans: DeNisi (ABF), Query (Libraries), MacLaren (NTC), Schwartz (Arch.), Griffin (Law), Marksbury, SCS, Haber (SLA), Buekens (SPHTM), Altiero (SSE)
A. B. Freeman School of Business: M. Sujan (also proxy for H. Sujan), McFarland
Newcomb-Tulane College: Kalka
Architecture:
Continuing Studies: Rothenberg (proxy for McLennan)
Law: Scalise, Davies, Hancock
Liberal Arts: Horowitz, Masquelier, Cole, Rothenberg, Mayer, Thompson
Medicine: Reitan, Mushatt, Doucet, S. Landry, Kahn (proxy for DeSalvo), Betancourt
Public Health and Tropical Medicine: Hutchinson, Hassig, Lefante
Science and Engineering: Schmehl, Colombo, Walker, Mullin (proxy for Tasker)
Social Work: Pearlmutter, Lewis
Student Senators: Leveryson, Wendt, Aronson, Blainey
Staff Senators: Platner, O’Dwyer (proxy for Hayes)
Senators at Large: Kehoe, Ruscher, Robins, Kahn, Carroll, Purrington

Invited Guests: Wilson (chair, Athletics), McMahon (vp, info tech), Hogg (assoc provost), Kenney (dir, Newcomb), Coignet (dir, strat plan), Tetlow (Law)
Absent Senators: Marks, V. Jones, Bernhard, Green, Bunnell, John, Lesmond

Introduction of New Senators and Guests
President Cowen introduced the following senators:
Mita Sujan, A. B. Freeman
Ronald Scalise, Law, replacing John Eason
Catherine Hancock, Law, replacing Jeanne Carriere for one semester
He also introduced Sally Kenney, director of the Newcomb College Memorial Institute, and Rebecca Conwell, chief of staff, as guests with a standing invitation, as well as Blandon Jamal David, executive vice president of the Undergraduate Student Government, who was a guest for this meeting.

The president also announced that the day of the meeting was also Secretary Mackin’s birthday. Without disclosing the secretary’s age, President Cowen noted that the secretary was now eligible for Social Security.

Minutes
The minutes of the meeting on December 7, 2009, were approved without change.

President’s Report
President Cowen began by asking if the senate had any questions about his December reports to the board, which had been distributed in slide
format before the meeting. No questions or comments were offered.

The president then announced that the application season for the fall class had ended with 44,000 applications, a 10 percent increase from the previous year. He said that the quality of applicants was at an all-time high and that the class selection process had been essentially completed.

Unfinished Business

Special Joint Committee on the Budget

Senator McFarland presented the report of the committee, which had been delegated by the senate to approve the budget assumptions for FY 2011. The committee comprised the members of the Committee on Budget Review and the President’s Faculty Advisory Committee and met on January 15 to make a decision before the meeting of the executive committee of the board.

That meeting covered four items: a report on FY 2010 year-to-date financials, and update on the endowment investment portfolio, a report on fund raising up to January 15, and the FY 2011 budget assumptions, which was the only item requiring action by the committee. Copies of the reports and assumptions had been sent to all senators prior to this senate meeting.

Senator McFarland said the financial report for FY 2010 was positive relative to the budget, as had been true in FY 2009. A number of unusual items had a positive effect on the budget in both years. Vice President Lorino added that unusual items had been true of every financial report since Hurricane Katrina, although recovery money had declined in 2010. Nevertheless, projections were good when compared with the original budget. Those projections still showed a deficit, but the budgeted deficit was expected to be reduced by half, from $20 million to $10 million.

Senator McFarland said the investment portfolio was in a much better position, having increased to almost $900 million. Vice President Lorino noted that in June 2007, the endowment had risen above $1 billion but by the end of the last fiscal year had dropped to $800 million and, in fact, had fallen even lower during that year.

Vice President Lorino then pointed out some highlights of the budget assumptions. He said tuition would increase about $1,100 to $38,300. The only fee increase would be the academic support fee, which would increase $200. The total blended increase would be about 3.1 percent. Senator McFarland said that, although the university could not compare its increase with other institutions in planning, data he had seen indicated other schools increases were in the 2.5 to 4 percent range. President Cowen said that the university could compare but not conspire with other universities. He expected Tulane to be on the low end of the range of increases.

Addressing the discount rate, Vice President Lorino said the overall financial aid, both graduate and undergraduate, would drop 1 percent to 34 percent. The undergraduate discount rate would drop to 44 percent from 48 percent. Planned underclass enrollment was 1,500 new freshmen and 125 transfers. The target for average underclass enrollment for the year was 5,581 students. FY 2010 had been planned for 5,200 students, but the actual number was more than 5,300.

Vice President Lorino said that grants and contracts were expected to remain the same as FY
In discussing the endowment payout, Vice President Lorino said it would be 5 percent, but the payout was complicated by the problem of “underwater” endowment funds—those funds whose value as of December 31 was lower than the original value of the gift. In the case of underwater endowments governed by Board of Regent rules, no payout would be allowed. Other pooled underwater endowments would pay out based their value on December 31 instead of the usual 12-quarter average. The problem with underwater endowments would reduce the total payout by about $3 million. He expected fewer funds to be underwater at the end of CY 2009 than were underwater at the end of CY 2008.

Dean Haber asked if the affected constituencies would get a list of the underwater funds, especially the BOR funds. Vice President Lorino replied that the number of BOR funds that were underwater should be seven, but he did not yet know about the pooled funds.

Forecasts for athletics revenues and expenditures were expected to remain constant with the previous year, Vice President Lorino said. Other expenditures planned included a 2 percent salary increase for faculty and staff. The budget also included funding the phased implementation of the faculty and staff salary enhancement plan. However, the budget assumed a continuation of the faculty and staff hiring freeze. The budget also included a 3 percent escalation in utility costs. He said that, if it were possible after the unit budgets were calculated, the administration hoped to resume the second round of solicitation of doctoral programs.

With these assumptions, Vice President Lorino said, the administration expected a balanced budget on paper because of a $10 million reserve. In 1994-95, the university set aside two independent reserves for the hospital joint venture in case problems arose. One will be written off the books in FY 2011. No actual cash will be involved, simply a balance sheet change. A true balanced budget was expected in FY 2012 when class size reached the full complement of students.

President Cowen discussed the proposed raises for faculty and staff. He said that public institutions, for the most part, were providing no raises; private institutions were offering raises in the range of 0 to 3 percent. The administration believed a 2 percent raise was prudent. The balanced budget for 2011 included the phased implementation of salary enhancement for faculty and staff to provide equity for remaining staff and for faculty in the School of Public Health and Medicine and in the basic sciences in the School of Medicine.

The president then addressed the issue of the hiring freeze. He said it had never been a hard freeze; the university hired 60 people last year. The administration would decide whether to soften the freeze in the fall. Right now, he said, it was more important to take care of the people already at the university and correct inequities. He said the board agreed with the administration’s strategy. When the university achieved a true balanced budget in 2012, he hoped to return to the method of budgeting by distributed management centers—the DMC model.

Senator McFarland noted that a 2 percent raise required a 3 percent tuition increase because it would cost $6 million. President Cowen added that another million dollars was required to address the existing inequities in salaries.

Senator Schmehl pointed out that the university was reducing the payout from the endowment at a time when it needed to hire staff to support the teaching and research mission. President Cowen acknowledged the problem but said that increasing payouts would hurt the university in the long term. In the past, the university had suffered from the effects of increased payouts.

Senator Landry asked about plans to replace two department chairs in the School of Medicine. President Cowen replied that those hires exemplified the fact that the hiring freeze had allowed for exceptions.

Senator Kalka questioned how enrollments could be increased from the planned 1,400 to 1,500 without increasing faculty size. President Cowen said that increase had been partially compensated for by a reduction in transfer students, but he recognized the faculty and staff were stretched. He said it could not be continued for the long term.
Senator Rothenberg said the administration used to provide extra money to help with the costs of larger incoming classes but had not done so in the past year. Provost Bernstein said that his office had not set aside a special pool of money for increased class size but did provide money to deal with pressure points case by case. Senator Rothenberg asked whether departments should take their cases to the provost when crises emerge. Provost Bernstein said that departments should go to their dean and the dean would go to the provost.

Senator Purrington asked if the administration had considered use of alternative energy. Vice President Lorino said that several ideas had been explored. A cogeneration unit was being used uptown, and a similar project was being worked on downtown. Solar energy on a large scale was very expensive with a long payback period. The university continued to explore possibilities, using external architects and consultants.

There were no further questions

**Senator Hutchinson’s Proposed Change to Faculty Handbook**

Senator Hutchinson, representing the School of Public Health and Tropical Medicine, gave the second reading of a proposed amendment to the Faculty Handbook, Part III B, Academic Titles, to allow for a difference in practice between the School of Medicine and the School of Public Health and Tropical Medicine regarding clinical professors (Appendix 1). The proposed change would allow his school to place the title “clinical” before the rank instead of before the department. He said the change concurred with the practice of most schools of public health and avoided logical absurdities that the current procedure would lead to.

After brief discussion, a motion for the previous question was made, seconded, and passed. The amendment was then passed unanimously.

**Committee on Student Affairs**

Senator Kahn, chair of the committee, presented a committee motion to approve the revised Student Code of Conduct. The motion had been postponed at the previous senate meeting to provide senators adequate time to study the code. Senator Kahn said the process of developing the new code had involved students, administrators, faculty, and both internal and external legal counsel. He emphasized that the code was not an honor code. The major change involved changing the standard of evidence from “clear and convincing evidence” to “preponderance of evidence.” The new code also provided less formal methods for handling minor cases.

Senator Wendt, who had sent a letter explaining his position that was distributed to senators before the meeting, summarized his main points. He said the code also made improvements in the appeals process, which currently was drastically limited. The new code allowed appeals on process and substance. He said the new code was more efficient. It was not a perfect code for everyone, but it was a good code.

Senator Clinton said he had been actively involved in the development of the code and agreed it was a marked improvement with one exception, the level of evidence. The standard of preponderance of evidence was used in civil, not criminal cases. He was concerned because some charges could involve illegal substances or rape. Senator Wendt countered that the difference in standards was not that significant.

Senator Leveson said that the new code could also be amended more easily if problems were found in practice and that the new code involved students more in the process.

Senator Aronson suggested that most students do not read the code until they are in trouble. The change in evidentiary standards was semantic. What mattered were changes in practice and the fact that students would be more involved. She stated her full support for the code.

Senator McFarland asked about the process the university would use in criminal cases. Associate Provost Hogg said that the university would hold cases in abeyance until civil authorities completed their actions. Scott Schneider, associate general counsel, added that the university could suspend a student in the case of rape while civil authorities were investigating because that student could be considered a threat to the community.
Senator Purrington argued that the change in evidentiary standards was more than mere semantics. He was concerned about changing the standard when students’ lives could be severely affected.

Senator Thompson asked for an example of how the standard of preponderance of evidence would differ from beyond a reasonable doubt in actual practice. Counsel Schneider said that the old standard was not beyond a reasonable doubt but clear and convincing evidence. The meaning of that standard was unclear. It was generally believed that it meant more than mere preponderance of evidence, but how much more was not known. Preponderance seems more reasonable because the university does not have tools like subpoena power that civil authorities have.

Senator Kahn emphasized that the university aimed at graduating students, not dismissing them. He added that the new code provided a robust appeals process and procedures to change the code if unfairness proved to be a problem in practice.

Senator Wendt said that studies he had read that compared the two standards of evidence showed no difference in results.

Senator Hancock said that she teaches a course in evidence in the Law School. She said that lawyers are unable to define the standard of clear and convincing evidence. She said she had more confidence in students being able to fairly apply the standard of preponderance of evidence, while the standard of clear and convincing evidence was more likely to be applied arbitrarily. She also said as a parent of a soon-to-be university student, she hoped her child would be protected by a fair system that makes it possible to reduce dangers from other students’ behavior.

At this point, the previous question was moved and seconded, then approved by more than two thirds of those voting. The main motion to approve the new Student Code of Conduct was then passed by a large majority.

Committee Reports

Committee on Faculty Tenure, Freedom, and Responsibility

Senator Kehoe, chair of FTFR, presented the annual report of the committee, which had been distributed to the senate, along with a separate document on the employment of non-tenure-track faculty. He said the committee had heard two appeals in the previous year: one, an appeal on a termination in connection with the renewal plan, and the other an appeal from a negative tenure decision. The committee had also reviewed teaching by tenured/tenure-track faculty compared with teaching by non-tenure-track faculty. The information the committee reviewed was compiled by the office of academic affairs and provided in the second document. Senator Kehoe said the data compared two semesters, Fall 2004 and Fall 2008. The committee concluded that “with the exception of the School of Science and Engineering and the Freeman School, where a number of tenured or tenure-track faculty positions were eliminated in the Renewal Plan, the proportion of courses and students taught by tenured/tenure-track faculty did not change between 2004 and 2008. In addition, in most schools, adjunct faculty have been reduced and replaced by visiting faculty and lecturers/professors of practice.”

Senator Purrington commented that the good news was that part-time adjuncts had been replaced by full-time professors of practice, but the bad news was that 36.5 percent of contact hours in the School of Liberal Arts and 49 percent in the School of Science and Engineering were being taught by non-tenure-track faculty.

Senator Carroll asked about compliance with the Handbook rule that no more than 25 percent of faculty members could be in the professor of practice/lecturer category. Senator Kehoe said that addressing that rule was not part of this study. He said the numbers on the Freeman School were misleading. For example, the number of adjuncts included those teaching in the executive MBA program.

Dean DeNisi said that his school did not have enough tenure-track faculty members compared to non-tenure track, but the school was working to correct that problem. Accreditation processes in the business schools recognized that some areas required different academic qualifications that could be satisfied by non-tenure-track faculty. Still, he wanted to have more of those positions filled by tenure-track faculty.
Senator Hassig asked about the numbers in the School of Public Health and Tropical Medicine. Senator Kehoe said that the comparison between 2004 and 2008 in that school was meaningless because the school’s undergraduate program was very small in 2004.

New Business

Committee on Committees: New Standing Rule

Vice Chair Long, chair of the Committee on Committees, proposed a new standing rule to define the qualifications to serve as a faculty member on a senate committee. The proposed rule read as follows: “Faculty slots on standing committees of the University Senate are for regular faculty members whose teaching and/or research activities constitute a majority of their university responsibilities.”

Vice Chair Long explained that the senate bylaws specify slots on committees for faculty members, as well as slots for students, staff, and administrators. The question, originally raised by Senator Carroll, was who could fill the faculty slots, since many faculty members also have administrative duties. One proposal was to use titles to define the difference, but titles are used differently in different constituencies. A department chair on the uptown campus does not have the same administrative responsibilities as a department chair in the School of Medicine. The proposed rule will require the Committee on Committees to assess an individual’s responsibilities to determine whether he or she qualifies to fill a faculty slot.

Senator Kahn pointed out that many faculty members in the School of Medicine with administrative titles still spend 500 hours on teaching and research. He wondered who decided whether they qualified to fill faculty slots. He also wondered whether the rule included clinical faculty as “regular faculty.”

Vice Chair Long said that Senator Kahn’s example was why titles were not used in the rule. He said the Committee on Committees would decide case by case, following the rule. On the second point, he said that the term “regular faculty” in the Handbook referred to all full-time faculty, not merely tenured and tenure-track faculty.

Without further discussion, the committee’s motion was passed unanimously.

Adjournment

With no further public business, the meeting was adjourned to executive session at 4:30 p.m.

Respectfully submitted,
Jim Mackin, Secretary

Secretary’s Note: All written reports mentioned in the minutes, together with the full text of approved Handbook revisions and other policy changes, will be available on the senate Web site, http://www.tulane.edu/~usenate/.
Appendix 1, Approved Amendment to Faculty Handbook, Part III, B. Academic Titles

Existing Language
Clinical Professor: Clinical Professor is a category of full-time faculty membership in the School of Medicine and the School of Public Health and Tropical Medicine established for professors whose primary responsibility is providing practical instruction and application of practical knowledge. For clinical appointments, the term "clinical" precedes the department of appointment, e.g. Professor of Clinical Surgery.
Clinical Professors do not receive tenure. Clinical faculty appointments may also be made at the part time level. In the School of Medicine, to differentiate part-time clinical appointments, the term "clinical" precedes the rank, e.g., Clinical Associate Professor of Medicine.

The amendment would strike the last sentence of each existing paragraph, add a sentence to the end of the second paragraph, and add a new third paragraph. The new language is:
Clinical Professors have either a terminal degree in their field or equivalent professional experience.
For full-time clinical appointments in the School of Medicine, the term “clinical” precedes the department of appointment, e.g., Professor of Clinical Surgery. For all clinical appointments in the School of Public Health and Tropical Medicine, and all part-time clinical appointments in the School of Medicine, the term “clinical” precedes the rank, e.g., Clinical Assistant Professor of Health Systems Management and Clinical Associate Professor of Medicine.

With the amendment, the section would then read:
Clinical Professor: Clinical Professor is a category of full-time faculty membership in the School of Medicine and the School of Public Health and Tropical Medicine established for professors whose primary responsibility is providing practical instruction and application of practical knowledge.
Clinical Professors do not receive tenure. Clinical faculty appointments may also be made at the part time level. Clinical Professors have either a terminal degree in their field or equivalent professional experience.
For full-time clinical appointments in the School of Medicine, the term “clinical” precedes the department of appointment, e.g., Professor of Clinical Surgery. For all clinical appointments in the School of Public Health and Tropical Medicine, and all part-time clinical appointments in the School of Medicine, the term “clinical” precedes the rank, e.g., Clinical Assistant Professor of Health Systems Management and Clinical Associate Professor of Medicine.