

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

January 17, 2002

The Regents of the University of California met on the above date at Covell Commons, Los Angeles campus.

Present: Regents Atkinson, Bagley, Bustamante, Connerly, Davies, T. Davis, Eastin, Hertzberg, Hopkinson, O. Johnson, S. Johnson, Kozberg, Lansing, Lee, Lozano, Marcus, Montoya, Moores, Morrison, Pattiz, Preuss, Sayles, and Seymour (23)

In attendance: Regents-designate Ligot-Gordon and Terrazas, Faculty Representatives Binion and Viswanathan, Secretary Trivette, General Counsel Holst, Treasurer Russ, Provost King, Senior Vice Presidents Darling and Mullinix, Vice Presidents Gomes and Hershman, Chancellors Bishop, Carnesale, Tomlinson-Keasey, Vanderhoef, and Yang, and Recording Secretary Bryan

The meeting convened at 2:45 p.m. with Chairman S. Johnson presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion of Vice Chairman Moores, duly seconded, the minutes of the meeting of November 15, 2001 were approved.

2. REPORT OF THE PRESIDENT

President Atkinson presented the report concerning University activities and individuals, noting the recent death of former Regent Glenn Campbell, who served on the Board for 28 years.

Upon motion of Regent Bagley, duly seconded, the President's report was accepted, and it was directed that notes of thanks be sent to the donors of the gifts mentioned in the report, that congratulations be extended to those faculty and staff members who have been awarded honors, and that notes of sympathy and regret be sent to the families of those whose deaths were reported.

[The report was mailed to all Regents in advance of the meeting, and a copy is on file in the Office of the Secretary.]

3. COMMENTS OF THE FACULTY REPRESENTATIVE

Faculty Representative Viswanathan reported that the Academic Senate's discussion of the use of the Scholastic Achievement Test in admissions is ongoing. He anticipated that the matter would come before the Regents for discussion at the March and May meetings and for approval at the July meeting.

4. RESOLUTION IN MEMORY OF GLENN CAMPBELL

Upon motion duly made and seconded, the following resolution was adopted:

WHEREAS, the Regents of the University of California are saddened by the death of W. Glenn Campbell, a distinguished Regent, passionate advocate for education, and intellectual entrepreneur; and

WHEREAS, he was a valued member of this Board for 28 years, one of the University's longest-serving Regents, who was elected Chairman and Vice Chairman of the Board and who served on every major Regental committee, where his keen desire to provoke rigorous analysis and decisive action on the fundamental educational, economic, and social issues facing the University and the people of California was very much in evidence; and

WHEREAS, he was uncompromising in his devotion to the highest standards of excellence, and he brought to all his endeavors a deeply held faith in traditional values, a thorough knowledge of the issues, and a wisdom gained from a lifetime of service in the public and private sectors; and

WHEREAS, five U.S. presidents recognized his strength of character, independent spirit, and deep love of country by appointing him to seven national boards and committees, where he always acted in the highest tradition of public service, giving unselfishly of his time, brilliant leadership, and considerable talent to the benefit of the American people; and

WHEREAS, the Hoover Institution on War, Revolution and Peace at Stanford University stands as remarkable testimony to his extraordinary vision, his exceptional success in recruiting outstanding scholars from throughout the nation, and his tireless efforts to establish the Institution as a world renowned center of public policy research;

NOW, THEREFORE, BE IT RESOLVED that the Regents of the University of California mourn the passing of W. Glenn Campbell, a visionary maverick and dedicated public servant;

AND BE IT FURTHER RESOLVED that the Regents extend to his wife, Rita, and to the entire Campbell family their heartfelt condolences over the loss they have sustained and direct that suitably inscribed copies of this resolution be sent to them as a symbol of the Regents' regard for Glenn Campbell and their esteem for his many contributions to the people of this state as a Regent of the University of California.

President Atkinson expressed his appreciation to Regents Connerly and Lee for attending Regent Campbell's memorial service.

5. RESOLUTION IN APPRECIATION OF WILLIAM T. BAGLEY

Upon motion duly made and seconded, the following resolution was adopted:

WHEREAS, William T. Bagley has served with distinction on the Board of Regents for the past 13 years and has brought to the Board an untiring zeal for the highest ideals of public service, a deep and abiding devotion to the University, and the wisdom and experience of a distinguished career in law and government; and

WHEREAS, he has been an ardent member of the University of California family since his undergraduate days on the Berkeley campus, where he was chosen permanent class president of the Class of '49 and his prodigious oratorical skills were recognized by his selection as class valedictorian, through his years as a law student at Boalt Hall; and

WHEREAS, the years following his graduation from law school saw his star rise in the legal profession and in the public's estimation, culminating in 1960 in his election to the California State Assembly, an office he was to hold for 14 years, and where his expertise in taxation, public finance, and civil rights helped him secure passage of over 1,000 bills and led to his authorship of the landmark Regents Open Meetings Act, another way in which he has had a profound effect on this Board; and

WHEREAS, he has served with distinction on numerous standing committees and, ever mindful of his fiduciary responsibility as a Regent, he has been an integral member of the Committee on Investments, a committee on which he has served continuously since his appointment to the Board and which has overseen during his term the growth of the University's endowment and retirement portfolio assets from \$16 billion to more than \$55 billion; and

WHEREAS, independent in thought, word, and action, he has been a staunch proponent for the rights of students and faculty, unwavering and impassioned in his fervent resolve to ensure the University of California's lasting commitment to diversity and access for all qualified students, areas in which his renowned ability to seek constructive, imaginative approaches to difficult problems was very much in evidence during the Board's discussions; and

WHEREAS, with a booming voice, hearty laugh, and ready quip, he has enlivened the Regents' discussions, enriched his colleagues with his extensive experience in business and government, and proved an invaluable resource when questions of parliamentary procedure were raised;

NOW, THEREFORE, BE IT RESOLVED that the Regents of the University of California extend to William T. Bagley their appreciation for his dedicated years of service to the University of California, for his adherence to the highest

precepts of duty and public trust, and for his commitment to the values of higher education;

AND BE IT FURTHER RESOLVED that the Regents extend to Bill and Diane their affectionate good wishes for a rich and full life in the years ahead and direct that a suitably inscribed copy of this resolution be presented to them as a symbol of the Board's lasting friendship.

Regent Bagley commented that he hoped that in the future the Regents would not allow the Board to be used to champion a cause. He cautioned the Regents against becoming too serious and sanctimonious and advised them to keep in mind that they were not the most prestigious board in the world but rather that they were the board of the most prestigious university in the world. He advocated maintaining a feeling of openness and accessibility at Board meetings. He recalled that even as an undergraduate he had supported the idea, one that had continued to be of primary concern to him, that having a diverse student body enhanced a student's education.

Regent Bagley believed that the best work the Board does is to choose officers and chancellors to lead the University. He urged the Regents to respect the highly educated and experienced people who work for them and to let them run the institution without placing unwarranted obstructions in their path.

Regent Lansing commented that she had been struck by two characteristics of Regent Bagley's: his passion and his determination never to give up on something in which he believes.

Regent Connerly stated that, although he and Regent Bagley had had profound differences of opinion, he believed that the state of California was indebted to him. He recalled that Regent Bagley had been a true champion of civil rights since before it became a fashionable cause.

Regent Sayles agreed with Regent Lansing that what he admired most about Regent Bagley was his persistence in supporting causes in which he believed.

Regent T. Davis thanked Regent Bagley for serving as a mentor and an inspiration to her and to former student Regents.

Regent O. Johnson commented that she appreciated Regent Bagley's sensitivity on issues relating to all segments of the University.

Regent Hopkinson stated that she admired Regent Bagley's attempt always to do the right thing.

Regent Seymour recalled that he had been a teenager when he first met Regent Bagley. He thanked him for the time they had spent together and for his friendship.

Regent-designate Terrazas recalled that the alumni association presidents who had served with Regent Bagley had admired him. He noted that Regent Bagley went out of his way to counsel new Regents. He believed that Mr. Bagley personified the Native American tenet, "Do all you can, by whatever means you can, for everyone you can, for as long as you can."

Regent Morrison thanked Regent Bagley for brightening the meetings with his sense of humor and for helping him keep things in perspective.

Regent Davies thanked Regent Bagley for his gift of a "Wilson 90" license plate. He noted that the Board is running low on Boalt Hall lawyers, which at one point numbered 11.

Regent S. Johnson recalled meeting Regent Bagley in Sacramento before she became a Regent. She commented on his dynamic personality and expressed her appreciation for his sense of humor.

6. **RESOLUTION IN APPRECIATION OF ROBERT M. HERTZBERG**

Upon motion duly made and seconded, the following resolution was adopted:

WHEREAS, Robert M. Hertzberg has served with distinction as Speaker of the Assembly and as a Regent of the University of California; and

WHEREAS, he is a proud graduate of the University of California Hastings College of Law, a resident of Sherman Oaks who has represented the citizens of the 40th Assembly District since 1996, and a passionate advocate for government reform, public safety, and other issues that affect California's working families; and

WHEREAS, his bold visionary leadership, genial humor, and consensus-building talents have been instrumental in numerous legislative efforts to ensure that California makes needed investments in its schools and transportation system and provides affordable housing and healthcare in order to sustain vibrant, healthy communities throughout the state; and

WHEREAS, he has worked diligently to bolster support for the University of California's academic medical centers and to foster efforts central to the University's progress in expanding access for all Californians to the opportunities and benefits of higher education, unstinting and eloquent in his support of the University's outreach activities; and

WHEREAS, he has been an avid supporter of the University's research initiatives, including the California Institutes for Science and Innovation, which will strengthen the state's future economic growth and improve the quality of life of Californians for many generations to come;

NOW, THEREFORE, BE IT RESOLVED that the Regents of the University of California express to Robert M. Hertzberg their deep gratitude and appreciation for his dedicated service and commitment to the University and to the citizens of this great state;

AND BE IT FURTHER RESOLVED that the Regents extend to Robert and Cynthia their best wishes for the future and direct that a suitably inscribed copy of this resolution be presented to them as an expression of the Board's warm regard and lasting friendship.

Regent Hertzberg commented that it was one of his greatest honors to serve on the Board. He only regretted that the energy crisis and other crises during the year had made it impossible for him to attend as many meetings as he had wished. He stated that he was honored to be associated with the people who serve on the Board and that he believed public service was a noble calling and an important part of the fabric of a democracy. He thanked the Board members for their dedicated service and commitment to the University and to the citizens of the state.

Regent Seymour recalled that Regent Hertzberg's passion and interest in public service had not diminished over the decades. He believed he would continue to do great things.

Regent Lansing commented that Regent Hertzberg was the best public servant possible. She had never heard anyone say anything negative about him, no matter what their political affiliation. She summarized his qualities as those of being a consensus builder who knows how to listen and to bring diverse opinions together.

Regent Kozberg recalled that Regent Hertzberg was helpful to his fellow legislators. She hoped he would run for office in the future.

Regent Sayles expressed admiration for Mr. Hertzberg's intelligence, his commitment to public service, and his leadership. He noted, however, that the thing he admired most was the way in which he interacted with his family.

Regent Morrison recalled the amount of time Regent Hertzberg had devoted to alumni functions and noted that he had always been considered a strong friend to the University.

Regent O. Johnson stated that she appreciated all Regent Hertzberg had done for the University.

Regent Lozano commented that Regent Hertzberg has been in public life for decades and had made sure that others who wanted to serve the state and the nation were helped along the way, and he had done so without expecting any reciprocation.

President Atkinson observed that the University has been through tough times with the Legislature during budgetary negotiations but that Speaker Hertzberg had always been very helpful.

Chairman S. Johnson believed that people have become disillusioned with many of those who hold public office. She characterized Mr. Hertzberg as an exceptional public servant and thanked him for his help with University matters.

7. RESOLUTION IN APPRECIATION OF S. SUE JOHNSON

Upon motion duly made and seconded, the following resolution was adopted:

WHEREAS, the members of the Board of Regents wish to express their abiding gratitude and deep appreciation to S. Sue Johnson, a true member of the University family, for her dedication and unflagging devotion to education and to the people of California, as she completes her second term as a Regent of the University of California; and

WHEREAS, for almost 40 years since her graduation from the Riverside campus, her passionate commitment and loyalty to the University of California and to the concept of educational excellence have been the hallmark of her endeavors as a member of the Riverside alumni association, the Alumni Associations of the University of California, and most especially, the Board of Regents; and

WHEREAS, her appointment to the Board by Governor Deukmejian, following her service as an Alumni Regent, is testimony to her continuing allegiance to the alma mater she loves so well and to her abiding interest in the critical issues facing UC and all of higher education; and

WHEREAS, she has dedicated herself to the well being of the University of California, generously giving of her time as one of its most eloquent spokespersons, traveling throughout the state, enhancing the public's perception and appreciation of the University and promoting a greater awareness of UC's many contributions to the state and the nation; and

WHEREAS, she has held to a credo of integrity and decency, enriching the Regents' discussions with her sound judgment and keen perception, working tirelessly on the Committees on Audit, Educational Policy, Finance, Grounds and Buildings, Health Services, Oversight of the Department of Energy Laboratories, and numerous University Officer selection committees, bringing to all a calm and reasoned voice ; and

WHEREAS, over the past two years she has provided steady leadership in her role as Chairman of the Board, contributing thoughtful, considered opinions on the issues, demonstrating a manifest integrity and deep faith in traditional

values and above all a passionate commitment to enhancing the quality of the University's teaching and research;

NOW, THEREFORE, BE IT RESOLVED that the Regents of the University of California extend to S. Sue Johnson their heartfelt gratitude for her unwavering dedication to her alma mater, her grace and generosity of spirit, and her staunch adherence to the highest ideals academic excellence;

AND BE IT FURTHER RESOLVED that the Regents extend to Sue and Bill their affectionate good wishes and direct that a suitably inscribed copy of this resolution be presented to them as a symbol of the Board's enduring friendship and esteem.

Chairman Johnson commented that her tenure as a Regent had been a rewarding and humbling honor and that she had received a priceless education during her service. She noted that, although most of the faces around the table had changed since she arrived in 1987, General Counsel Holst had been a constant presence who brought judgment and wisdom to the Board's discussions. The faces of the chancellors had changed also, but she believed that the current holders of those offices represent the finest cohort the University has seen. She noted particularly the job that Ray Orbach had done in transforming the Riverside campus. She believed that Clark Kerr's decision to cap attendance at the Berkeley campus was an inspired move that allowed the other campuses to develop and achieve excellence.

Chairman Johnson thanked Vice President Hershman and Associate Vice President Arditti for representing the University so well in Sacramento. She expressed continuing concerns about the unfulfilled needs of the existing campuses, however, both programmatically and with regard to the seismic capital budget, particularly in light of the financial demands required to establish UC Merced. She also thanked Vice President Gomes for his leadership in fielding an array of programs that are very important to agriculture in California, and she expressed her appreciation to the hospital directors and the laboratory directors for the job they do, and particularly Director Browne for reversing what had been a negative perception of the Los Alamos laboratory's role in the local community. She praised Regent Connerly for beginning the process of returning to the ethos of individual merit in University admissions and to the Academic Senate for wrestling with the mechanics of a comprehensive review procedure for each applicant.

Chairman Johnson stated that her primary concern was to maintain the quality of the institution. She advocated making compensation for faculty and senior managers competitive with the rest of the market as a way to assure that the University continues to attract the brightest and most capable personnel.

Lastly, Chairman Johnson expressed her appreciation for the friendship of her colleagues on the Board and in the University community. She was confident that,

with their help, the Board would remain a shield to protect the University from the pressure of external groups.

Regent Moores praised Chairman Johnson for maintaining decorum as the Board has debated some very controversial issues.

Regent Hopkinson stated that she admired her strong but quiet commitment and that she was a credit to the University.

Regent Lansing recalled that Chairman Johnson had been the first Regent she had met and that she had felt very welcomed by her. She commended her for her hard work and commitment and for listening to all points of view.

Regent Connerly observed that Chairman Johnson had blossomed as a leader during her term as a Regent and had kept the Board together during challenging times filled with change. He admired her intellectual commitment to her own views.

President Atkinson stated that Chairman Johnson had played a key role in holding the Board together through difficult times and that the University was in her debt. He noted that she will be on the search committee for the next chancellor for the Riverside campus. He believed she would always be identified with the institution.

Regent Davies described Chairman Johnson as an elegant representative of the University who he hoped would continue to participate in University-related activities. He conveyed Regent Lee's appreciation, also.

Regent Kozberg commented that Chairman Johnson was not only an elegant person but that she possessed an elegant mind. She believed that whenever the quality of the institution was discussed in the future, the Regents would be reminded of her special concern for the future of the institution.

Regent Montoya believed that Chairman Johnson herself had played a large role in the development of the Riverside campus.

Regent T. Davis thanked Chairman Johnson for her warm welcome when she first joined the Board and for her dedication to the University. She wished her happiness in the next phase of her life, during which she had indicated she would be concentrating on her family.

Regent O. Johnson thanked Chairman Johnson for her diplomacy and tact in handling the tough issues and in helping the Regents come to decisions while preventing them from splitting into factions.

Faculty Representative Viswanathan expressed his high regard and respect for Chairman Johnson. He described her as gentle but firm, and, on behalf of the Academic Senate, he praised her commitment to shared governance.

Regent-designate Terrazas noted that Chairman Johnson had been home-grown by the University and had taken the time to give a great deal back to it.

Regent Seymour thanked Chairman Johnson for her support of the alumni throughout the system and for making the Regents feel as though they were a family.

Regent Morrison recalled how welcoming Chairman Johnson had been to him when he joined the Board and stated that she was an exemplary Regent and human being.

8. **REPORT OF THE COMMITTEE ON FINANCE**

A. ***Amendment of Standing Order 110.2 – Matters Relating to Residency: Proposal to Establish New Policy on Tuition Exemptions to Conform to AB 540 (Conditions of Implementation)***

The Committee referred this matter without recommendation. (Refer to paragraph 14 for action.)

B. ***Authorization for Leases and Agreements for Various UC Campus Projects***

The Committee recommended that, subject to adoption of pending legislation authorizing the use of State Public Works Board (SPWB) Lease Revenue Bonds for the California Institutes for Science and Innovation and other projects identified below, and subject to adoption by the State Public Works Board of a resolution authorizing the issuance of State Public Works Board Lease Revenue Bonds and authorizing interim loans from the State's Pooled Money Investment Account or General Fund for the following projects:

(1) California Institutes for Science and Innovation:

Institute for Bioengineering, Biotechnology and Quantitative Biomedical Research (QB3)

San Francisco, Berkeley, and Santa Cruz campuses

California Institute for Telecommunications and Information Technology (Cal IT)²

San Diego and Irvine campuses

California NanoSystems Institute

Los Angeles and Santa Barbara campuses

Center for Information Technology Research in the Interest of Society (CITRIS)

Berkeley, Davis, Merced, and Santa Cruz campuses

the President or the Secretary be authorized to:

- a. Execute unsubordinated site leases from The Regents to the State Public Works Board for facilities comprising each Institute named above, each lease to contain provisions substantially as follows:
 - i. the site for the Institute facility shall consist of the approximate size of the footprint of that facility. Each lease shall also include a license to the SPWB for access from campus roads to the site during the term of the lease;
 - ii. the purpose of the lease shall be to permit construction of the facilities comprising each Institute;
 - iii. the term of each site lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full;
 - iv. the rental for each lease shall be \$1 per year;
 - v. The Regents shall have power to terminate the site lease in the event of default by the SPWB, except when such termination would affect or impair any assignment by the SPWB and such assignee is duly performing the terms and conditions of the lease;
 - vi. The Regents shall provide to the SPWB and any assignee of the SPWB access to the site and such parking and utility services as are provided for similar facilities on the campus;
 - vii. The Regents shall waive personal or individual liability of any member, officer, agent, or employee of the SPWB;
 - viii. The Regents shall agree to pay assessments or taxes, if any, levied on the site or improvements attributable to periods of occupancy by The Regents; and

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

- b. Execute agreements between the State of California, as represented by the SPWB, and The Regents for facilities comprising each Institute named above, each agreement to contain the following provisions:
 - i. the SPWB agrees to finance construction of the facility, as authorized by statute; and
 - ii. The Regents agrees to provide and perform all activities required to design and construct said facility.

- c. Execute facility leases from the SPWB to The Regents for facilities comprising each Institute named above, each lease to contain provisions substantially as follows:
 - i. the purpose of the building's occupancy shall be to use it as a facility for instruction and research and support-related functions in furtherance of the University's mission related to instruction, research, and public service;
 - ii. the SPWB shall lease the financed facility, including the site, to The Regents pursuant to a facility lease;
 - iii. the terms of the facility lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full;
 - iv. if the SPWB cannot deliver possession to The Regents at the time contemplated in the lease, the lease shall not be void nor shall the SPWB be liable for damages, but the rental payment shall be abated proportionately to the construction cost of the parts of the facility not yet delivered;

- v. in consideration for occupancy during the term of the lease and after the date upon which The Regents takes possession of the facility, The Regents shall pay base rent in an annual amount sufficient to pay debt service on the bonds or other obligations of the SPWB issued to finance or refinance the facility and additional rent for payment of all administrative costs of the SPWB;
- vi. The Regents covenants to take such actions as may be necessary to include in the University's annual budget amounts sufficient to make rental payments and to make the necessary annual allocations;
- vii. during occupancy, The Regents shall maintain the facility and pay for all utility costs and shall maintain fire and extended coverage insurance at then current replacement cost or an equivalent program of self-insurance, and earthquake insurance if available on the open market at a reasonable cost;
- viii. during occupancy, The Regents shall maintain public liability and property damage insurance, or an equivalent program of self insurance, on the facility and shall maintain rental interruption or use and occupancy insurance, or an equivalent program of self insurance, against perils covered in (c)vii. above;
- ix. in the event of default by The Regents, the SPWB may maintain the lease whether or not The Regents abandons the facility and shall have the right to relet the facility, or the SPWB may terminate the lease and recover any damages available at law;
- x. The Regents shall be in default if the lease is assigned, sublet, or transferred without approval of the SPWB, if The Regents files any petition or institutes any proceedings for bankruptcy, or if The Regents abandons the facility;
- xi. The Regents shall cure any mechanics' or materialmen or other liens against the facility and, to the extent permitted by law, shall indemnify the SPWB in that respect;
- xii. The Regents, to the extent permitted by law, shall indemnify the SPWB from any claims for death, injury,

or damage to persons or property in or around the facility; and

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

- (2) For the following California Institutes for Science and Innovation:

California Institute for Telecommunications and Information Technology (Cal (IT)²)

San Diego and Irvine campuses

California NanoSystems Institute

Los Angeles and Santa Barbara campuses

Center for Information Technology Research in the Interest of Society (CITRIS)

Berkeley, Davis, Merced, and Santa Cruz campuses

the President or the Secretary be authorized to:

- a. Execute equipment acquisition agreements between the State of California, as represented by the SPWB, and The Regents for facilities comprising the Institutes named above, said agreements to contain the following provision: The SPWB agrees to finance equipping of the facilities comprising the Institutes as authorized by statute.
- b. Execute equipment leases from the SPWB to The Regents for facilities comprising the Institutes named above, said leases to contain provisions substantially as follows:
 - i. the equipment shall be used for the purpose of equipping the project;
 - ii. the SPWB shall lease the equipment to The Regents pursuant to an equipment lease;
 - iii. the term of the equipment lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution was adopted authorizing the lease, the issuance of bonds, and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to

earlier termination if such bonds have been retired in full;

- iv. during the term of the lease and after the date upon which The Regents takes possession of the equipment, The Regents shall pay base rent in an annual amount sufficient to pay debt service on the bonds or other obligations of the SPWB issued to finance or refinance the equipment and additional rent for payment of all administrative costs of the SPWB;
- v. The Regents covenants to take such actions as may be necessary to include in the University's annual budget amounts sufficient to make rental payments and to make the necessary annual allocations;
- vi. during use, The Regents shall maintain the equipment and shall maintain fire and extended coverage insurance, or an equivalent program of self insurance, at then current replacement cost;
- vii. during use, The Regents shall maintain rental interruption insurance, covering loss of use, public liability insurance, and property damage insurance, or an equivalent program of self insurance, on the equipment;
- viii. in the event of default by The Regents, the SPWB may maintain the lease and shall have the right to resell the equipment, or the SPWB may terminate the lease and cover any damages available at law;
- ix. The Regents shall be in default if the lease is assigned, sublet, or transferred without approval of the SPWB, if The Regents files any petition or institutes any proceedings for bankruptcy, or if The Regents abandons the equipment;
- x. The Regents shall cure any liens against the equipment and, to the extent permitted by law, shall indemnify the SPWB in that respect;
- xi. The Regents, to the extent permitted by law, shall indemnify the SPWB from any claims for death, injury, or damage to persons or property in or around the equipment; and

- xii. upon termination or expiration of the lease, other than for breach or because of eminent domain, title to the equipment shall vest in The Regents.

(3) For the following general campus projects:

Davis campus

Veterinary Medicine 3A

Irvine campus

Natural Sciences Unit 2

Merced campus

Library/Information Technology Center

Science and Engineering Building

Classroom and Office Building

Site Development and Infrastructure, Phase 1

Site Development and Infrastructure, Phase 2

Riverside campus

Engineering Building, Unit 2

San Diego campus

Engineering Building Unit 3B

Santa Barbara campus

Life Sciences Building

Santa Cruz campus

Engineering Building

the President or the Secretary be authorized to:

- a. Execute an unsubordinated site lease from The Regents to the State Public Works Board (SPWB) for each project named above, said leases to contain provisions substantially as follows:
 - i. the site shall comprise the approximate size of the footprint for each building named above. Said lease shall also include a license to the SPWB for access from campus roads to the site during the term of the lease;
 - ii. the purpose of the lease shall be to permit construction of the project;

- iii. the term of the site lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full;
 - iv. the rental shall be \$1 per year;
 - v. The Regents shall have power to terminate the site lease in the event of default by the SPWB, except when such termination would affect or impair any assignment by the SPWB and such assignee is duly performing the terms and conditions of the lease;
 - vi. The Regents shall provide to the SPWB and any assignee of the SPWB access to the site and such parking and utility services as are provided for similar facilities on the campus;
 - vii. The Regents shall waive personal or individual liability of any member, officer, agent, or employee of the SPWB;
 - viii. The Regents shall agree to pay assessments or taxes, if any, levied on the site or improvements attributable to periods of occupancy by The Regents; and
 - ix. in the event any part of the site or improvements is taken by eminent domain, The Regents recognizes the right of the SPWB to retain condemnation proceeds sufficient to pay any outstanding indebtedness incurred for the construction of the project.
- b. Execute an agreement between the State of California, as represented by the SPWB, and The Regents for each project named above, said agreements to contain the following provisions:
- i. the SPWB agrees to finance construction of the project, as authorized by statute; and

- ii. The Regents agrees to provide and perform all activities required to design and construct said project.
- c. Execute a facility lease from the SPWB to The Regents for each project named above, said leases to contain provisions substantially as follows:
 - i. the purpose of the building's occupancy shall be to use it as a facility for instruction and research and support-related functions in furtherance of the University's mission related to instruction, research, and public service;
 - ii. the SPWB shall lease the financed facility, including the site, to The Regents pursuant to a facility lease;
 - iii. the terms of the facility lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full;
 - iv. if the SPWB cannot deliver possession to The Regents at the time contemplated in the lease, the lease shall not be void nor shall the SPWB be liable for damages, but the rental payment shall be abated proportionately to the construction cost of the parts of the facility not yet delivered;
 - v. in consideration for occupancy during the term of the lease and after the date upon which The Regents takes possession of the facility, The Regents shall pay base rent in an annual amount sufficient to pay debt service on the bonds or other obligations of the SPWB issued to finance or refinance the facility and additional rent for payment of all administrative costs of the SPWB;
 - vi. The Regents covenants to take such actions as may be necessary to include in the University's annual budget amounts sufficient to make rental payments and to make the necessary annual allocations;

- vii. during occupancy, The Regents shall maintain the facility and pay for all utility costs and shall maintain fire and extended coverage insurance at then current replacement cost or an equivalent program of self insurance, and earthquake insurance if available on the open market at a reasonable cost;
- viii. during occupancy, The Regents shall maintain public liability and property damage insurance, or an equivalent program of self insurance, on the facility and shall maintain rental interruption or use and occupancy insurance, or an equivalent program of self insurance, against perils covered in c.vii. above;
- ix. in the event of default by The Regents, the SPWB may maintain the lease whether or not The Regents abandons the facility and shall have the right to relet the facility, or the SPWB may terminate the lease and recover any damages available at law;
- x. The Regents shall be in default if the lease is assigned, sublet, or transferred without approval of the SPWB, if The Regents files any petition or institutes any proceedings for bankruptcy, or if The Regents abandons the facility;
- xi. The Regents shall cure any mechanics' or materialmen or other liens against the facility and, to the extent permitted by law, shall indemnify the SPWB in that respect;
- xii. The Regents, to the extent permitted by law, shall indemnify the SPWB from any claims for death, injury, or damage to persons or property in or around the facility; and
- xiii. upon termination or expiration of the lease, other than for breach or because of eminent domain, title to the facility shall vest in The Regents.

(4) For the following general campus projects:

Irvine campus

Natural Sciences Unit 2

Merced campus

*Library/Information Technology Center
Science and Engineering Building
Classroom and Office Building*

San Diego campus
Engineering Building Unit 3B

Santa Barbara campus
Life Sciences Building

Santa Cruz campus
Engineering Building

the President or the Secretary be authorized to:

- a. Execute an equipment acquisition agreement between the State of California, as represented by the SPWB, and The Regents for each of the projects named above, said agreements to contain the following provision: The SPWB agrees to finance equipping of the named project as authorized by statute.
- b. Execute an equipment lease from the SPWB to The Regents for each of the projects named above, said leases to contain provisions substantially as follows:
 - i. the equipment shall be used for the purpose of equipping the project;
 - ii. the SPWB shall lease the equipment to The Regents pursuant to an equipment lease;
 - iii. the term of the equipment lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution was adopted authorizing the lease, the issuance of bonds, and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full;
 - iv. during the term of the lease and after the date upon which The Regents takes possession of the equipment, The Regents shall pay base rent in an annual amount sufficient to pay debt service on the bonds or other obligations of the SPWB issued to finance or refinance

the equipment and additional rent for payment of all administrative costs of the SPWB;

- v. The Regents covenants to take such actions as may be necessary to include in the University's annual budget amounts sufficient to make rental payments and to make the necessary annual allocations;
- vi. during use, The Regents shall maintain the equipment and shall maintain fire and extended coverage insurance, or an equivalent program of self insurance, at then current replacement cost;
- vii. during use, The Regents shall maintain rental interruption insurance, covering loss of use, public liability insurance, and property damage insurance, or an equivalent program of self insurance, on the equipment;
- viii. in the event of default by The Regents, the SPWB may maintain the lease and shall have the right to resell the equipment, or the SPWB may terminate the lease and cover any damages available at law;
- ix. The Regents shall be in default if the lease is assigned, sublet, or transferred without approval of the SPWB, if The Regents files any petition or institutes any proceedings for bankruptcy, or if The Regents abandons the equipment;
- x. The Regents shall cure any liens against the equipment and, to the extent permitted by law, shall indemnify the SPWB in that respect;
- xi. The Regents, to the extent permitted by law, shall indemnify the SPWB from any claims for death, injury, or damage to persons or property in or around the equipment; and
- xii. upon termination or expiration of the lease, other than for breach or because of eminent domain, title to the equipment shall vest in The Regents.

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

9. REPORT OF THE COMMITTEE ON GROUNDS AND BUILDINGS**A. *Adoption of Negative Declaration and Approval of Design, Hargrove Music Library Expansion Building, Berkeley Campus***

Upon review and consideration of the environmental consequences of the proposed project as indicated in the Initial Study/Negative Declaration, the Committee reported its:

- (1) Adoption of the Initial Study/Negative Declaration and Findings.
- (2) Approval of the design of the Hargrove Music Library Expansion Building, Berkeley campus.

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

B. ***Certification of Environmental Impact Report and Amendment of Long Range Development Plan for Northeast Quadrant Science and Safety Projects, Berkeley Campus***

Upon review and consideration of the environmental consequences of the proposed project as evaluated in the Environmental Impact Report, the Committee recommended:

- (1) Certification of the Final Environmental Impact Report (EIR).
- (2) Adoption of the Findings and Statement of Overriding Considerations.
- (3) Adoption of the Mitigation Monitoring Program.
- (4) Amendment of the 1990 Berkeley campus Long Range Development Plan (LRDP) to extend the LRDP envelope for net new space for the Central Campus Park from the LRDP EIR total of 333,300 gross square feet to a total 658,300 gross square feet and to reflect changes indicated in the Attachment for the Northeast Quadrant Science and Safety projects.

[The Final Environmental Impact Report, Findings and Statement of Overriding Considerations, Mitigation Monitoring Program, and item Background were mailed to all Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

C. ***Adoption of Findings and Approval of Design, Broad Art Center Seismic Reconstruction and Expansion, Los Angeles Campus***

Upon review and consideration of the environmental consequences of the proposed project as indicated in the Southwest Campus Staging Building, Dickson Art Center and Dance Building Seismic Renovation Tiered Initial Study/Mitigated Negative Declaration adopted by The Regents in January 2000, the Committee on Grounds and Buildings reported its:

- (1) Adoption of the Findings.
- (2) Approval of design of Broad Art Center Seismic Reconstruction and Expansion, Los Angeles campus.

[The Findings were mailed to all Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

D. ***Adoption of Mitigated Negative Declaration and Approval of Design, Engineering Building, Riverside Campus***

Upon review and consideration of the environmental consequences of the proposed project, the Committee on Grounds and Buildings reported its:

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

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

E. ***Adopt of Mitigated Negative Declaration, Amendment of Long Range Development Plan, and Approval of Sites for Thermal Energy Storage Tanks/Chilled Water Piping Expansion and Satellite Plant, Riverside Campus***

Upon review and consideration of the environmental consequences of the proposed action evaluated in the Initial Study, the Committee recommended:

- (1) Adoption of the Initial Study/Mitigated Negative Declaration.
- (2) Adoption of the Mitigation Monitoring Report and Findings.
- (3) Amendment of the Long Range Development Plan to change the land use designation for the Satellite Chiller Plant site from *College of Natural and Agricultural Sciences* to *Maintenance and Physical Plant* and for the Thermal Energy Storage Tanks site from *Agricultural, Teaching, and Research Fields* to *Maintenance and Physical Plant*.
- (4) Approval of the sites for the Satellite Plant and Thermal Energy Storage Tanks.

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

F. ***Adoption of Mitigated Negative Declaration and Approval of Design, Cal-IT², San Diego Campus***

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

- (1) Adoption of the Mitigated Negative Declaration.
- (2) Adoption of the Mitigation Monitoring and Reporting Program and Findings.
- (3) Approval of the design of the California Institute for Telecommunications and Information Technology (Cal-(IT)²) Facility, San Diego campus.

[The Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and Findings were mailed to all Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

G. ***Certification of Environmental Impact Report and Amendment of Long Range Development Plan, San Francisco Campus***

Upon review and consideration of the environmental consequences as evaluated in the Supplemental Environmental Impact Report, the Committee recommended:

- (1) Certification of the Mission Bay Housing Program Supplemental Environmental Impact Report.
- (2) Adoption of the California Environmental Quality Act Findings.
- (3) Adoption of the LRDP Mitigation Monitoring Program as amended.
- (4) Amendment of the LRDP for the San Francisco campus to incorporate housing as an on-site use in the revised space program, and adoption of the revised functional zones for UCSF Mission Bay as indicated in the LRDP Amendment 1.

[The Mission Bay Housing Program Supplemental Environmental Impact Report, Findings, and Mitigation Monitoring Program were mailed to all Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

Upon motion of Regent Kozberg, duly seconded, the recommendations of the Committee on Grounds and Buildings were approved. Regent Davies abstained from discussing or voting on Item G., *Certification of Environmental Impact Report and Amendment of Long Range Development Plan, San Francisco Campus*, in order to avoid the appearance of a conflict of interest.

10. **REPORT OF THE JOINT MEETING OF THE COMMITTEE ON GROUNDS AND BUILDINGS AND THE COMMITTEE ON FINANCE**

A. ***Certification of Environmental Impact Report and Approval of Long Range Development Plan, Merced Campus***

Upon review and consideration of the environmental consequences of the Long Range Development Plan, as described in the Merced Campus Long Range Development Plan Final Environmental Impact Report, the Committee on Grounds and Buildings recommended:

- (1) Certification of the Final Environmental Impact Report for the Merced campus Long Range Development Plan.
- (2) Adoption of the Mitigation Monitoring Program for the Final EIR.
- (3) Adoption of the Statement of Overriding Consideration included in the Findings.
- (4) Adoption of the Findings pursuant to the California Environmental Quality Act.
- (5) Approval of the Long Range Development Plan, Merced campus.

[The Final Environmental Impact Report, Mitigation Monitoring Program, Statement of Overriding Consideration, and Findings were mailed to all Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

B. ***Approval of Design, Site Development and Infrastructure with Central Plant Facility, Merced Campus***

Subject to adoption of the Long Range Development Plan for the Merced campus and certification of the associated Environmental Impact Report, the Committee on Grounds and Buildings recommended:

- (1) Adoption of the Statement of Overriding Considerations included in the Findings.

- (2) Adoption of the Findings pursuant to the California Environmental Quality Act.
- (3) Approval of the design of the Phase 1 Site Development and Infrastructure with Central Plant Facility, Merced campus.

[The Statement of Overriding Considerations and Findings were mailed to all Regents in advance of the meeting, and copies are on file in the Office of the Secretary.]

C. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program, Merced Garden Suites and Lakeview Dining Facilities, Merced Campus***

With the concurrence of the Committee on Finance, the Committee on Grounds and Buildings recommended that the 2001-02 Budget for Capital Improvements and the 2001-04 Capital Improvement Program be amended to include the following project:

Merced: Merced Garden Suites and Lakeview Dining Facilities – preliminary plans – \$1 million to be funded from University of California Housing System Net Revenue Reserves.

D. ***Authorization to Establish a Limited Liability Company with Virginia Smith Trust, Merced Campus***

The Committees recommended that, subject to adoption of the UC Merced Long Range Development Plan and certification of the associated Environmental Impact Report:

- (1) The Regents authorize the establishment of a nonprofit limited liability company with two Members, the Virginia Smith Trust (VST) and the University of California (University), for the planning and development of the University Community adjacent to the University of California, Merced, the Company to be called University Community Land Company, LLC (Company).
- (2) The Regents authorize the President, in consultation with the General Counsel, to execute all documents necessary to establish the Company including, without limitation, an Operating Agreement, such agreement to include the following provisions:
 - a. The Company, to be owned equally by the University and VST, shall be organized exclusively for nonprofit purposes; specifically to support, benefit, and further the charitable, scientific, and educational purposes of the Merced campus and

VST by facilitating the planning and development of the first phase of the University Community.

- b. As a capital contribution to the Company, VST shall assign to the Company all of its rights under the land acquisition agreement it presently holds covering a 1,240 acre portion of the Flying M Ranch, representing the northern portion of the University Community contiguous to the campus (LLC Land). In addition, \$1.5 million from funds provided by the David and Lucile Packard Foundation will be applied towards the \$5 million purchase price for the Flying M Ranch land.
- c. The University shall lend the Company \$3.5 million to be used for payment of the balance of the purchase price of the LLC Land. The loan will bear interest and be repaid by the Company as a priority from future excess revenues.
- d. The following actions of the Company shall require the consent of The Regents:
 - sale or other disposition of all or substantially all of the assets of the Company;
 - mortgaging all or substantially all of the assets of the Company;
 - merging the Company with another entity;
 - an alteration of the primary purpose of the Company; and
 - transferring a Member's interest in the Company to a third party.
- e. The University and VST shall each have the authority to review and approve:
 - the overall Development Plan for the LLC Land prior to the implementation of the plan (the President will consult with The Regents on the Development Plan and provide reports on changes in and implementation of those plans to The Regents at appropriate times, but at least annually);
 - any plan for the financing of infrastructure improvements for all or any material portion of the property; and
 - a material amendment to the terms of the Operating Agreement.

- f. Subject to the decisionmaking role of The Regents described in the subsection d. above, and the provision for review and approval by each party described in subsection e. above, the Company shall be governed by a five-person Management Committee composed of two individuals appointed by VST, two individuals appointed by the President of the University in consultation with the Chairman of the Board of Regents, and a fifth individual jointly selected by the University and VST. The fifth member shall serve for a three-year term. Among other matters, the majority approval of the Management Committee shall be required for the following decisions:
- hiring the President of the Company;
 - acquiring additional real property;
 - financing of assets of the Company;
 - sale or lease of Company land;
 - approving all architectural and construction contracts;
 - approving capital and operating budgets and material modifications to budgets; and
 - approving significant contracts and expenditures by the Company.
- g. The University shall undertake the day-to-day administration of the Company, as Managing Member, until such time as the Company hires a Company President and other senior executive staff.
- h. The Company shall continue until such time as the Members agree to dissolve the Company as provided in the Operating Agreement.
- i. The Company shall provide the University within 180 days of the fiscal year end audited financial statements and an annual program report that will describe past actions and future plans to be taken by the Company with respect to the planning and development of the LLC Land as part of the University Community.
- (3) A budget and development plan for the Company be submitted annually to The Regents for review and approval.

E. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program, and Approval of External Financing for Mathematical Sciences Building, Davis Campus***

- (1) With the concurrence of the Committee on Finance, the Committee on Grounds and Buildings recommended that the 2001-02 Budget for Capital Improvements and the 2001-04 Capital Improvement Program be amended to include the following project:

Davis: Mathematical Sciences Building – preliminary plans, working drawings, and construction – \$22,036,000 to be funded from external financing (\$21,936,000) and campus funds (\$100,000).

- (2) The Committee on Finance recommended that the Treasurer be authorized to obtain external financing not to exceed \$21,936,000 to finance the project listed in (1) above, subject to the following conditions:
- a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period;
 - b. Repayment of the debt shall be from the Davis campus' share of the University Opportunity Funds; and
 - c. The general credit of The Regents shall not be pledged.
- (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
- (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

F. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program, and Approval of External Financing for Natural Sciences Unit 2, Irvine Campus***

- (1) With the concurrence of the Committee on Finance, the Committee on Grounds and Buildings recommended that the 2001-02 Budget for Capital Improvements and the 2001-04 Capital Improvement Program be amended as follows:

From: Irvine: Natural Sciences Unit 2 – preliminary plans, working drawings, construction, and equipment – \$63,643,000

to be funded by State (\$59,968,000) and campus funds (\$3,675,000).

To: Irvine: Natural Sciences Unit 2 – preliminary plans, working drawings, construction, and equipment – \$75,280,000 to be funded by State (\$59,968,000), campus funds (\$4,375,000), and external financing (\$10,937,000).

- (2) The Committee on Finance recommends that the Treasurer be authorized to obtain external financing not to exceed \$10,937,000 to finance the Natural Sciences Unit 2 project, subject to the following conditions:
 - a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period;
 - b. Repayment of the debt shall be from the campus' share of the University Opportunity Fund; and
 - c. The general credit of The Regents shall not be pledged.
- (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
- (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

G. ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program, and Approval of External Financing for California Institute for Bioengineering, Biotechnology, and Quantitative Biomedical Research (QB3), San Francisco Campus***

- (1) With the concurrence of the Committee on Finance, the Committee on Grounds and Buildings recommended that the 2001-02 Budget for Capital Improvements and the 2001-04 Capital Improvement Program be amended to include the following project:

San Francisco: California Institute for Bioengineering, Biotechnology, and Quantitative Biomedical Research (QB3) at Mission Bay – preliminary plans, working drawings, construction, and equipment – \$100 million to be funded from the State through the California Institutes of Science and Innovation program (\$55 million), and external financing using the “Garamendi” funding mechanism (\$45 million).

- (2) The Committee on Finance recommended that the Treasurer be authorized to obtain financing not to exceed \$45 million to finance the California Institute for Bioengineering, Biotechnology, and Quantitative Biomedical Research (QB3) at Mission Bay project, subject to the following conditions:
 - a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period;
 - b. Repayment of the debt shall be from the campus' share of the University Opportunity Fund;
 - c. The general credit of The Regents shall not be pledged.
- (3) The Officers of The Regents be authorized to provide certification to the lender that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.
- (4) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

Upon motion of Regent Kozberg, the recommendations of the Committees on Grounds and Buildings and Finance were approved.

11. **REPORT OF THE SPECIAL COMMITTEE ON REGENTS' PROCEDURES**

Dates of Regents' Meetings for 2003

The Special Committee recommended that the following dates of Regents' meetings for 2003 be approved:

2003

January 15-16
March 19-20
May 14-15
July 16-17
September 17-18
November 19-20

Upon motion of Regents Davies, the recommendation of the Special Committee on Regents' Procedures was approved.

12. REPORT OF INTERIM ACTIONS

Secretary Trivette reported that, in accordance with authority previously delegated by The Regents, interim action was taken on routine or emergency matters as follows:

A. The Chairman of the Board, the Chair of the Committee on Grounds and Buildings, the Chair of the Committee on Finance, and the President of the University concurred in the following recommendation:

(1) ***Amendment of the Budget for Capital Improvements and the Capital Improvement Program, and Approval of External Financing for Mission Bay Building 21A Parking Garage, San Francisco Campus***

(a) That the President amend the 2001-02 Budget for Capital Improvements and the 2001-04 Capital Improvement Program to include the following project:

San Francisco: Mission Bay Building 21A Parking Garage – preliminary plans, working drawings, construction, and equipment – \$15.7 million to be fully funded from external financing.

(b) That the President approve and the Treasurer be authorized to obtain external financing not to exceed \$15.7 million to finance the project listed above, subject to the following conditions:

i. interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period;

ii. as long as the debt is outstanding, the San Francisco campus parking fees shall be established to provide excess net revenue sufficient to pay debt service and to meet the related requirements of the financing;

iii. the general credit of The Regents shall not be pledged.

(c) The Officers of The Regents be authorized to provide certification that interest paid by The Regents is excluded from gross income for purposes of federal income taxation under existing law.

(d) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

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

Proposal for the Treasurer's Office to Resume the Responsibility for the Venture Capital and Private Equity Distributions

That the Warburg Pincus contract be terminated and that the Treasurer's Office resume the responsibility for the venture capital and private equity distributions.

- C. The Chairman of the Board and the Chair of the Committee on Finance approved the following recommendation:

Request for Approval of an Exception to the Combined Loan-to-Value Limits under the Supplemental Home Loan Program

That Mortgage Origination Program and Supplemental Home Loan Program loans in a total combined amount of \$814,150 be approved for Professor John Kuriyan at a combined loan-to-value rate of 95 percent, which exceeds the standard policy of 90 percent for loans totaling more than \$687,000.

- D. The Chairman of the Board and the Chair of the Committee on Grounds and Buildings approved the following recommendation, which was inadvertently omitted from the Report of the Committee on Grounds and Buildings approved by The Regents on November 15, 2001:

Certification of Environmental Impact Report, Amendment of Long Range Development Plan, and Approval of Design, Recreation Center Expansion, Santa Barbara Campus

That, upon review and consideration of the environmental consequences of the proposed action as evaluated in the Environmental Impact Report, The Regents:

- (1) Certify the Environmental Impact Report.
- (2) Adopt the Findings, Statement of Overriding Considerations, and Mitigation Monitoring Program.
- (3) Amend the Long Range Development Plan.
- (4) Approve the design of the Recreation Center Expansion, Santa Barbara campus.

13. REPORT OF COMMUNICATIONS

Secretary Trivette presented summaries of communications received subsequent to the November 2001 meeting. The residency appeals will be referred to General Counsel Holst, and the remaining communications will be referred to President Atkinson for response as appropriate.

14. AMENDMENT OF STANDING ORDER 110.2 – MATTERS RELATING TO RESIDENCY: PROPOSAL TO ESTABLISH NEW POLICY ON TUITION EXEMPTIONS TO CONFORM TO AB 540 (CONDITIONS OF IMPLEMENTATION)

The President recommended that adoption of the proposed amendment of Standing Order 110.2 – Matters Relating to Residency (CC-2 report) be subject to the following:

Implementation of the amendment shall be deferred until the President, in consultation with the General Counsel, determines that an amendment to Section 68130.5 of the Education Code substantially similar to the following has been adopted by the Legislature and become effective:

“If a state court finds that Section 68130.5, or any similar provision adopted by The Regents of the University of California, is unlawful, the court may order as equitable relief that the administering entity that is subject to the suit terminate any waiver awarded under that statute or provision, but no money damages, tuition refund or waiver, or other retroactive relief may be awarded. In any such action in which the court finds that Section 68130.5, or any similar provision adopted by The Regents of the University of California, is unlawful, the California Community Colleges, the California State University, and the University of California shall be immune from any award of money damages, tuition refund or waiver, or other retroactive relief.”

Upon passage of such an amendment by the Legislature, the University will take necessary measures to inform potentially eligible students of the new tuition policy. In addition, this change will be terminated, and the prior language of the Standing Order will be in effect, in the event a court order requires the University to provide exemptions from nonresident tuition to U.S. citizens who are residents of other states.

Regent Lozano commented that at the last meeting of the Regents there was discussion about the potential liability that the University would be exposed to with the adoption of AB 540. She commended the President and the General Counsel for producing a proposal that will protect the University.

Regent Connerly believed that limiting the University's liability and the substance of the issue were inseparable. Approving the Legislative solution may appear to be a conspiracy to violate federal law. For that reason he indicated his intention to vote against the amendment, based on his belief that public benefits should flow from citizenship and residency. He believed that the amendment goes far beyond what is necessary to address the problem.

Regent Lee observed that the University is facing large budget cuts and that some students already at the University will be unable to graduate if student fees have to be raised. He was opposed to helping students who are in the country illegally at the expense of Californian citizens.

Regent S. Johnson invited Provost King to delineate the profile of the students who would be admitted if the proposal were adopted. Provost King stressed that only presently enrolled students had been counted and that he could not predict how many additional students might be drawn in under the measure. He explained that two classes of students would be affected. The first is students who are not U.S. citizens and who also do not have non-immigrant visas. There would be approximately 50 to 140 students in that category. The second category is students who are U.S. citizens, residents of states other than California, but who have spent three years in California high schools and have graduated. That group is estimated to be between 150 and 250. Together the groups represent 200 to 400 students. By area, the first class of students consists of 12 percent Chicano and Latino, 56 percent various Asian, and the remainder of other backgrounds. The second class of students consists of 27 percent Chicano and Latino, 66 percent various Asian, and the remainder primarily of European or Middle Eastern extraction.

Regent O. Johnson favored the proposal because she believed that undocumented students who were admissible, particularly those in the Central Valley, should not have their undocumented status held against them.

Regent Lansing noted that all the Regents wish to help those students who have been part of the school system and who for no fault of their own have been unable to obtain documentation. She believed the proposal will help those students, providing they pursue citizenship. She did not believe that the proposal was too broad, and she was comfortable also with the General Counsel's assessment of the legal liability for the University as being negligible.

Regent Bustamante stated that the children who would come under the bill live in every community and have parents who sustain the state's major agricultural and service industries. He noted that there was overwhelming bi-partisan support for AB 540 in the Legislature.

Regent Kozberg believed that the children addressed under the bill deserve every opportunity to attend the University. She was confident that the University had done everything possible to protect itself from liability.

Regent-designate Terrazas emphasized that the students represented were found to be UC eligible. The State has already invested money and time in their education. The current Standing Order has exemptions to people from out of state to pay in-state tuition if they are the children of deceased firefighters, active duty law enforcement employees, and others. He believed that these children also constitute a good exemption for purposes of out-of-state tuition.

Regent Eastin recalled that her UC education had been of great value to her. She believed that the students who would be helped to attend the University by passage of this proposal would grow up to be tax-paying Californians.

Regent-designate Ligot-Gordon stated that the proposal grants access to those who have earned it by meeting the University's high standards.

Chairman S. Johnson acknowledged that she had empathy for students who are ambitious and have accomplished so much under adverse circumstances. Despite this, she stated that she was unable to support the proposal because it did not take into account the many immigrants who have sought and gained legality. She observed that passing the proposal may have unintended consequences.

[For speaker's comments, refer to the minutes of the January 17 meeting of the Committee of the Whole.]

Upon motion duly made and seconded, the recommendation was approved, Regents Atkinson, Bagley, Bustamante, T. Davis, Eastin, Hertzberg, Hopkinson, O. Johnson, Kozberg, Lansing, Lozano, Marcus, Montoya, Moores, Pattiz, Sayles, and Seymour voting "aye"(17), and Regents Connerly, Davies, S. Johnson, Lee, and Morrison voting "no" (5).

15. **AMENDMENT OF STANDING ORDER 110.2 – MATTERS RELATING TO RESIDENCY: FEE EXEMPTIONS FOR DEPENDENTS OF DECEASED LAW ENFORCEMENT OFFICERS OR FIREFIGHTERS**

Pursuant to notice served at the November 15, 2001 meeting of The Regents of the University of California, it was moved that Standing Order 110.2 be amended as follows, effective fall term 2001:

additions shown by shading

Standing Order 110.2--Matters Relating to Residency

- (a) The residence of each student shall be determined in accordance with the rules governing residence prescribed by the provisions of Sections 68000, 68010-68012, 68014-68018, 68022-68023, 68040-68044, but excluding the words "classified as a nonresident seeking reclassification" from Paragraph 1 and substituting the words "seeking

classification” and excluding Paragraph 3 of Section 68044, 68050, 68060-68061, 68062 but excluding the words “including an unmarried minor alien” from 68062(h), 68070-68080, 68083, 68130, and 68132-68134 of the Education Code of the State of California. Each nonresident student at the University of California shall pay a nonresident tuition fee for each term of attendance at the University, except that such fee, with the approval of the President of the University, may be remitted or waived in whole or in part in the case of any student who qualifies as a graduate student with a distinguished record, a foreign student, a teaching assistant or teaching fellow, or a research assistant; or in the case of a nonresident student who is an unmarried dependent son or daughter under age twenty-one, or a spouse of a member of the University faculty who is a member of the Academic Senate. A student who is a **spouse or** child of a resident law enforcement officer or fire fighter killed on active duty shall be exempted from nonresident tuition and **mandatory systemwide** fees in accordance with Section 68120 of the Education Code of the State of California.

* * *

The motion was duly seconded and approved unanimously, 22 Regents voting.

16. **AMENDMENT OF STANDING ORDER 110.2 – MATTERS RELATING TO RESIDENCY: PROPOSAL TO ESTABLISH NEW POLICY ON TUITION EXEMPTIONS TO CONFORM TO AB 540**

Pursuant to notice served at the November 15, 2001 meeting of The Regents of the University of California, it was moved that Standing Order 110.2 be amended as follows:

additions shown by shading

Standing Order 110.2--Matters Relating to Residency

- (a) The residence of each student shall be determined in accordance with the rules governing residence prescribed by the provisions of Sections 68000, 68010-68012, 68014-68018, 68022-68023, 68040-68044, but excluding the words “classified as a nonresident seeking reclassification” from Paragraph 1 and substituting the words “seeking classification” and excluding Paragraph 3 of Section 68044, 68050, 68060-68061, 68062 but excluding the words “including an unmarried minor alien” from 68062(h), 68070-68080, 68083, 68130, and 68132-68134 of the Education Code of the State of California. Each nonresident student at the University of California shall pay a nonresident tuition fee for each term of attendance at the University,

except that such fee, with the approval of the President of the University, may be remitted or waived in whole or in part in the case of any student who qualifies as a graduate student with a distinguished record, a foreign student, a teaching assistant or teaching fellow, or a research assistant; or in the case of a nonresident student who is an unmarried dependent son or daughter under age twenty-one, or a spouse of a member of the University faculty who is a member of the Academic Senate. A student who is a child of a resident law enforcement officer or fire fighter killed on active duty shall be exempted from nonresident tuition and fees in accordance with Section 68120 of the Education Code of the State of California. A student who is the child or dependent of a deceased or disabled veteran, or who is the dependent of or the surviving spouse who has not remarried of any member of the California National Guard who was killed or permanently disabled while in active service of the state, shall not be exempted from nonresident tuition fees, but may be exempted from tuition and incidental fees in accordance with Section 32320 of the Education Code of the State of California. A student meeting the requirements of Section 68130.5 of the Education Code of the State of California shall also be exempt from paying nonresident tuition. For purposes of defining financial independence pursuant to Section 68044, a student shall be considered "financially independent" if the applicant: a) is at least 24 years of age by December 31 of the year the applicant requests residence classification; b) is a veteran of the U.S. Armed Forces; c) is a ward of the court or both parents are dead; d) has legal dependents other than a spouse; e) is married, or a graduate student or professional student, and will not be claimed as an income tax deduction by his or her parents or any other individual for the tax year immediately preceding the request for residence classification; or is a single undergraduate student, and was not claimed as an income tax deduction by his or her parents or any other individual for the two years student is considered self-sufficient if he or she had total income and other resources of at least \$4,000. The two years used to demonstrate self-sufficiency are the two years immediately preceding the request for residence classification.

The motion was duly seconded and approved, Regents Atkinson, Bagley, Bustamante, T. Davis, Eastin, Hertzberg, Hopkinson, O. Johnson, Kozberg, Lansing, Lozano, Marcus, Montoya, Moores, Pattiz, Sayles, and Seymour voting "aye" (17), and Regents Connerly, Davies, S. Johnson, Lee, and Morrison voting "no" (5).

17. **REPORT OF THE PRESIDENT**

President Atkinson reported that on the dates indicated, the following informational reports were mailed to The Regents or to Committees:

To Members of the Committee on Finance

- A. Annual Financial Report of the University of California Retirement System for the year ended June 30, 2001. November 9, 2001. (Schedule of Reports)
- B. Annual Report on University Employee Housing Assistance Programs for 2000-01. December 12, 2001. (Schedule of Reports)

To Members of the Committee on Health Services

- C. Activity and Financial Status Report on Hospitals and Clinics for the fourth quarter and the year ended June 30, 2001; and Activity and Financial Status Report on Hospitals and Clinics for the first quarter ended September 30, 2001. November 9, 2001. (Schedule of Reports)
- D. Activity and Financial Status Report on Hospitals and Clinics as of October 31, 2001. December 5, 2001.

The Regents of the University of California

- E. Report on University of California, Berkeley's Admissions Policies, Process, and Outcomes. November 8, 2001.
- F. University of California Police Department's 2000 Annual Report and Crime Statistics. November 19, 2001.
- G. UCLA Healthcare Annual Report for 2000. November 19, 2001.
- H. Fall 2001 status report on UC's Educational Outreach and K-12 Improvement Programs, "Expanding Educational Opportunity." November 20, 2001.
- I. Description of UCLA's undergraduate admissions process, "Guidelines for the Dossier Review: Personal Achievement Ranking and Assignment of Life Challenge Levels." December 3, 2001.

The meeting adjourned at 4:40 p.m. in memory of former Regent Glenn Campbell.

Attest:

Secretary

BACKGROUND

* * *

In their entirety, the Northeast Quadrant Science and Safety projects consist of the following components:

Stanley Hall Replacement Building: replacing the seismically poor Stanley Hall, SHRB would house the new Department of Bioengineering and be a cornerstone of the campus Health Sciences Initiative, directed toward improving the understanding of disease and the processes to detect and treat disease. Existing Stanley Hall was built in 1952 and is 67,570 gsf (42,520 asf). The new SHRB would be 285,000 gsf (155,000 asf).

Davis Hall North Replacement Building: A key component of the new Center for Information Technology Research in the Interest of Society (CITRIS) projects, DHNRB would replace existing Old Davis Hall, built in 1931 and 38,000 gsf (22,820 asf) with a 145,000 gsf (85,855 asf) building of laboratories, seminar space, offices, and high-tech classrooms.

Lower Hearst Parking Structure (LHPS): This project would change the use of the fourth level of the Lower Hearst Parking Structure from six tennis courts and a skateboard facility, to parking to accommodate demand. A net increase of 139 spaces is anticipated at the site.

Soda Hall II: The second phase of a two-phased Computer Science/College of Engineering project north of Hearst Avenue, this project was previously analyzed in a 1990 EIR certified by The Regents in November 1990 (State Clearinghouse No. 912542). The design parameters for Soda Hall II have not changed, and feature a 35,000 gsf/20,000 asf building.

Cory Hall, Naval Architecture Building, Davis Hall South: These buildings would be retrofitted and renovated to permit program improvements that facilitate CITRIS and other new interdisciplinary research initiatives while improving the safety of campus facilities.

Utilities and Landscaping: Utilities would be upgraded and reconnected to existing lines on Campus. Upgrades and improvements would occur in conjunction with the projects, including electrical service, street lighting, and storm drainage and sewer systems. Landscaping plans and improvements would be an integral part of all projects.

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