The Regents of the University of California

COMMITTEE ON FINANCE
November 13, 2002

The Committee on Finance met on the above date at UCSF-Laurel Heights, San Francisco.

Members present: Regents Atkinson, Connerly, Hopkinson, Lee, Ligot-Gordon, Lozano, Montoya, Moores, Preuss, and Sayles

In attendance: Regents Blum, Davies, Johnson, Marcus, Sainick, and Terrazas, Regents-designate Bodine, Murray, and Seigler, Faculty Representatives Binion and Pitts, Secretary Trivette, General Counsel Holst, Treasurer Russ, Provost King, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Drake, Gurtner, Hershman, and McTague, Chancellors Berdahl, Bishop, Carnesale, Cicerone, Córdova, Dynes, Greenwood, Tomlinson-Keasey, Vanderhoef, and Yang, and Recording Secretary Nietfeld

The meeting convened at 9:28 a.m. with Committee Chair Hopkinson presiding.

1. **READING OF NOTICE OF MEETING**

For the record, it was confirmed that notice had been given in compliance with the Bylaws and Standing Orders for a Special Meeting of the Committee on Finance, for this date and time, concurrent with the regular meeting of the Committee on Finance, for the purpose of discussing Item 509, ***Proposed Ultimate Annexation of a Portion of the Merced Campus to the City of Merced***.

2. **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of September 18, 2002 were approved.

3. **UNIVERSITY OF CALIFORNIA FINANCIAL REPORT, 2002**

The President recommended that the **University of California Financial Report for 2002** be accepted.

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

Vice President Broome reported that major new accounting and reporting standards required by the Governmental Accounting Standards Board (GASB) were implemented this year. First, the financial statements are now reported on an entity-wide basis rather than focusing on fund groups. The new entity-wide statements include a statement of net assets, a statement of revenues, expenses, and changes in net assets, and a statement of cash flows.

Capital assets are now depreciated and are reported net of accumulated depreciation. Depreciation expense is reported as an operating expense. Because State educational appropriations are required to be presented as non-operating revenue, the University will always report an operating loss. The former financial review has been replaced by management's discussion and analysis.

Vice President Broome summarized the accounting standards changes as follows:

- Capital assets are now depreciated over their economic useful lives; previously assets were capitalized but not depreciated.

- Capital assets purchased through federally sponsored awards are now capitalized and depreciated.

- Cash associated with grants and contracts that is received in advance of the expense being incurred is now recorded as deferred revenue.

- Interest expense is now recorded on an accrual basis.

- Federal funding for certain student loan programs is now recorded as a liability.

She reported that there were no changes to the accounting standards for the University of California Retirement System (UCRS).

The 2002 financial report was prepared under these new accounting and reporting standards, and the June 30, 2000 net assets were restated for the cumulative effect of the changes through that date. The most significant cumulative effect was the depreciation on capital assets resulting in a $7.7 billion reduction of net assets.

Financial Position

Vice President Broome reported that the University's total assets had grown by $1.2 billion to $28 billion as of June 30, 2002. The growth primarily relates to the capital spending program, which supports the University's expansion. Liabilities are $12.8 billion, and net assets total $15.2 billion. Ms. Broome presented a series of slides which depicted the financial position and the financial results for the University and for the UCRP, noting that investments represent 39 percent of the University's assets. The University's debt of $5,492 million relates primarily to the capital program. She reported that the University is now required to place net assets in four classifications: assets, net of related debt; restricted net assets, which is divided into the categories non-expendable and expendable; and unrestricted. She noted that the loss in the expendable asset category of approximately 11 percent is due primarily to the decrease in the underlying value of The Regents' investments. She continued that GASB requires that any amount of net assets without an externally imposed restriction be recorded as unrestricted assets. In general this money is used for capital reserves and education programs and is not available for the current operations of the University.

Vice President Broome turned to a chart which displayed revenues, expenses, and changes in net assets for June 30, 2001 and June 30, 2002. She noted that the University's revenues for the year ended June 30, 2002 totaled approximately $12.8 billion and its operating expenses totaled approximately $16 billion, resulting in a $3.3 billion loss. This loss results primarily from the fact that GASB does not permit State funding, investment income, or gifts to be recorded as operating revenue. When non-operating revenues are included, the University's income before other changes in net assets totals $42 million.

Vice President Broome directed the Committee's attention to a chart showing operating revenues and expenses, noting that the University has diverse sources of income which include student tuition and fees, contracts and grants, and the federal government through operation of the Department of Energy laboratories. She reported that revenue from contracts and grants had grown by 11 percent in this fiscal year. With respect to operating expenses, she recalled that the University is now required to report by natural classifications rather than function. Salaries and benefits comprise nearly half of these expenses. She displayed the non-operating activities and other changes in net assets which the University is now mandated to list separately from operating revenue. She noted that private gifts in total had declined as a result of underlying economic conditions, as had investment income.

Ms. Broome briefly reviewed the financial position for the University of California Retirement System, which GASB requires be included in the University's financial report. The net assets, which consist primarily of investments, are earmarked for the employees' defined benefit plan and also for the defined contribution plan. There was a decrease in net assets as a result of the depreciation of the fair value of the investments.

Vice President Broome reported an additional change that will be mandated by GASB Statement No. 39. The University will be required to report the statement of net assets, statement of revenue, expenses, and change in net assets, and statement of cash flows for the ten campus foundations, effective for fiscal year 2004. She noted that this requirement will present a challenge because the information is not available at the time when the University issues its financial statement. The administration is developing a plan for this project.

Regent Marcus asked about the value of the University's land. Vice President Broome explained that the University values its land by acquisition cost. She offered to provide Regent Marcus with the amount of this capital asset. She agreed with Regent Marcus' assessment that the University is understating the value of its land. Regent Blum agreed that it would be useful to have an understanding of the value of the University's land and buildings. Ms. Broome noted that the University has its land appraised on an annual basis for property insurance purposes.

In response to a question from Regent Blum, President Atkinson recalled that the campus foundations used to operate quite independently. More recently, The Regents has established guidelines and procedures for their governance such that all expenditures go through the University's accounting system. He believed that the requirements of GASB Statement No. 39 represented an important step forward.

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

4. **UNIVERSITY OF CALIFORNIA RETIREMENT PLAN - ANNUAL ACTUARIAL VALUATION**

It was recalled that each year, in accordance with actuarial reporting requirements of the Internal Revenue Code (IRC) and the University of California Retirement Plan (UCRP or Plan), the Plan's Consulting Actuary, currently Towers Perrin, performs an actuarial valuation of UCRP. The valuation indicates that UCRP remains more than fully funded and requires no employee or employer contributions at this time. Based on the results of the annual actuarial valuation, the Plan's Consulting Actuary is not recommending any change in the Plan's assumptions at this time.

In accordance with statutory disclosure requirements applicable to tax-qualified defined benefit pension plans, Towers Perrin performed a comprehensive actuarial valuation for UCRP as of July 1, 2002. The report is applicable to the 2002-03 Plan year. The Consulting Actuary's statement shows the value of UCRP assets is sufficient to maintain a 0 percent payroll employer contribution rate. This recommendation is in line with the full funding limitation described in IRC §412(c)(7)(A), as adopted by The Regents in 1990 based on amendments to IRC §412 through that date. Under Regental policy, the University will suspend contributions when the smaller of the market value or the actuarial value of Plan assets exceeds the lesser of the actuarial accrued liability plus normal cost or 150 percent of the current liability plus normal cost.

At the fiscal year end on June 30, 2002, the market value of assets of UCRP, after subtracting benefit claims currently payable and other current payables of the Plan, was $34,441,805,000 as compared to $38,869,900,000 as of the beginning of the Plan's fiscal year. During the 2001-02 fiscal year, the Plan experienced a negative 9 percent return on the market value of Plan assets. However, on a cash flow basis, dividend and interest income of $1.1 billion exceeded benefit and expense payments of $0.97 billion. The decrease in surplus from the prior year reflects lower-than-expected investment performance during the 2001-02 Plan year.

The Committee was informed that in a defined benefit pension plan, the employer promises employees certain benefits payable in the future. The cost of these benefits is generally funded incrementally over the career of employees as part of their total compensation package. This process involves the use of an actuarial cost method which assigns the value of promised benefits and anticipated expenses to individual plan years, as an annual cost. The Employee Retirement Income Security Act (ERISA) §3(31) specifically grants approval for six actuarial cost methods. One of these, the entry age normal cost method, has been used for the Plan for over 25 years. It is the actuarial method used by 70 percent of public sector plans. The entry age method is considered a conservative actuarial cost method. Using this method of analysis, costs are distributed over the entire length of an employee's service beginning at the age of service entry and ending with the anticipated age at separation from service.

The "normal cost" of the Plan, as defined under ERISA §3(28), is the annual percent of payroll that must be accrued over the total career of each employee to fully provide for future UCRP benefits, measured as of the valuation date. Under the entry age normal method, as a percentage of covered payroll, the UCRP normal cost for the 2002-03 Plan year is 15.15 percent, or $1,095 million, up from 14.91 percent in the previous year. The increase is due primarily to a combination of the adoption of the relative equity provisions and an increase in the average entry age of active members since the prior year.

The actuarial assumptions, which presume that the Plan will continue indefinitely, are provided to The Regents annually. The Actuary is not recommending any changes to these assumptions at this time.

Supplemental Information

UC-PERS Early Retirement Plan (UC-PERS Plan)

In October 1990 The Regents approved an early retirement incentive program for University employees who were covered under the California Public Employees' Retirement System (PERS) pension plan. The most tax-effective method to provide this group with a benefit generally comparable to the incentive that was being offered at that time to UCRP Members was to establish a "frozen" defined benefit plan under IRC §401(a). The UC-PERS Plus 5 Plan required campus and laboratory locations to fund their individual liabilities over no longer than five years. This Plan is a standard terminal funding arrangement under a wasting trust, which, in this instance, is obligated to make fixed lifetime payments under either a single-or joint-survivor benefit structure. The assets must remain in the Trust until all benefit promises have been satisfied. The assets are commingled with UCRP assets for purposes of investment only, thereby providing maximum investment return without the loads, fees, or industry risk attached to an insurance contract.

In Revenue Ruling 89-87, the Internal Revenue Service clarified that a wasting trust is subject to the standard pension qualification, funding, and reporting requirements, inclusive of an actuarial review under IRC §6059. As such, the Plan's Consulting Actuary reviews the Trust's fiscal position and funding status annually to assure that the UC-PERS Plus 5 Plan is adequately funded. As of July 1, 2002, the net assets of the wasting trust were $72.8 million and the actuarial liability was $50.5 million. The decrease in the surplus from the prior year reflects lower-than-expected investment performance during the 2001-02 Plan year and the payment of a one-time ad hoc cost-of-living adjustment to restore purchasing power.

(For speaker's comments, see the minutes of the November 12, 2002 Committee of the Whole.)

5. **AMENDMENT OF THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN-CAPITAL ACCUMULATION PROVISION ACCRUAL CREDIT**

The President recommended that the University of California Retirement Plan be amended as set forth in the Attachment to provide a Capital Accumulation Provision Accrual Credit on April 1, 2003 as follows:

> An amount equal to 5 percent of eligible Covered Compensation earned and paid for the period beginning April 1, 2002 through March 31, 2003, for UCRP Active Members on April 1, 2003, including UCRP Active Members paid by the three National Laboratories, subject to Department of Energy approval, at an interest rate based on the assumed earnings rate of the Plan in effect from time to time. Currently, the assumed earnings rate of the Plan is 7.5 percent.

It was recalled that Governor Davis had signed the 2002-03 California State budget on September 5. The spending plan adopted by the Legislature authorizes the Governor to make up to $750 million in further reductions to State operations; the budgets of individual State agencies may be cut up to 5 percent in order to achieve this level of savings. The Governor has until January 2003 to make these spending reductions, and further budget cuts could be implemented during the middle of the fiscal year. The budget provides the University of California with a $3.2 billion State-funded operating budget in 2002-2003, which is 3 percent less than in 2001-02. The budget provides for an average salary increase of about 1.5 percent for eligible UC faculty and staff, subject to applicable collective bargaining requirements. As a result, UC faculty salaries lag those of faculty at the comparison institutions by 7.5 percent in the current year. Due to the lack of salary funding in the early 1990s and in the last two years, staff salaries are behind where they otherwise would have been by a similar amount. In addition, with major budget deficits projected for the years ahead, the State has asked its agencies to prepare plans for accommodating a possible budget cut of up to 20 percent in 2003-04. Capital gains and stock option revenues have dropped drastically and are projected to represent a $20 billion loss over the fiscal years 2002-03 and 2003-04.

The University must find ways to do more with less as it continues to grow and expand during this difficult budgetary period. As was discussed in September, the University estimates that the student population will increase by about 60,000 students by 2010. To accommodate this growth, an estimated 7,000 new and replacement faculty members will need to be hired by 2010. In its quest to maintain quality and vitality, the University must attract and retain outstanding faculty and staff. Salaries and benefits are key factors in achieving this goal. One approach The Regents could take to aid the retention of exceptional faculty and staff would be to approve a Capital Accumulation Provision (CAP) Accrual Credit this year.

During fiscal year 2001-02, the final State budget resulted in less funding than UC and the Governor originally proposed for faculty and staff compensation increases. At its November 2001 meeting, The Regents approved a CAP Accrual Credit equal to 3 percent of eligible covered compensation on April 1, 2002. Interest is accrued on this CAP Accrual Credit at a rate of 7.5 percent annually, which is the interest rate currently used to value University of California Retirement Plan liabilities annually.

It was recalled that CAP Accrual Credits had also been provided in the early 1990s, a prior period of severe pressure on the State's budget. The first such action was taken effective April 1, 1992, as a supplemental benefit to UCRP Members. Subsequently, similar credits were made in 1992, 1993, and 1994. The CAP Accrual Credit was based on covered compensation earned and paid during certain specified time periods. Interest is accrued on such credits at a rate of 8.5 percent annually, which was the interest rate used to value liabilities in the years that these prior CAP Accrual Credits were adopted.

Based on the current budget situation, the administration is recommending that a CAP Accrual Credit be calculated as 5 percent of eligible covered compensation earned and paid for the period beginning April 1, 2002 through March 31, 2003. Retroactive adjustments for this period processed after March 31, 2003 would be excluded. To be eligible for a CAP Accrual Credit, UCRP Members would need to be Active Members on April 1, 2003. This would include UCRP Members on sabbatical or approved leave of absence. Disabled, Retired, and Inactive Members would be excluded.

The CAP Accrual Credit would earn interest at a rate based on the assumed earnings rate of the Plan in effect from time to time. Currently, the assumed earnings rate of the Plan is 7.5 percent. For purposes of the CAP Accrual Credit, any change to the assumed earnings rate of the Plan used to calculate interest would be effective on the January 1 after The Regents adopt such a change.

The estimated increase in the actuarial accrued liability associated with a 5 percent CAP Accrual Credit is $322 million based on estimated UCRP covered payroll of $6.44 billion for the period beginning April 1, 2002 through March 31, 2003. A 5 percent CAP Accrual Credit is 0.9 percent of the July 1, 2002 market value of assets. As of July 1, 2001, the funded status of UCRP based on the actuarial value of assets and the actuarial accrued liability was 148 percent, and as of July 1, 2002, the funded status was 138 percent. There would be no increase in the Normal Cost for a CAP Accrual Credit earning interest at the assumed earnings rate of the Plan. Using the projected funded status in 2006 from the recent Asset/Liability Study, and adjusting for asset losses through January 1, 2002, the funded status is estimated to decrease to 128 percent by 2006. Towers Perrin has advised that the effect of the approval of a 5 percent CAP Accrual Credit on this funded status of 128 percent in 2006 is minimal.

Application of the proposed amendment to employees represented by a union is subject to notice, consultation, and/or meeting and conferring as appropriate under the Higher Education Employer-Employee Relations Act.

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

6. **AUTHORIZATION OF LEASES AND AGREEMENTS FOR SEISMIC CORRECTIONS AT DAVIS CAMPUS TEACHING HOSPITAL FACILITIES, DAVIS CAMPUS**

The President recommended that, subject to its inclusion in the amended Capital Improvements Budget and subject to adoption by the State Public Works Board (SPWB) 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 project: Davis campus: UCDMC Surgery and Emergency Services Pavilion:

A. The President or the Secretary be authorized to:

(1) Execute an unsubordinated site lease from The Regents to the State Public Works Board for the project named above, said leases to contain provisions substantially as follows:

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

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

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

d. The rental shall be $1 per year;

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

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

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

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

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

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

a. The SPWB agrees to finance construction of the project, as authorized by statute; and

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

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

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

b. The SPWB shall lease the financed facility, including the site, to The Regents pursuant to a facility lease;

c. The terms of the facility lease shall commence on recordation of the lease or the first day of the month following the meeting of the

SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full;

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

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

f. The Regents 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;

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

h. During occupancy, The Regents shall maintain public liability and property damage insurance, or an equivalent program of self insurance, on the facility and shall maintain rental interruption or use and occupancy insurance, or an equivalent program of self insurance, against perils covered in (3)g. above;

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

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

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

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

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

(2) The President be authorized to identify assets to be leased in lieu of facilities constructed pursuant to a. and c. above, and the President or the Secretary be authorized to execute documents necessary to lease such assets.

The Committee was informed that the President's recommendation will permit the construction or renovation of facilities at the University of California Medical Center at the Davis campus to comply with the Hospital Facilities Seismic Safety Act (SB 1953, Chapter 740, Statutes of 1994). This act mandates that the owners of all acute care hospitals in California perform a seismic evaluation of their facilities. This evaluation, to be conducted in accordance with procedures developed by the Office of Statewide Health Planning and Development (OSHPD), is intended to determine the probable performance during a seismic disaster of each hospital building used for inpatient care. Following this evaluation, a Structural Performance Category rating must be assigned to each hospital facility according to the performance criteria established by OSHPD. Any general acute care hospital facility determined to be at potential risk of collapse or to pose significant loss of life, and consequently assigned an SPC1 rating, must be taken out of service by January 1, 2008 or used only for non-acute care hospital purposes.

Senate Bill 11667 authorizes the State Public Works Board to issue up to $600 million in State Lease Revenue Bonds for seismic corrections to assist the University's five medical centers in meeting the 2008 requirements of SB1953. The medical centers have developed plans to comply with SB 1953, and at the November 2000 Regents meeting the relevant allocation of the $600 million in State Lease Revenue Bonds was approved.

Under the facility lease, The Regents agrees to pay rent to the SPWB in an amount necessary to repay principal and interest on the obligations of the SPWB issued to permanently finance the construction of the facility. Negotiations between the University and the Department of Finance will determine the repayment arrangements on the debt service. The options for repayment are State general fund appropriation and hospital revenues or a combination of both, depending on the hospital's financial situation from year to year. While the Legislature and the Governor have indicated their recognition of the need for continuing budgetary support, there can be no absolute assurance of this support through the life of the bonds. In any year in which the State fails to appropriate sufficient funds to make the rental payments, The Regents would be obligated to pay rent from any lawfully available funds. When the obligations are retired, the leases would terminate, and The Regents would obtain clear title to the improvements.

The exact amount of the annual rent would be based on interest rates and the maturity date of the financial instruments as established by the State Treasurer; however, assuming that the total amount to be financed is $102,600,000 and assuming an interest rate of 6.125 percent, it is estimated that the annual rent would be $7,554,000 during the period of indebtedness if 30-year bonds are sold, not including the additional rent for related financing costs and SPWB administrative expenses.

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

7. **AFFILIATION AGREEMENT BETWEEN THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ON BEHALF OF THE BERKELEY CAMPUS AND THE TRUSTEES OF COLUMBIA UNIVERSITY OF THE CITY OF NEW YORK FOR THE OPERATION OF A JOINT EXECUTIVE M.B.A PROGRAM**

The President recommended that the Secretary be authorized to execute an affiliation agreement between The Regents of the University of California and the Trustees of Columbia University of the City of New York for the operation of a joint executive M.B.A program, effective January 1, 2002.

The Haas School of Business at the Berkeley campus has proposed the establishment of an Executive M.B.A program run jointly with Columbia University Business School. The program is similar to the accredited full-time and part-time M.B.A degree programs offered independently by Berkeley and Columbia. The target students are corporate-sponsored executives with at least five years of managerial experience and ten to fifteen years of work experience. The degree program consists of a total of 21 courses, including required courses and electives, as well as a team project course and an international field study, for a total of 720 hours of instruction over 19 months. As instruction will be shared between the two universities and meets the total course requirements from both Berkeley and Columbia, two separate degrees will be awarded, one from each school.

The proposed agreement has been approved by Columbia University, the administration of the Berkeley campus, and the Office of the General Counsel. It contains provisions related to financial arrangements, academic obligations, standards for ongoing program review, intellectual property rights, insurance and indemnification coverage, notices, and standards for termination. The agreement also incorporates by reference the May 2001 Berkeley Columbia Executive M.B.A Program Proposal. In addition, the agreement specifies that revenue, direct costs, and net profits will be shared equally, and guidelines for calculating costs are included. The agreement is retroactive to January 1, 2002 because both schools incurred advertising expenses prior to the start of the program on June 1, 2002.

The academic degree program has been reviewed and approved by the Chancellor of the Berkeley campus, in consultation with the Berkeley Division of the Academic Senate, by the Office of the President, and by the Coordinating Committee on Graduate Affairs (CCGA) of the Universitywide Academic Senate. The Chair of the Academic Council has determined that CCGA approval constitutes sufficient review by the Senate.

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

8. **AMENDMENT OF STANDING ORDER 110.2–MATTERS RELATING TO RESIDENCY: PROPOSAL TO ESTABLISH NEW POLICY ON TUITION AND FEE EXEMPTIONS TO CONFORM TO CHAPTERED LEGISLATION**

The President recommended that:

(1) Service of notice be waived.

(2) Standing Order 110.2–Matters Relating to Residency be amended as shown below, effective on the effective date of the legislation applicable to each modification.

Additions shown by underlining; deletions shown by strikeout

Standing Order 110.2-Matter 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~~ mandatory systemwide 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. A student meeting the requirements of Sections 66025.3 and 68120.5 of the Education Code of the State of California shall be exempt from paying mandatory systemwide fees and nonresident tuition. For purposes of defining financial independence pursuant to Section 68044, a student shall be considered "financially independent" if the applicant: a) is at least 24 years of age by December 31 of the year the applicant requests residence classification; b) is a veteran of the U.S. Armed Forces; c) is a ward of the court or both parents are dead; d) has legal dependents other than a spouse; 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 immediately preceding the request for residence classification, and demonstrates self-sufficiency for two years. The student is considered self-sufficient if he or she had total income and other resources of at least $4,000. The two years used to demonstrate self-sufficiency are the two years immediately preceding the request for residence classification. Nonresident tuition fees shall be payable at the time of registration.

Secretary Trivette reported that for clarification the effective date language had been modified from the original effective date of January 2003.

The Committee was informed that the State laws pertaining to residence discussed below apply to the California State University and the California Community Colleges. The provisions do not apply to the University of California unless adopted by The Regents; however, it has been The Regents' position to maintain policies for charging nonresident tuition and provide exemptions that are consistent with State policies that apply to the California Community Colleges and the California State University. In accord with this policy, The Regents have implemented tuition exemptions for specific groups of students. These include a student who is a child of a resident law enforcement office or fire fighter killed on active duty; a member of the military on active duty in California, or his or her dependent; a Native American graduate of a California school operated by the Federal

Bureau of Indian Affairs; and an amateur athlete in training at the Olympic training facility in Chula Vista.

Assembly Bill 1346 (Runner, Chapter 571, Statutes of 2000) amends Sections 68074 and 68075 of the Education Code regarding tuition benefits for a member of the military or someone who is a dependent of a member of the military. Previously, these sections granted residence benefits to members of the military stationed in California on active duty and to their spouses and dependent children only for the minimum time necessary, or one year, for the student to become a resident of California. AB1346 extends indefinitely the residence benefits for tuition purposes for undergraduate students, but limits to one year the length of time that a nonresident graduate student who is a member of the military stationed in California or who is a dependent of a member of the military may be classified as a resident for tuition purposes. With this change, an eligible graduate student must either establish residence in California or pay nonresident tuition after the first year of enrollment.

Assembly Bill 1746 (Liu, Chapter 450, Statutes of 2002) adds Section 68120.5 to the California Education Code. The new section, which becomes effective January 1, 2003, exempts the surviving dependent of any individual killed in the September 11, 2001 terrorist attacks on the World Trade Center, the Pentagon building, or the crash of United Airlines Flight 93 from paying mandatory systemwide fees or tuition under the following conditions: (1) either the survivor or the individual killed was a resident of California on September 11, 2001; (2) the student is enrolled in an undergraduate program; and (3) the student meets the financial need requirements for the Cal Grant A program. The California Victim Compensation and Government Claims Board is responsible for identifying individuals who are eligible for the exemption.

Assembly Bill 1965 (Bogh, Chapter 202, Statutes of 2002) renumbers Section 32320 of the Education Code and adds Section 66025.3 to the renumbered Section. The new section, which becomes effective January 1, 2003, exempts an undergraduate student who is a recipient of a Medal of Honor (commonly known as a Congressional Medal of Honor) or who is the child of such a recipient, if the child is no more than 27 years old, from paying mandatory systemwide fees and nonresident tuition under the following conditions: (1) the student's annual income, including the value of any support received from a parent, does not exceed the national poverty level; and (2) the recipient of the Medal of Honor is a California resident or was at the time of his or her death. The Department of Veterans Affairs is responsible for determining eligibility for the exemption, consistent with similar tuition and fee exemptions.

The University anticipates little or no financial impact to implement AB1346. The new law extends indefinitely the residence benefits for tuition purposes for eligible undergraduate students but limits to one year the length of time that a nonresident graduate student who is a member of the military stationed in California or who is a dependent of a member of the military may be classified as a resident for tuition purposes. A recent survey showed that nearly all undergraduate and graduate students who received the one-year exemption under the State's previous provisions were able to establish California residence within the one-year timeframe, and there is little reason to expect they would be unable to do so in the future. There could be a cost to graduate students if they are unable to establish California residence during the year in which they receive the exemption. In those cases, students would be required to pay the nonresident tuition fee in subsequent terms until California residence is established.

The number of students who might enroll at UC and who would be eligible for a tuition and fee exemption under the provisions of AB1746 and AB1965 is estimated to be very small. Currently, one eligible student has been identified as a potential recipient of the exemption of mandatory systemwide fees and the nonresident tuition fee. Eligible students will continue to be responsible for compulsory campus-based fees.

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

9. **REMARKS CONCERNING PROPOSITION 47**

Senior Vice President Darling noted his pleasure in reporting the passage of Proposition 47, which will be of tremendous value to education in California. Despite concerns about the economy, a majority of Californians who voted in the election supported the bond measure. Proposition 47 received a majority vote in each county where a University of California campus is located. The **Los Angeles Times** reported that all population groups supported the measure. It was endorsed by 55 newspapers, with only three not supporting the proposition. He acknowledged the positive contribution of the Board's endorsement of Proposition 47 as well as the contributions of several individual Regents. Mr. Darling noted that a second bond measure for education will be before the voters in fifteen months. The University's stake will be in excess of $600 million. He stressed the challenge that passage of this measure represents, given the State's financial situation and given the short time period before the voters go back to the polls.

Committee Chair Hopkinson expressed appreciation to Senior Vice President Darling for his work on behalf of the University for the passage of Proposition 47.

10. **PROPOSED ULTIMATE ANNEXATION OF A PORTION OF THE MERCED CAMPUS TO THE CITY OF MERCED**

Committee Chair Hopkinson explained that this item had been withdrawn pending further clarification and information.

(For speaker's comments, see the minutes of the November 13, 2002 Committee of the Whole.)

11. **REPORT OF NEW LITIGATION**

General Counsel Holst presented his **Report of New Litigation**, which by this reference is made a part of the official record of the meeting.

The meeting adjourned at 10:05 a.m.

Attest:

Secretary