

The Regents of the University of California

COMMITTEE ON FINANCE

May 16, 2002

The Committee on Finance met on the above date at Covell Commons, Los Angeles campus.

Members present: Regents Atkinson, Hopkinson, Kozberg, Montoya, Moores, Morrison, Parsky, and Preuss; Advisory member Ligot-Gordon

In attendance: Regents Blum, Davies, T. Davis, Johnson, Lansing, Lozano, Marcus, Saban, Sayles, and Seymour, Regent-designate Terrazas, Faculty Representatives Binion and Viswanathan, Secretary Trivette, General Counsel Holst, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Gomes, and Hershman, Chancellors Berdahl, Bishop, Carnesale, Cicerone, Dynes, Greenwood, Tomlinson-Keasey, and Yang, Acting Chancellor Warren, and Recording Secretary Bryan

The meeting convened at 12:03 p.m. with Committee Chair Preuss presiding.

1. **AMENDMENT OF THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN – TO PROVIDE RELATIVE EQUITY OF RETIREMENT BENEFITS FOR UNIVERSITY OF CALIFORNIA RETIREMENT PLAN MEMBERS WITH SAME-SEX DOMESTIC PARTNERS**

The President recommended that:

- A. The University of California Retirement Plan (UCRP or Plan) be amended to provide preretirement survivor income, the death while eligible to retire benefit, and postretirement survivor continuance to eligible same-sex domestic partners of UCRP members, effective July 1, 2002.
- B. Implementation of these provisions be delegated to the President.

It was recalled that at the January 2002 meeting of the Committee, a proposal to provide relative equity of retirement benefits to UCRP members regardless of marital status was explored. At the request of the Regents, three items are being submitted for consideration and action.

One of the objectives of these proposed amendments is to parallel, to the extent possible, current UCRP provisions that provide survivor benefits to surviving spouses and eligible survivors. Under certain circumstances, eligible survivors (eligible spouses, eligible children, and eligible dependent parents) of active or disabled members are entitled to receive income continuation benefits (preretirement survivor income) if the member dies before retirement with at least two years of service credit. Under certain circumstances, surviving spouses of active, disabled, or inactive

members are entitled to receive income continuation benefits if the member dies while eligible to retire. If the member dies after electing UCRP retirement income, UCRP provides postretirement survivor continuance (that portion of the basic retirement income payable as a monthly benefit upon the death of a retired member) to a surviving spouse (who was married to the member for one year before retirement and continuously until death), eligible children, or eligible dependent parents. Members without a surviving spouse or eligible survivors are not entitled to these benefits. In addition to the postretirement survivor continuance payment described above, the Plan currently provides various payment options under which the member may elect to reduce basic retirement income and provide for a full or partial continuance benefit to a contingent annuitant. The reduction in basic retirement income is based on the age of the member and the contingent annuitant.

Under this proposed amendment, eligible same-sex domestic partners of UCRP members and their eligible children would qualify for UCRP benefits on the same basis that such benefits are currently provided to surviving spouses, eligible spouses, and their eligible children. This would include preretirement survivor income, the death while eligible to retire benefit, and the postretirement survivor continuance. Consistent with current Plan provisions for an eligible spouse, a domestic partner would be required to have established a relationship with the UCRP member one full year before the member's date of death to be a surviving domestic partner or eligible domestic partner for UCRP purposes. Consistent with current Plan provisions for payment of postretirement survivor continuance to a spouse, a domestic partner would be required to have established a relationship with the member for one year before retirement and continuously until the member's death. To be considered an eligible child under the Plan, a child of the domestic partner would be required to meet the same requirements as an eligible child of the member. Currently, an eligible child of the member must have been receiving significant support from the member for the one year preceding the member's date of death, disability date, or retirement date and be under the age of 18, or under the age of 22 if attending an educational institution on a full-time basis, or disabled while qualified as an eligible child for as long as the disability continues. In addition, to be considered an eligible child under the Plan, a child of the domestic partner would be required to have been residing with or in the care of the member immediately before the member's date of death, disability date, or retirement date. This is consistent with the requirements for a stepchild of a member.

These UCRP provisions would be effective July 1, 2002 for eligible active, disabled, and inactive UCRP members. These provisions would not apply to UCRP retired members with retirement dates of June 30, 2002 or earlier. The amendment has the support of the Academic Senate. It is recommended that implementation of these provisions be delegated to the President. 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.

Based on a weighted average, the Plan's consulting actuary, Towers Perrin, estimated that approximately 83 percent of current UCRP members, both those not yet eligible to retire and those eligible to retire, were already eligible for survivor income benefits. Based on this estimation and on an analysis of statistics obtained from the 2000 U.S. Census regarding unmarried-partner households, the Plan's consulting actuary estimated that an additional 2 percent of the UCRP membership would become eligible for survivor income benefits if same-sex domestic partner benefits were approved. The estimated increase in the actuarial accrued liability associated with the change would be \$34.9 million. Normal cost would increase by an estimated \$1.9 million, or 0.03 percentage points.

The discussion of this item and the Committee's vote on it appear with Item 2 below.

[For speakers' comments, refer to the minutes of the May 16 meeting of the Committee of the Whole.]

2. **AMENDMENT OF THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN – TO PROVIDE RELATIVE EQUITY OF RETIREMENT BENEFITS FOR UNIVERSITY OF CALIFORNIA RETIREMENT PLAN MEMBERS WITH OPPOSITE-SEX DOMESTIC PARTNERS**

The President recommended that:

- A. The University of California Retirement Plan (UCRP or Plan) be amended to provide preretirement survivor income, the death while eligible to retire benefit, and postretirement survivor continuance to eligible opposite-sex domestic partners of UCRP members, effective July 1, 2002.
- B. The definition of opposite-sex domestic partner for purposes of UCRP be defined as determined by The Regents to be either:
 - (1) All opposite-sex domestic partners, or;
 - (2) Only opposite-sex domestic partners as currently defined by the State of California under Family Code Section 297, i.e., one partner must be 62 years of age or older and eligible for Social Security benefits, who otherwise meet UCRP's eligibility requirements.
- C. Implementation of these provisions be delegated to the President.

It was recalled that an objective of the proposed amendment was to parallel, to the extent possible, current UCRP provisions, as described in Item 1 above, that provide survivor benefits to surviving spouses and eligible survivors.

Under this amendment, eligible opposite-sex domestic partners of UCRP members and their eligible children would be eligible for UCRP benefits on the same basis that such

benefits are currently provided to surviving spouses, eligible spouses, and their eligible children, also as described in Item 1 above.

Opposite-sex domestic partners for purposes of UCRP could be defined to include all opposite-sex domestic partners or to include only opposite-sex domestic partners as defined by the State of California under Family Code Section 297, that is, one partner must be 62 years of age or older and eligible for Social Security benefits. Under either definition, the opposite-sex domestic partner would need otherwise to meet UCRP's eligibility requirements, such as the one-year relationship that is consistent with that for spousal eligibility for preretirement survivor income and postretirement survivor continuance.

These UCRP provisions would be effective July 1, 2002 for eligible active, disabled, and inactive UCRP members. The provisions would not apply to UCRP retired members with retirement dates of June 30, 2002 or earlier. The Academic Senate supports extension of these benefits to all opposite-sex domestic partners. It is recommended that implementation be delegated to the President. Application of this 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.

Based on a weighted average, the Plan's consulting actuary, Towers Perrin, estimated that approximately 83 percent of current UCRP Members, both those not yet eligible to retire and those eligible to retire, were eligible for survivor income benefits. Based on this estimation and on an analysis of statistics obtained from the 2000 U.S. Census regarding unmarried-partner households, Towers Perrin estimated that an additional 6 percent of the UCRP membership would become eligible for survivor income benefits if opposite-sex domestic partner benefits were approved for all opposite-sex domestic partners. Under this definition, the estimated increase in the actuarial accrued liability associated with the change would be \$104.6 million. Normal cost would increase by an estimated \$5.4 million, or .08 percentage points.

If opposite-sex domestic partner benefits were approved for opposite-sex domestic partners as defined by the State of California under Family Code Section 297, the Plan's consulting actuary assumed that the costs would be a percentage of the costs for benefits for all opposite-sex domestic partners. These assumptions were based on estimates of the member's age at retirement, on the probability of death occurring in certain age ranges, and on the probability that one or both partners would be eligible for Social Security benefits in various age ranges. Under this definition, the estimated increase in the actuarial accrued liability associated with the change would be \$68.4 million. Normal cost would increase by an estimated \$3 million, or .05 percentage points.

The Impact On Health Care Benefits

In addition to the proposed amendment to UCRP, information is provided below regarding the estimated annual cost of UC-sponsored health care if such benefits were extended at some time in the future to opposite-sex domestic partners.

In November 1997, The Regents authorized President Atkinson to extend UC-sponsored medical, dental, and vision benefits to UC employees' and retirees' same-sex domestic partners, same-sex domestic partners' children and grandchildren, and limited categories of adult dependent relatives. Other welfare benefits (dependent life, accidental death and dismemberment (AD&D), and legal) were extended to these individuals on January 1, 2001. The University has received numerous requests from various UC constituents to extend UC-sponsored health and welfare benefits to opposite-sex domestic partners.

The University cannot precisely predict the number of individuals who would elect these benefits. However, based on the experience of other institutions and businesses and enrollment ranges described in industry publications, the estimated annual cost of providing UC-sponsored medical, dental, and vision benefits to opposite-sex domestic partners would range from \$12 million to \$28.1 million. The estimated annual cost for providing coverage to the eligible children and grandchildren of opposite-sex domestic partners ranges from \$4.7 million to \$11.1 million. The total annual UC cost is therefore estimated to range from \$16.7 million to \$39.2 million. This increased cost would be an immediate cash flow issue to the locations, as these benefits are paid from current operating funds.

The University could choose to parallel the coverage currently offered by the State to opposite-sex domestic partners who register under the State Registry, which is much more limited in scope. This coverage is extended to opposite-sex domestic partners where one partner is at least age 62 and eligible for Social Security benefits. Children of domestic partners are not covered by the State at this time. The estimated annual cost for this alternative would range from \$3.26 million to \$6.52 million.

At the time health benefits were extended to same-sex domestic partners, they were also extended to tax-dependent adult dependent relatives as an alternative to coverage for opposite-sex domestic partners. If the University were to add opposite-sex domestic partners, it is recommended that the adult dependent relative category be eliminated from coverage in the future. Those currently covered would be grandfathered for as long as they are eligible. Estimated annual savings for this action would be \$1.9 million.

There would be no cost to the University for extension of the dependent life, AD&D, and legal programs to opposite-sex domestic partners, as they are employee-paid plans.

Generally, the same fund source covers an employee's salary and benefit costs. The State General Fund budget pays the employer's share of benefit costs for State-supported UC faculty and staff. UC Medical Center revenue pays the

employer's share of benefit costs for medical center employees. Benefit costs for employees supported by other sources, such as contracts and grants, are paid by those sources. Support for funding the cost for retiree health benefits comes from a payroll tax charged against all fund sources. Such costs are included in the estimated range of expenses noted above.

Following a brief presentation by Associate Vice President Boyette, Item 1, *Amendment of the University of California Retirement Plan – To Provide Relative Equity of Retirement Benefits for University of California Retirement Plan Members with Same-Sex Domestic Partners*, and Item 2, *Amendment of the University of California Retirement Plan – To Provide Relative Equity of Retirement Benefits for University of California Retirement Plan Members with Opposite-Sex Domestic Partners*, were discussed together.

Regent Hopkinson moved that Item 2 be considered before Item 1. The motion was duly seconded and approved.

Chairman Preuss believed that it was problematic to expand the group of people who are permitted to receive benefits from a pool belonging to existing beneficiaries. He recalled that The Regents had taken the position that benefits given to spouses should be expanded to domestic partners, a stance that he considered appropriate. He commented, however, that adding opposite-sex partners, which include a group with the option to marry, was inappropriate.

Regent Hopkinson believed that the recommendations contained in Items 1 and 2 would create equity among employees, which she viewed as the right thing to do.

Regent Parsky had concerns related to the issue of equity. He commented that in a previous discussion he had challenged the rationale for discriminating against opposite-sex partners in the context of health care benefits, following which discussion The Regents made a decision that was weighted heavily on the issue of cost. In the context of retirement benefits, however, he believed that same-sex and opposite-sex partners should be treated equally.

Regent Sayles recalled raising the same issue previously. He recalled that he had voted against the extension of same-sex benefits because he believed that to do so would not create equity between same-sex and opposite-sex domestic partners.

Associate Vice President Boyette noted that Item 2, which deals with opposite-sex domestic partners, provides an alternative choice of definitions for the term domestic partner. She recalled that previously The Regents had approved the following definition for use with respect to the University's health plan: "...University of California employees who are competent adults over the age of 18 in a long-term, committed domestic relationship, who are precluded from marriage because they are of the same sex or are incapable under California law of a valid marriage because of family relationship."

Chairman Preuss noted that opposite-sex partners are not precluded normally from getting married. Regent Hopkinson responded that the issue was one of equitable benefits for people who are not married, and she believed that the definition should match in each case.

Regent Marcus asked how same-sex beneficiaries would be identified. Ms. Boyette explained that the beneficiary would file an affidavit with the University, which is what they must do currently to receive University health benefits, expressing a desire to appoint a domestic partner. One item that may be used as evidence of a long-term, committed relationship, is the State registry, but the University also will accept other evidence.

Regent Parsky observed that in Item 1 the proposal assumes that same-sex domestic partners would go through the same procedure to qualify for University retirement benefits that they must go through to qualify for University health care benefits.

Regent Hopkinson moved approval of Item 2 using a definition of domestic partners as University of California employees who are competent adults over the age of 18, in a long-term, committed domestic relationship.

In response to a question from Regent Marcus, Ms. Boyette stated that there has been no difficulty using the current qualifying procedure. Beneficiaries are asked to sign an affidavit that they are over 18, have resided together for at least six months, and intend to reside together indefinitely. Documentation is required showing that the partners have financial responsibility for each other.

Regent-designate Terrazas believed the issue was one of equity, noting that Item 2 offers two alternative definitions for purposes of identifying a domestic partner. Adoption of alternative B.(2) would leave out people in the age group of 50 to 62. Regent Hopkinson emphasized that her amendment changes the definition to the one used by the University with respect to health care benefits.

Regent Johnson asked how many people are using the health care plan as domestic partners. Ms. Boyette estimated that it was fewer than 2 percent of the beneficiary population, or about 2,000 people.

Regent Lozano was in favor of both Item 1 and Item 2. She believed that the main issues were cost considerations and process, the first of which would be minimal and the second of which had been established successfully with respect to health care benefits.

Regent Moores believed that there would be little opposition to Item 1, but he considered Item 2 to be problematic. Concerning Item 1, the people of the State of California have chosen not to allow same-sex partners to marry, and therefore it is not equitable to deny them benefits; however, to extend the same benefits to opposite-sex partners who may get married but choose not to is not equitable. Ms. Boyette pointed

out that the State does have a provision for opposite-sex individuals, age 62 and older and receiving Social Security, to register under the State domestic partner registry.

Regent Marcus believed that every incremental step taken in the direction of ignoring the bonds of marriage could push the University into areas that could be deemed legally and socially questionable. He favored encouraging people who have the legal right to marry to do so.

Regent Saban believed it was inappropriate for the Regents to attempt to modify social behavior.

Faculty Representative Viswanathan reported that the faculty had asked consistently for the option of retirement benefits for domestic partners of both sexes. It is an issue in recruitment and retention, particularly in light of the nominal pay increases of the past many years. The Academic Senate supports both items.

When asked to clarify the discussion, General Counsel Holst stated that the motion on the floor was that of Regent Hopkinson. It had been made in lieu of a motion to advance Item 2, *Amendment of the University of California Retirement Plan – To Provide Relative Equity of Retirement Benefits for University of California Retirement Plan Members with Opposite-Sex Domestic Partners*, as presented. A vote was taken on the motion as amended, which was to approve Item 2 with the substitute language read by Ms. Boyette for the definition of opposite-sex domestic partners, which is the definition the University uses to determine health benefits. The motion failed, Regents Atkinson, Hopkinson, Morrison, and Parsky voting “aye” (4), and Regents Kozberg, Montoya, Moores, and Preuss voting “no” (4).

Regent Hopkinson asked how the motion could come to the full Board. General Counsel Holst explained that under the Bylaws any matter which is not the object of recommendation by a Committee may be brought to the Board by any member.

Several Regents called for a vote on Item 2, B.(2), under which the University’s definition of opposite sex domestic partner for purposes of retirement benefits would match that used by the State. General Counsel Holst pointed out that an issue may be brought to the Board by any member only if the Committee does not forward a recommendation. If the suggested motion were acted upon, it would then become the recommendation before the Board. When the recommendation came before the Board, however, any member would be free to propose an amendment to it.

Regent Lozano urged the members to recognize that adoption of Item 2 B.(2) would institute a policy that is out of line with the University’s other retirement benefits in terms of age.

A motion was made and duly seconded to adopt paragraph B.(2) of Item 2. The motion failed, Regents Kozberg and Montoya voting “aye” (2) and Regents Atkinson, Hopkinson, Moores, Morrison, Parsky, and Preuss voting “no” (6).

Then, upon motion duly made and seconded, the Committee approved the President's recommendation with respect to Item 1, *Amendment of the University of California Retirement Plan – To Provide Relative Equity of Retirement Benefits for University of California Retirement Plan Members with Same-Sex Domestic Partners*, and voted to present it to the Board, Regents Kozberg, Montoya, Morrison, and Preuss voting "aye" (4), Regents Hopkinson, Moores, and Parsky voting "no" (3), and Regent Atkinson abstaining.

[For speakers' comments, refer to the minutes of May 16 meeting of the Committee of the Whole.]

3. **AMENDMENT OF THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN – TO PROVIDE RELATIVE EQUITY OF RETIREMENT BENEFITS FOR UNMARRIED UNIVERSITY OF CALIFORNIA RETIREMENT PLAN MEMBERS WITH NO ELIGIBLE SURVIVORS OR ELIGIBLE DOMESTIC PARTNER**

The President recommended that:

- A. The University of California Retirement Plan (UCRP or Plan) be amended to provide postretirement survivor continuance for unmarried members with no eligible survivors or eligible domestic partner, effective July 1, 2002.
- B. Implementation of these provisions be delegated to the President.

The Committee was informed that if a UCRP member dies after electing UCRP retirement income, UCRP provides postretirement survivor continuance (that portion of the basic retirement Income payable as a monthly benefit upon the death of a retired member) to a surviving spouse, eligible children, or eligible dependent parents. Members without a surviving spouse or eligible survivors are not entitled to these benefits. In addition to the postretirement survivor continuance payment described above, the Plan currently provides various payment options under which the member may elect to reduce basic retirement income and provide for a full or partial continuance benefit to a contingent annuitant. The reduction in basic retirement income is based on the age of the member and the contingent annuitant.

Based on the discussion at the January 2002 Regents meeting and the concerns expressed at that time, University of California Human Resources and Benefits (UC HR/Benefits) reviewed the options and submitted to the President a revised proposal for consideration and action by The Regents.

The UCRP defined benefit plan is based on the model of a family that was the norm when men worked in the paid labor force, people married once for a lifetime, and women stayed home and raised children. UCRP was designed to award special benefits to spouses and children in the case of a loss of income due to the death of the household provider.

Today, many families differ from the traditional nuclear family. A widow or widower, or a divorcee or divorcé may be supporting children who do not meet the definition of eligible child under current provisions. Currently, an eligible child of the member must have been receiving significant support from the member for the one year preceding the member's date of death, disability date, or retirement date and be under the age of 18, or under the age of 22 if attending an educational institution full time, or disabled while qualified as an eligible child for as long as the disability continues. This proposed amendment would provide some flexibility for members to provide a benefit to someone in an extended family relationship or for whom they have responsibility. A member supporting an adult child, a sibling, or an aged parent would be able to designate such an individual for survivor benefits at the time of retirement.

Under the amendment, unmarried members with no eligible survivor or eligible domestic partner would be allowed to name a designated survivor at the time of retirement to receive the postretirement survivor continuance upon the member's death. A designated survivor could be any natural person, but not a trust or an estate. One of the goals of the designated survivor option is to provide a postretirement survivor continuance benefit to a designated survivor that is not now available to an unmarried UCRP member with no eligible survivors or eligible domestic partner. If a member names a designated survivor who is much younger than the member, the designated survivor's benefit will be adjusted downwards in order to account for the expected longer lifetime payment.

This provision would be effective July 1, 2002 for unmarried UCRP active, disabled, or inactive members with no eligible survivors or eligible domestic partner. It would not apply to UCRP retired members with retirement dates of June 30, 2002 or earlier. It is recommended that implementation of these provisions be delegated to the President. Application of this 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.

Based on a weighted average, the Plan's consulting actuary, Towers Perrin, estimated that approximately 83 percent of current UCRP members, both those not yet eligible to retire and those eligible to retire, were already eligible for survivor income benefits. Based on this estimation, 17 percent of the current UCRP membership would become eligible for survivor income benefits if such benefits were approved for these unmarried UCRP members and no domestic partner benefits were approved. If domestic partner benefits were approved for same-sex domestic partners and all opposite-sex domestic partners, this estimated percentage would decrease to 9 percent. Thus, the estimated costs will vary depending on which, if any, of the domestic partner benefits options are approved. If domestic partner benefits were approved for same-sex domestic partners and all opposite-sex domestic partners, the estimated increase in the actuarial accrued liability to provide postretirement survivor continuance for unmarried members with no eligible survivors would be \$96.3 million. Normal cost would increase by an estimated \$4.2 million, or .06 percentage points.

Regent Hopkinson commented that the recommendation was troublesome to her in that it created what she characterized as an insurance policy. To pass the recommendation would mean that a person could select anyone to be his beneficiary. The cost to the retirement program, although insignificant, would be more than the cost of Items 1 and 2 above combined. Moreover, the annual cost of \$11.5 million to a pension fund that in ten years may require employee contributions could result in the doubling of that anticipated contribution rate. She did not believe this would be a step toward equality.

Senior Vice President Mullinix commented that, if this were a defined contribution program, the corpus would stay with the beneficiary, who could identify anyone to be the secondary beneficiary. Most 403(b) and 401(k) programs, which are the common instruments, do permit beneficiaries to keep the corpus and to designate anyone as a secondary beneficiary. He noted that the University's program provides a subsidy for spouses. The amendment would provide a partial subsidy for everyone that would be more equivalent to common prevailing practice.

President Atkinson pointed out that most universities use defined contribution retirement plans in which both university and employee make contributions. The benefits may be distributed in whatever way the employee chooses. He believed that eventually the University of California will need to follow suit.

The President's recommendation failed to receive a motion for approval.

[For speakers' comments, refer to the minutes of the May 16 meeting of the Committee of the Whole.]

4. **AMENDMENT OF THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN – TO PROVIDE FOR CONCURRENT RETIREMENT; AMENDMENTS OF THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN AND THE DEFINED CONTRIBUTION PLAN TO CLARIFY THE EFFECT OF YEAR-ROUND OPERATIONS ON SUMMER SALARY**

The President recommended that:

- A. The University of California Retirement Plan (UCRP or Plan) be amended, effective July 1, 2002, as set forth in Attachment I, to provide for concurrent retirement from UCRP and from the Defined Benefit Program of the State Teachers' Retirement System of the State of California (STRS).
- B. UCRP and the Defined Contribution Plan (DC Plan) be amended, as set forth in Attachments II and III, to clarify the effect of year-round operations on summer salary as follows:
 - (1) The definition of covered compensation in UCRP be amended to exclude compensation for "equivalent term session" along with compensation for "summer session";
 - (2) The DC Plan be amended to include the expression "or equivalent term" wherever the expression "summer" appears.

UCRP – Establishing Concurrent Retirement Provisions for Members of STRS

The Committee was informed that, based on information obtained from the schools of education and the outreach programs at several locations, it is estimated that there are several hundred active UCRP members who are also members of STRS as a result of previous employment covered by STRS. STRS includes concurrent retirement provisions that apply to STRS members who are also members of UCRP or certain other public retirement systems. The STRS concurrent retirement provisions specify that compensation earned under these other public retirement systems, if higher than STRS compensation, may be used to calculate STRS benefits. The STRS concurrent retirement provisions also allow a member age 55 or older to retire with less than five years of creditable service if eligible to retire under one of the other public retirement systems.

To assist the University of California with the recruitment of teachers, many of whom have STRS service, it is proposed that concurrent retirement provisions similar to the STRS concurrent retirement provisions be added to UCRP. These teachers are needed to staff charter schools and various educational outreach programs. For example, the lack of concurrent retirement provisions has caused significant issues in the recruitment for key positions at the Preuss Charter School at UC San Diego. The proposed UCRP concurrent retirement provisions would provide for concurrent retirement from UCRP and STRS on the same date or on different dates, provided that

no creditable service was earned under either plan between the two dates. Members who qualify for concurrent retirement from UCRP and STRS would be entitled to the following benefit enhancements:

- Use of STRS compensation, if higher than UCRP covered compensation, to calculate UCRP benefits;
- Retirement with less than five years of UCRP service credit if eligible for STRS service retirement.

The proposed UCRP concurrent retirement provisions would apply to active, inactive, and disabled UCRP members who retire after July 1, 2002, provided they were active members of UCRP on or after July 1, 2002.

Based on the estimated small number of current active members with STRS service, it is expected that there would be relatively few current active UCRP members who would be eligible for the proposed concurrent retirement provisions in future years. While these concurrent retirement provisions would provide benefit enhancements for some members with STRS service, it is anticipated that most of these members will attain five years of UCRP service credit and that their UCRP covered compensation will be higher than their STRS compensation.

Due to the relatively small number of current active members who would qualify for retirement and/or receive a higher benefit as a result of the proposed concurrent retirement provisions, the Plan's consulting actuary, Towers Perrin, has estimated that the increase in the UCRP actuarial accrued liability as a result of adopting the proposed concurrent retirement provisions would be less than \$3 million. There would also be a relatively small increase in the actuarial accrued liability in the future associated with new UCRP entrants who qualify for retirement and/or receive a higher benefit due to their eligibility for concurrent retirement.

DC Plan and UCRP – Amendments to Plan Language to Clarify Effect of Year-Round Operations on Summer Salary

At the November 2000 meeting, The Regents approved providing contributions to the DC Plan for eligible UC academic appointees who earn summer salary, effective with summer salary payments made on or after July 1, 2001. To be eligible for such contributions, academic appointees must be active members of UCRP (or a defined benefit plan to which UC contributes) with academic (9-month) appointments who earn additional compensation for summer teaching, summer research, or summer administrative service. Such additional compensation may not be covered compensation for a defined benefit plan to which UC contributes.

It has been estimated that between 1998-1999 and 2010-2011, UC can expect an increase in the student population of 43 percent. Year-round operation, or State-supported summer instruction, is one of several strategies being employed to

accommodate the substantial enrollment growth. Since it is not expected that faculty with academic-year appointments will be converted to fiscal-year (12-month) appointments, it is very likely that campuses will permit faculty to use a term other than summer as their “off/overload” term. Consequently, the administration recommends that the DC Plan document language be amended to permit contributions for eligible academic appointees who earn additional compensation for eligible teaching, research, and/or administrative service performed during any term that is not part of their academic year appointment. With the exception of revising terminology to modify the expression “summer” to “summer or equivalent term,” the definition of compensation that is eligible for the additional DC Plan contributions would not change.

A related change is recommended to the definition of covered compensation contained in the UCRP document to clarify that compensation earned during the summer or equivalent term is not covered compensation for pension purposes. There would be no cost to UCRP associated with the proposed Plan language amendment.

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

5. **PROPOSED AD HOC COLA FOR RETIREES COVERED UNDER THE 1991 UNIVERSITY OF CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM VOLUNTARY EARLY RETIREMENT INCENTIVE PROGRAM**

The President recommended that:

- A. The University of California - California Public Employees’ Retirement System Voluntary Early Retirement Incentive Program (UC-PERS Plan) be amended to provide a one-time ad hoc cost of living adjustment (COLA), effective July 1, 2002.
- B. The ad hoc COLA would:
 - (1) Provide a one-time adjustment of 11 percent to restore purchasing power to the 85 percent level (Alternative 1); or
 - (2) Provide a one-time adjustment of 25 percent which is equal to the total of the COLAs that have been provided annually to the University of California Retirement Plan (UCRP) members who accepted the UCRP/Voluntary Early Retirement Incentive Program-I (VERIP-I) (Alternative 2).

Secretary Trivette drew attention to the report of communications received pertaining to *Proposed Ad Hoc Cola for Retirees Covered under the 1991 University of California Public Employees’ Retirement System Voluntary Early Retirement Incentive Program*.

It was recalled that in October 1990, The Regents approved the UC-PERS Plan, an early retirement incentive program that provided supplemental benefits for University of California employees who were covered under the California Public Employees' Retirement System (PERS). The early retirement incentives were generally comparable to the VERIP I offered at that time to UCRP members.

The UC-PERS Plan is a frozen, defined benefit pension plan providing lifetime supplemental retirement income and survivor benefits to UC-PERS Plan members who elected early retirement under the provisions of the UC-PERS Plan. To participate in the UC-PERS Plan, an eligible employee was required to retire on the same date under PERS, which provides their primary benefit, and under the UC-PERS Plan, which provides a supplemental benefit. Of those employees eligible, 879 elected to retire under the UC-PERS Plan, effective October 1, 1991.

The UC-PERS 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. 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, including an actuarial review under IRC §6059. As such, the UC-PERS Plan consulting actuary, Towers Perrin, reviews the fiscal position and funding status annually to assure that the UC-PERS Plan is adequately funded, and this information is provided annually to The Regents.

As of July 1, 2001, the UC-PERS Plan had 819 annuitants receiving benefits with total annual benefits in pay status of \$4.5 million. The UC-PERS Plan is a closed plan, which means there will be no new entrants in the future who will qualify for UC-PERS Plan benefits and, thereby, increase UC-PERS Plan future obligations.

The UC-PERS Plan required campus and Laboratory locations to fund their individual liabilities over no longer than five years. The Regents approved the provisions of the UC-PERS Plan, specifically excluding an annual COLA provision because the locations funding the benefits were concerned about being responsible for a cost that could not be predicted with certainty. As a result, although the UC-PERS Plan annuitants have received periodic COLAs on their primary benefit from PERS, there have been no COLAs on their supplemental benefit from the UC-PERS Plan.

Towers Perrin has estimated that the cumulative Consumer Price Index increases have reduced the purchasing power for UC-PERS Plan annuitants to 77 percent of their original purchasing power on their supplemental benefit. Historically, The Regents have striven to protect UCRP annuitant benefits from being significantly eroded by inflation, even though this is not a guaranteed contractual benefit. In January 2001, The Regents approved a one-time ad hoc COLA to restore purchasing power to the 85 percent level for UCRP annuitants with retirement dates of July 1, 1985 and earlier. Adoption of either Alternative 1 or Alternative 2 would restore a portion of the purchasing power lost by UC-PERS Plan annuitants on their supplemental benefits since their retirement in 1991.

Alternatives*Alternative 1*

Alternative 1 would restore purchasing power for UC-PERS Plan annuitants to 85 percent of original purchasing power on their supplemental benefit. This alternative would provide an increase in benefits of 11 percent and would result in a one-time increase of \$4.4 million in the present value of future obligations of the UC-PERS Plan. The funded percentage of the UC-PERS Plan following the adoption of Alternative 1 would drop from 199 percent to 179 percent.

Alternative 2

Alternative 2 would provide a one-time ad hoc COLA in the amount of 25 percent to UC-PERS Plan annuitants on their supplemental benefit, which is equal to the total of the COLAs paid by UCRP to members who elected the VERIP I in 1991. This alternative would effectively restore purchasing power for UC-PERS Plan annuitants to 96 percent of original purchasing power on their supplemental benefit, would result in a one-time increase of \$10.1 million in the present value of the future obligations of the UC-PERS Plan, and would result in the UC-PERS Plan annuitants being in a comparable position as to retained purchasing power as the UCRP annuitants who retired under the VERIP I. The funded percentage of the UC-PERS Plan following the adoption of Alternative 2 would drop from 199 percent to 159 percent.

Prospectively, an annual COLA provision is not proposed under either alternative. However, under both alternatives, the retained purchasing power of the UC-PERS Plan annuitants and the comparability to VERIP I annuitants' retained purchasing power will be reviewed annually beginning July 1, 2003. Based upon such reviews, the administration may recommend an ad hoc COLA from time to time, subject to the availability of funds.

Regent Preuss believed that employees who took early retirement did so under a contract and that it would be inappropriate to amend that contract in the manner recommended.

Upon motion of Regent Hopkinson, duly seconded, the Committee approved the President's recommendation using Alternative B.(2), which would provide a one-time financial adjustment of 25 percent to employees who retired under the UC-PERS Plan and voted to present it to the Board, Regents Atkinson, Davies, Hopkinson, Kozberg, Marcus, Montoya, Moores, Morrison, and Parsky voting "aye" (9) and Regent Preuss voting "no" (1).

6. **INCREMENTAL FUNDING OF FIXED-PRICE CONSTRUCTION SUBCONTRACT AT LAWRENCE LIVERMORE NATIONAL LABORATORY**

The President recommended that as an exception to Standing Orders 100.4(dd)(1) and (8), and subject to appropriate University pre-bid concurrence and approval of the Department of Energy, the Lawrence Livermore National Laboratory (LLNL) be authorized to solicit and execute incrementally funded fixed-price construction subcontracts at LLNL for the construction of the Building 151 Seismic Upgrade. This project is authorized in connection with work done under the University's master operating contract for LLNL, where the total value of the individual subcontracts would exceed the amount appropriated for project work on a fiscal year basis.

The Committee was informed that LLNL has proposed awarding an incrementally funded subcontract to obtain cost savings during the one-year construction of the Building 151 Seismic Upgrade. Building 151 was built in the late 1960s and its seismic performance does not meet current standards for earthquake resistance. It houses chemistry laboratories which provide key support to the LLNL Stockpile Stewardship mission. The project is estimated to cost \$5.6 million, of which \$2 million is already funded, with the remaining \$3.6 million requested for the DOE budget in fiscal year 2003. It is planned to award a construction contract in August 2002, with partial funding of \$1 million and fully to fund the construction contract upon receipt of funds in FY 2003.

Incremental funding of fixed-price construction contracts allows an agency to enter into a contract to have a facility built over several years for a fixed total price but limits the agency's obligation at any time to the amount of funds currently available and allotted to the contract. The contractor promises to complete construction for a fixed price only if the agency provides the full amount of the requisite funding, in increments, over the term of the contract. The agency is not obligated to reimburse the contractor if available funds are exhausted. The special conditions of the contract spell out in detail the method of funding and the manner in which work may be adjusted, suspended, or terminated in the event later appropriations are reduced or eliminated. The LLNL construction subcontracts would also remain subject to existing pre-bid University review procedures, including approval as to legal form by the Office of General Counsel.

Incrementally funded contracting has been used previously at the DOE laboratories and does not pose a substantial risk to The Regents, although subcontracts premised on incremental funding cannot be considered completely risk free. It will provide for termination if funds are curtailed, but an absolute limitation on the University's potential liability cannot be assured. Incremental funding is routinely used by federal agencies for construction contracting, and the national laboratories have applied the practice to facilities constructed over the past decade, including several at LLNL. The principal advantage is the opportunity to award a construction contract over fiscal year boundaries, avoiding the artificial parceling of the project into multiple contracts. Such a contract allows the introduction of cost saving methods and other economies associated with continuous performance. Sufficient amounts would be maintained by LLNL as reserve contingency funds over the fiscal year periods to cover in all material respects contractor termination costs in the event of non-appropriation.

Regents' approval is required because the provisions of Standing Orders 100.4(dd)(1) and (8) prohibit construction contract awards in excess of appropriated funds. Approval for the proposed exception to the Standing Order is necessary in order to provide sufficient time to prepare the necessary contractual documents for incremental funding.

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

7. APPROVAL OF FINANCING AND ASSOCIATED FINDING RELATED TO THE RICHARD J. HECKMANN CENTER FOR ENTREPRENEURIAL MANAGEMENT AT PALM DESERT, RIVERSIDE CAMPUS

The President recommended that:

- A. The Regents accept a loan not to exceed principal outstanding of \$2 million to be made available by the Palm Desert Redevelopment Agency (Agency) toward the construction of improvements related to the Richard J. Heckmann International Center for Entrepreneurial Management (ICEM) in Palm Desert on behalf of the Riverside campus, subject to the following conditions:
- (1) A loan of up to \$2 million will be made available by the Agency for draw-down by the Riverside campus during construction of Phase I of the ICEM;
 - (2) No interest shall accrue on the outstanding balance during the construction period and for three years after completion of the Phase I improvements;
 - (3) Repayment of the loan shall be as follows:
 - a. The principal balance shall be repaid to the Agency in five equal annual principal payments beginning on the fourth anniversary of completion of the Phase I improvements;
 - b. Interest on the outstanding principal balance shall begin to accrue at a rate of 4 percent annually (simple interest) beginning on the first day of the fourth year after completion of the Phase I improvements, to be paid in conjunction with annual payments of principal over five years; and
 - c. Repayment of the financing shall be from gift funds and, if gifts collected are insufficient, from Opportunity Funds allocated to the Chancellor of the Riverside campus.
 - (4) The general credit of The Regents shall not be pledged; and

- (5) The Officers of The Regents be authorized to execute such documents necessary in connection with the above.

B. The Regents make the following finding:

“The Regents finds that no other reasonable means of financing certain facilities at the University of California Richard J. Heckmann International Center for Entrepreneurial Management in Palm Desert could be arranged on terms more favorable than those offered by the Palm Desert Redevelopment Agency.”

The Committee was informed that the Coachella Valley is one of the fastest-growing regions in the state of California. Civic and business leaders in the desert are working together with educational institutions to develop the economic and educational infrastructure needed to create a more broad-based, less seasonal economic base for the region. Statistics indicate that the Coachella Valley has one of the lowest college-going rates in the state, estimated at about 28 percent. The nearest postsecondary institution is 70 miles away, and most students who do move on to university education do not return to the valley. UCR has had a nearly 100-year history of research and service in the Coachella Valley and was instrumental in creating the existing desert agricultural economy in the region.

The Richard J. Heckmann International Center for Entrepreneurial Management

The factors described above have prompted both UCR and California State University, San Bernardino (CSUSB) to provide increased access to higher education in the Coachella Valley. On land provided by the Palm Desert Redevelopment Agency, both universities are planning to construct facilities for higher education programs. The first phase of development of the CSUSB desert campus is slated for occupancy later this year.

UCR's effort to establish a permanent academic presence in the Coachella Valley has been made possible by the offer of a gift of \$6 million from the Richard J. Heckmann Foundation to establish the Richard J. Heckmann International Center for Entrepreneurial Management in Palm Desert. Mr. Heckmann was the founder of Palm Desert-based US Filter, which is now owned by Vivendi Environnement, a Paris-based company. The Richard J. Heckmann Foundation will fund and manage construction of the Phase I project. The completed project will be transferred to The Regents per Mr. Heckmann's gift agreement. Governor Davis has committed \$10 million for second-phase development of the ICEM.

UC Riverside's A. Gary Anderson Graduate School of Management (AGSM) will offer graduate-level programs in entrepreneurial management and related business curricula at the ICEM. Some programs will be jointly offered with universities in Europe and eventually other regions of the world so that the educational experience will reflect the needs of a global economy. AGSM's academic and research focus on

entrepreneurial management and executive education will serve as the initial core academic presence for the ICEM, although the facilities will also serve as a base of operations for other UCR activities in the region, such as sponsored research initiatives, UC Extension, and selected upper division and graduate level coursework in key disciplines. Other uses of the ICEM are likely to include technology transfer services, UC outreach, lectures, symposia and conferences, sponsored research, and internships. One of ICEM's missions is to train a new generation of business leaders who can create economic value through the formation of new ventures and add value to existing organizations. With the ICEM, UCR can be instrumental in providing leadership in shaping the future growth and development of the Coachella Valley.

Mr. Heckmann has agreed to assist AGSM in attracting internationally respected business leaders to teach classes, give seminars, and advise on the curriculum. He will also chair an advisory committee on curriculum and has committed to working with UCR to raise additional funds for operations and endowed chairs.

Phases I and II

UCR's presence in the Coachella Valley will begin with construction by the Richard J. Heckmann Foundation of Phase I of the ICEM on a 4.3-acre parcel of property located at the northeast corner of Cook Street and Frank Sinatra Drive in the City of Palm Desert. Costs for Phase I construction are estimated at \$8 million, of which the Heckmann Foundation will fund \$6 million and the Riverside campus \$2 million, using the Agency loan. The Phase II building will be constructed by the campus on a 4.2-acre parcel adjacent to the Phase I building using a \$10 million lease-revenue bond issue committed by Governor Davis. Both the Phase I and Phase II parcels of land will be conveyed for \$1 to The Regents by the Agency before construction commences on the site. In addition, The Regents will have an option to acquire, for \$1, an additional 11.3 acres of land to expand programs, if desired. Construction of Phase I is expected to begin in June of this year and be completed by August 2003. Construction of Phase II is expected to begin in January 2003 and be completed in the spring of 2004.

Phase I Facilities

The Phase I facility, consisting of 21,300 gsf as well as related on- and off-site improvements, will be the primary administrative center for the complex. It will also house eleven faculty members in support of the academic programs in the desert. The Phase I instructional spaces will consist of two fifty-station case study learning spaces with associated smaller rooms to allow for break-out sessions of various sized student teams. Additionally, scholarly activity space will be provided to allow for the informal interaction of faculty and students.

As outlined in Mr. Heckmann's agreement with the University, the Richard J. Heckmann Foundation will construct the facility at a cost not to exceed \$6 million. The Riverside campus will provide advisory services and daily oversight to ensure that

the project meets the minimum standards necessary for acceptance by The Regents of the University of California and stays within budget. The Riverside campus is seeking Regental approval to receive a loan from the Palm Desert Redevelopment Agency of up to \$2 million dollars to fund on- and off-site costs consisting of but not limited to bringing utilities to the site, grading, and site preparation, and which may also be used for elements of construction of the building should costs exceed \$6 million.

While it is not anticipated that UCR's share of Phase 1 costs will exceed the \$2 million provided by the Agency loan, any costs above \$2 million will be paid for by the campus from gift funds or other discretionary funds available to the Chancellor. In addition, as an alternative funding option, the campus may choose to approach the City of Palm Desert to negotiate a cost-sharing arrangement to fund all or a portion of any on- and off-site improvements required by the City that cost in excess of the \$2 million provided by the Agency loan.

Phase II Facilities

The Phase II facility's primary function will be as an instructional center to support distance learning. Courses held at this 28,484 gsf facility will have the capability of being linked to other sites, thus offering "real time" learning opportunities at numerous off-site locations. The facility will be developed with distance learning capabilities in all of its teaching spaces to ensure the dissemination and receipt of information from any connected location. It will contain a 299-seat instruction space and associated smaller rooms capable of accommodating various sized groups of faculty, graduate students, postdoctoral students, and members of the business community. All spaces in the facility will be designed to support and enhance team teaching, breakout discussion groups, and selfpaced and team taught, on-line distance learning. The facility will also support instructional and public service colloquia and focused symposia and conferences. It will include equipment rooms, storage rooms, and other required support spaces. A small amount of administrative space will be provided for the support of group and program offerings, and additional space will be provided for four faculty offices in support of programs, degree offerings, and executive education events. Design approval of the Phase II building is expected to be presented to The Regents later in 2002.

Palm Desert Redevelopment Agency Loan

As noted, the Richard J. Heckmann Foundation gift will provide \$6 million for Phase I. The Agency has offered to lend up to \$2 million for the balance of construction, up to a total cost of \$8 million. The loan will be interest-free until three years after completion of construction of the Phase I improvements, which is estimated to be August 2003. The loan will be repaid in five equal principal installments beginning four years following completion of construction of the Phase I improvements, with interest at the rate of 4 percent paid annually on the declining balance. Repayment of the financing beginning in FY 2007-08 and ending in

FY 2011-12 will be from gift funds or, should the amount raised from gifts be insufficient, from the Chancellor's allocation of Opportunity Funds.

The Finding

In order to enter into this financing arrangement with UCR, the Agency is requiring that, as a condition to making the loan and pursuant to redevelopment law, The Regents make the Finding as presented above. While The Regents have many financing options available, the Agency loan terms are very favorable and have financing costs lower than are available from The Regents' commercial lenders or from public financing. These terms include an interest free loan for four years and 4 percent simple interest rate on the outstanding balance for five years until principal is repaid. The implicit interest rate for the Agency loan is approximately 1.9 percent from loan inception to final principal repayment in 2011-12.

Financial Feasibility

The estimated average annual debt service on the loan is \$449,300, calculated at 4 percent at five years and the Riverside campus' share of the University Opportunity Fund has been pledged as the source of repayment should gift funds be insufficient. The campus is within the prescribed Opportunity Fund pledge and payment limits. In fiscal year 2007-08, the fourth year after project completion and the first year of loan repayment, sixty percent of the campus' Opportunity Funds are pledged for debt service.

CEQA

California Environmental Quality Act compliance has been addressed through an Environmental Impact Report prepared and certified for the entire Coachella Valley campus of the California State University, San Bernardino, of which the ICEM site was a part.

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

8. **AUTHORIZATION TO MORTGAGE PROPERTY, SAN FRANCISCO ART INSTITUTE**

The President recommended that:

- A. The President, in consultation with the General Counsel, be authorized to provide for the subordination of The Regents' remainder interest in the 800 Chestnut Street property to the interests of a lender or conduit financing authority for the benefit of the San Francisco Art Institute.
- B. No funds of The Regents shall be pledged in any financing contemplated by the San Francisco Art Institute.
- C. The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

It was recalled that, as designated by the 1893 trust agreement between The Regents and Edward F. Searles, The Regents serve as "remainder trustee" for property donated by Searles to the San Francisco Art Association, predecessor to the current San Francisco Art Institute (SFAI). SFAI's principal facilities are now located at 800 Chestnut Street. In 1998, SFAI borrowed from the California Educational Facilities Authority (CEFA), a State conduit issuer for private nonprofit corporations, and pledged properties not subject to the trusteeship of The Regents. SFAI would like to secure additional financing through a lender or conduit financing authority and proposes to provide the lender with a security interest in the 800 Chestnut Street property, which is senior to that of The Regents in the property, provided that The Regents approve the actions contemplated by this item.

The San Francisco Art Institute is an internationally distinguished private, degree-granting college of fine arts with a current enrollment of approximately 550 undergraduate and 150 graduate students, plus 300 continuing education and non-degree students. SFAI has 32 full and part-time core faculty and approximately 70 adjunct and visiting faculty per academic term. The Institute is accredited by the Western Association of Schools and Colleges and by the National Association of Schools of Art and Design. SFAI offers the Bachelor and Master of Fine Arts degrees and post-baccalaureate programs in filmmaking, new genres, painting, photography,

printmaking, interdisciplinary, and sculpture/ceramic sculpture. SFAI is governed by an independent, 40-member board of trustees.

The Institute is associated with the University of California by virtue of the 1893 Searles trust agreement under the terms of which The Regents were identified as the *de facto* remainder trustee of certain property to be used for "...an institute of art under the control and management of the San Francisco Art Association." Since its founding in 1871, the San Francisco Art Association has changed its name several times. It currently operates as the San Francisco Art Institute.

Mr. Searles, who was married to the widow of Mark Hopkins, inherited the bulk of his wife's estate when she died in 1891. The property donated to the San Francisco Art Association under the 1893 trust agreement was the Mark Hopkins mansion, which is now the site of the Mark Hopkins Hotel. That property was sold in 1926 and the proceeds were used to purchase the land at 800 Chestnut Street in San Francisco, where the Art Association ultimately built its current buildings.

The 800 Chestnut Street site, which is located on approximately 65 percent of a city block on the northeast slope of Russian Hill, is comprised primarily of two interconnected buildings. The original building, constructed in 1926, is approximately 52,000 gross square feet and houses the administrative offices, library, an art supply store, classrooms, and galleries. The building bears City of San Francisco landmark designation. The adjoining building, opened in 1969, is comprised of approximately 48,000 gross square feet and houses classrooms, studios, galleries, a 250-seat lecture hall, and a public cafe.

The Searles trust agreement permits the mortgaging of the property on behalf of SFAI. Between 1966 and 1998 SFAI received approximately \$6.5 million of secured and unsecured commercial bank loans negotiated by The Regents. These loans, which were used for a variety of capital and operating needs of SFAI, were largely secured by a deed of trust on the 800 Chestnut Street property and repaid from the Institute's cash flow.

All loans were repaid in accordance with their terms and, in 1998, SFAI entered into an agreement with the California Educational Facilities Authority to participate in a private college and university bond pool, the proceeds of which repaid all remaining indebtedness to The Regents.

The Regents exercises no administrative, programmatic, or financial control over SFAI's operations, and the relationship is anomalous within the UC system. During the period of 1966 through 1998 when The Regents provided conduit financing for SFAI, a number of discussions took place concerning the future necessity and desirability of The Regents' continued role in SFAI's long-term financing arrangements. In fact, since the 1950s, correspondence and The Regents' records indicate an interest on the part of The Regents in the dissolution of its role as *de facto* remainder trustee.

At the present time, SFAI is planning the financing of major additional capital and operating needs, and it has been determined that the optimum borrowing conditions for its purposes would include using the 800 Chestnut Street property as collateral under a deed of trust. The estimated current appraised value of the property is between \$15 million and \$25 million. SFAI's bond issuance in 1998 and 1999 and subsequent transactions have demonstrated the institution's ability to access the public and private debt markets without the need for Regental participation. The proposed actions will enable SFAI to further develop its financial strength and independence.

SFAI has requested that the President, in consultation with the General Counsel, engage in discussions with SFAI which may lead to an eventual transfer of the trusteeship from The Regents to SFAI under conditions amenable to both parties. Any proposals resulting from these discussions will be brought to The Regents for approval.

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

9. **ENDORSEMENT OF KINDERGARTEN – UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACTS OF 2002 AND 2004, OFFICE OF THE PRESIDENT**

The President recommended Board endorsement of the Kindergarten–University Public Education Facilities Bond Acts of 2002 and 2004, to be included on the November 2002 statewide general election ballot and 2004 statewide primary election ballot, respectively. It was further recommended that the President and other University officials be authorized to organize an information program to explain the important nature of the bond measures in ensuring that projected enrollment growth can be accommodated, buildings are seismically safe, essential infrastructure is repaired or replaced, and critical fire and life-safety improvements are made at the ten University of California campuses.

The Committee was informed that the Public Education Facilities Bond Acts would provide funds needed for facilities and infrastructure improvements at California's public schools and the California Community Colleges, California State University, and the University of California. Funding from general obligation bonds for the University's State-funded capital outlay budget from 2002-03 through 2005-06 is contingent upon voter approval of the Bond Acts.

Since the mid-1960s, the State has provided funding for the University's capital outlay needs using general obligation bond funds. Proposition A, the most recent general obligation Bond Act approved by the voters in 1998, provided the University with approximately \$210 million per year for four years, through 2001-02.

Assembly Bill 16 (Hertzberg), which was passed by the Legislature and signed by the Governor, proposes two Public Education Facilities Bond Acts that would authorize a total of \$27 billion in general obligation bond funds over four years to help fund K-12 and higher education facility needs. The 2002 Bond Act would authorize more than \$13 billion for K-12 and \$1.65 billion for higher education. The 2004 Bond Act would authorize \$10 billion for K-12 and \$2.3 billion for higher education. In addition, AB16 authorizes \$651.3 billion in lease revenue bond funding for higher education that does not require voter approval.

It is the intention of the Governor and the Legislature that the University receive approximately \$345 million per year for capital outlay for the four-year period covered by the Bond Acts. For the first year, 2002-03, the amount of general obligation bond funding will be less than \$345 million, reflecting lease revenue bond funding approved by the Legislature to accelerate into 2001-02 seven capacity projects originally scheduled for 2002-03 general obligation bonds and to fund construction of the Classroom and Office Building at the Merced campus.

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

10. **APPROVAL OF RESOLUTION TO EXCLUDE ACCESS TO CLASSIFIED INFORMATION FOR A REGENT**

The President recommended adoption of the following resolution pertaining to the University's respective Department of Defense and Department of Energy Facility Security Clearance:

WHEREAS, current Department of Defense and Department of Energy Regulations contain a provision making it mandatory that the Chairman of the Board, Chief Executive Officer, and those other officers and officials who are to have access to classified information meet the personnel clearance requirements established for a contractor's facility clearance; and

WHEREAS, said Regulations permit the exclusion from the personnel clearance requirements of certain members of the Board of Regents, provided that this action is recorded in the University Regents' Board Minutes;

NOW, THEREFORE, BE IT DECLARED that the Chairman of the Board, at least an official quorum of the Board of Regents, and the Chief Executive Officer at the present time do possess, or will be processed for, the required security clearance; and

BE IT RESOLVED that in the future, when any individual enters upon any duties as Chairman of the Board, as a replacement for one of the cleared quorum of the Board, or as the Chief Executive Officer, such individual shall immediately make application for the required security clearance; and

BE IT RESOLVED FURTHER that the following member of the Board of Regents shall not require, shall not have, and shall be effectively excluded from access to all classified information in the possession of the Corporation and does not occupy a position that would enable him to affect adversely Corporate policies or practices in the performance of classified contracts for the Department of Defense, U.S. Department of Energy or contracts with other Federal User Agencies of the National Industrial Security Program:

<u>NAME</u>	<u>TITLE</u>
Dexter Ligot-Gordon	Regent

It was recalled that the University has security agreements with the U.S. Department of Defense and the U.S. Department of Energy in connection with research performed by the University involving classified national security information and the University's management of the DOE weapons laboratories. At present, the University holds classified contracts involving research in the national defense. Classified research undertaken by the University is not performed on campus but is carried out off-campus, often at military installations. Weapons design work takes place at the Lawrence Livermore and the Los Alamos National Laboratories.

The University's security agreement with DOD incorporates the National Industrial Security Program Operating Manual (NISPOM). The NISPOM which applies to the DOD, DOE, and other Federal User Agencies provides that the Chief Executive Officer, the Chairman of the Board of Regents, and at least a quorum of the Board of Regents have security clearances and that all other Regents have clearances unless specifically excluded from access to classified information in the possession of the University. The exclusion provision of the security agreement further requires that the University, by formal action of the Board of Regents, invoke such exclusion procedures designating the names of all Regents not in process for or who are ineligible for DOD/DOE clearances, and that this action be made a matter of record in the minutes of the Board.

Regent-designate Ligot-Gordon, who will serve a one-year term, would prefer not to apply for any Government security clearances (DOD Top Secret or DOE "Q") because the process requires seven months. Consequently, he must be excluded from all matters or deliberations that would affect corporate policies or practices followed in the performance of classified work under contracts for the DOD, the DOE, or other Federal User Agencies under the NISPOM. Although he must be excluded from possession of classified matter and from other deliberations, as specified above, Regent-designate Ligot-Gordon, along with other non-cleared guests, will be allowed to visit the weapons laboratories in accordance with procedures for uncleared visitors.

The proposed action is consistent with past resolutions.

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

11. **REPORT OF NEW LITIGATION**

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

The meeting adjourned at 12:55 p.m.

Attest:

Secretary