The Regents of the University of California

COMMITTEE ON FINANCE
July 18, 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, Parsky, Preuss, and Sayles

In attendance: Regents Davies, Johnson, Kozberg, Lansing, Marcus, Sainick, and Terrazas, Regents-designate Bodine and Seigler, Faculty Representatives Binion and Viswanathan, Associate Secretary Shaw, General Counsel Holst, Treasurer Russ, Provost King, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Drake, Gurtner, and Hershman, Chancellors Berdahl, Cicerone, Córdova, Dynes, Tomlinson-Keasey, Vanderhoef, and Yang, Executive Vice Chancellor Kelly representing Chancellor Bishop, Vice Chancellor Michaels representing Chancellor Greenwood, and Recording Secretary Bryan

The meeting convened at 10:00 a.m. with Committee Chair Hopkinson presiding.

1. **APPROVAL OF MINUTES**

Upon motion duly made and seconded, the minutes of the meeting of May 15, 2002 were approved.

2. **CONSENT AGENDA**

A. ***Modification of Program Framework of the Mortgage Origination Program and the Eligibility and Participation Guidelines of the Supplemental Home Loan Program to Conform Continued Program Participation in the Event of the Death of the Eligible Participant to the University Retirement Plan Provisions***

The President recommended that, with the understanding that all other guidelines and parameters remain unchanged:

(1) The Regents approve the modification of the Mortgage Origination Program Framework as detailed in Attachment 1.

(2) The Regents approve the modification of the Supplemental Home Loan Program Eligibility and Participation Guidelines as detailed in Attachment 2.

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

3. **2002 K-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND CAMPAIGN**

Senior Vice President Darling recalled that at its May 2002 meeting the Board of Regents had endorsed the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004, to be included on the November 2002 statewide general election ballot and the 2004 statewide primary election ballot, respectively. In addition, the Board authorized the President and other University officials 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 total bond package of $25.3 billion will be divided over two election cycles – $13 billion in November 2002 and $12.3 billion in March 2004. The University of California's share is approximately $345 million per year over the next four years. The November 2002 bond measure has been designated Proposition 47.

Senior Vice President Darling reported that he and Chancellor Cicerone represent the University on the Board of Californians for Higher Education (CHE), a committee that represents the University of California, the California State University, and the California Community Colleges. A separate committee that includes representatives from CHE, K-12, and business and technology leaders has been organized to mount the campaign for the November 2002 bond campaign. Mr. Darling reported that he has volunteered to assume a leadership role and will represent higher education on the campaign committee. A consulting firm has been hired to manage the campaign, and a ballot title and argument have been submitted to the Secretary of State.

Assistant Vice President Reese is organizing systemwide working groups, led by campus government affairs directors, that will bring together staff, alumni, faculty, students, advocacy and community relations groups, campus volunteer leaders, and other important campus stakeholders. A template for a resolution of support of the November 2002 Bond Act has been developed and sent to University of California alumni associations, foundation offices, and other volunteer-based organizations. The campaign effort is being conducted under guidelines provided by the General Counsel.

Though preliminary, it is estimated that the November 2002 campaign will cost between $6 million and $9 million, compared to $2.7 million spent for the last measure. It is expected that higher education's share of the campaign costs will be approximately $1.2 million, of which $338,000 will be contributed by the University of California Foundations.

Senior Vice President Darling emphasized that there are only 110 days until the election and every day is crucial. There are indications that this will be a challenging bond campaign involving, as it does, passage of a record-breaking bond measure in an uncertain economic time. To address this challenge, it will be essential to disseminate compelling information about the critical facilities needs of K-12 and higher education.

4. **INDEMNIFICATION OF TRUSTEES OF CAMPUS FOUNDATIONS**

The President recommended that The Regents indemnify and defend members of the Boards of Trustees of the Campus Foundations as to all claims and liability that may arise or occur in the course and scope of the performance of their duties in connection with the investment and reinvestment of assets held for the benefit of the University, including split-interest trusts and similar arrangements, to the same extent as afforded individual Regents, provided that actions giving rise to the claims or liability are in connection with the Campus Foundation investments which are invested in accordance with University policies and guidelines respecting the investments of Campus Foundations, and further provided that the indemnification and defense shall be secondary to any entitlement the trustees may have to indemnification and defense from insurance carried by the Campus Foundations. The President shall issue any guidelines necessary to implement the policy.

It was recalled that the University is indebted to the volunteer leadership of the Campus Foundations for their invaluable assistance in fund raising, public outreach, and other activities that support the University's mission. They have been instrumental in the success of those efforts, with private support totals exceeding $1 billion in each of the last two years.

Campus Foundations have been established on each campus, operating pursuant to policy approved by The Regents on September 15, 1995 and guidelines issued by the President in April 2002. The policy and guidelines also permit the Campus Foundations, as separate entities staffed exclusively by University personnel, to hold and invest endowments for the long term, provided that the payout from the endowments is distributed to the University.

Because of the relationship of the Campus Foundations to the University, the Office of the General Counsel has advised that the fiduciary duties with respect to Campus Foundation assets are also shared by The Regents. Accordingly, the Regents' Investment Advisory Committee (IAC) at its August 2002 meeting will review a recommendation from Wilshire Associates for acceptable ranges for asset allocation of endowment and other long-term assets held by the Campus Foundations. Assuming the recommendation is accepted by the IAC, it will be submitted for consideration and approval by the Committee on Investments and to The Regents.

As a result of campus gift solicitation practices, an increasingly large share of new gifts for endowments is directed to the Campus Foundations rather than to The

Regents. As of June 30, 2001, the Campus Foundations held an aggregate of $1.55 billion in endowment assets, $335 million of which was invested with the Office of the Treasurer. As of the same date, The Regents held endowment assets of $4.65 billion. Under the University policy and guidelines, the trustees of the Campus Foundations are responsible for decisions respecting the investment of the assets in the respective Foundation endowment portfolios.

Campus Foundations also serve as trustees for charitable remainder trusts and other split-interest trusts which typically pay an income to donors or other individuals for their lifetimes or for a period of years, after which the assets are either transferred directly to the University or are held as endowment by the Campus Foundation for the benefit of the University. In that capacity, the Campus Foundation trustees are also responsible for decisions respecting the investment of the assets in those charitable remainder and split-interest trusts. Thus, the Campus Foundation trustees are acting as fiduciaries both to the University and to the life-income beneficiaries of the trusts. As of June 30, 2001, The Regents served as trustee for approximately $48 million in such split-interest arrangements, and the Campus Foundations were trustees for an aggregate of approximately $260 million, for a combined total of approximately $308 million.

The trustees of the Campus Foundations, and especially the members of investment committees or other Campus Foundation bodies having responsibility for decisions relating to the investment of assets of the charitable remainder and other split-interest trusts, have expressed concern about potential liability for actions they take with respect to the investment of the assets of these trusts. University policies require Campus Foundations to obtain general liability and directors' and officers' liability insurance. However, such insurance increasingly does not provide adequate coverage for legal defense of actions which arise in connection with investment activities. Accordingly, certain Campus Foundations have asked the University if it will indemnify and defend their trustees for claims and causes of action against trustees which arise out of actions taken on behalf of the Foundations and of the University.

In January 1988, The Regents adopted a policy on defense and indemnification of individual Regents in civil proceedings. This action will provide the same level of protection for a trustee of a Campus Foundation as for an individual Regent with respect to investment matters. As such, the indemnification is limited to the circumstances in which the party acted, or failed to act, in good faith, in a manner such party believed to be in the best interest of the University, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In addition, the defense and indemnification of members of the Campus Foundation Boards will be limited to actions taken with respect to investment decisions of the trustees of the Campus Foundations concerning the investment of endowment, charitable remainder trusts, and other split-interest trusts, provided that such investments are invested in accordance with University policies and guidelines respecting Campus Foundations. It is also secondary to any entitlement the trustees may have to indemnification and defense from insurance carried by the Campus

Foundations. The Office of Risk Management will assist the campuses in obtaining continuing insurance coverage. The source of any payments for defense and indemnification will be from funds available to the Chancellor of the campus affected.

Committee Chair Hopkinson noted that, in line with common practice, the indemnification will exclude items such as fraud.

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

5. PROPOSED INCREASE IN NONRESIDENT TUITION FOR 2002-03

The President recommended that the Nonresident Tuition Fee be increased for 2002-03 as follows:

A. For nonresident graduate students, effective fall term 2002, $428 (4 percent) per academic year, from $10,704 to $11,132.

B. For nonresident undergraduate students:

(1) Effective fall term 2002, $1,070 (10 percent) per academic year.

(2) Effective spring term 2003, an additional $235, which is the amount equivalent to one academic quarter's share of an additional 6 percent annual increase, or $706.

Per Quarter		Per Semester	
Fall	$357 (10%)	Fall	$535 (10%)
Winter	$357 (10%)	Spring	$770 ($535 + $235)
Spring	$591 ($356 + $235)		

As a result of these actions, nonresident tuition for undergraduate students will increase by a total of $1,305, from $10,704 to $12,009, for the 2002-03 academic year. Future increases in the Nonresident Tuition Fee will be calculated from an annual level of $12,480, which is an increase of $1,776, or 16 percent, over the 2001-02 nonresident tuition level.

Vice President Hershman recalled that, in addition to paying nonresident tuition, out-of-state students must pay the Educational Fee, the University Registration Fee, miscellaneous campus fees, and, if applicable, the Fee for Students in Selected Professional Schools. Consistent with the proposed budget adopted by the Senate, no increases in mandatory systemwide fees are proposed for 2002-03. With the proposed increases in the Nonresident Tuition Fee, total average fees, including mandatory systemwide fees, campus-based fees, and nonresident tuition, for nonresident undergraduate students are expected to increase by about 8.7 percent in 2002-03 and by about 2.7 percent for nonresident graduate students. When fully annualized, the increase in total average fees for undergraduate students will be about 11.9 percent.

The University sets nonresident tuition levels consistent with the State's policy on the adjustment of nonresident tuition, which specifies that the segments of higher education must take two factors into consideration when setting tuition levels: the total nonresident charges imposed by the segment's public comparison institutions and the full average cost of instruction in their segment.

With the increase, the University's 2002-03 total mandatory charges for nonresident undergraduate and graduate students will be less than the projected average of tuition and fees charged at the public institutions the University uses for salary comparison. The University's fees for nonresident undergraduates are expected to be about $594 less than the average of tuition and fees charged to nonresident undergraduate students at those institutions. The University's fees for nonresident graduates are expected to be about $869 less than the average of tuition and fees charged by the comparison institutions.

The *2002-03 Budget for Current Operations* included a proposal to increase the Nonresident Tuition Fee for nonresident undergraduate and graduate students by $428 (4 percent) over the 2001-02 level. Since the time that the Regents' Budget was prepared, the State's fiscal situation has continued to decline, and the Governor and Legislature have proposed additional actions to address the expected State budget deficit in 2002-03. Among those actions is a proposal by the Legislature for an additional $642 (6 percent) increase in the Nonresident Tuition Fee, for undergraduate students only, to help fund certain University outreach programs. The University is proposing an additional $235 (an amount equivalent to one academic quarter's share of an additional 6 percent annual increase), to be assessed in the spring term to undergraduate students only, to help defray the rising costs of employee health benefits. A total of about $11.9 million in new fee revenue will be generated for 2002-03 as a result of these increases in the Nonresident Tuition Fee.

It is anticipated that approximately $3 million of the fee revenue will be used for graduate student support to complete the University's plan to waive student fees for eligible teaching assistants, and approximately $3 million will be used to help fund the University's overall budget. This is equal to a 4 percent fee increase for undergraduate and graduate nonresident students.

As noted previously, an additional 6 percent annual increase in the Nonresident Tuition Fee will be assessed to undergraduate nonresident students to help fund University outreach programs. In the May Revision to the budget, the Governor proposed significant reductions in funding for outreach programs to help deal with the State's deteriorating fiscal situation. The Legislative Budget Conference Committee adopted a compromise proposal to restore $20.5 million for outreach programs and proposed that $4.3 million in new revenue from an additional 6 percent increase in nonresident tuition for undergraduate nonresident students be used to fund additional restorations and expansion of existing outreach programs. The conference committee compromise was adopted by the Senate in its version of the budget. The Assembly has not yet acted on the budget. It is anticipated that the $4.3 million generated from this increase will be distributed to support the following programs, consistent with intent language proposed by the Legislature:

• School-University Partnerships	$3,000,000
• Graduate and Professional School Outreach – Summer internships for students in public policy	$350,000
• Central Valley Outreach	$379,000
• Urban School Collaborative	$361,000
• ArtsBridge Program	$250,000

Finally, the Regents have expressed grave concerns about the University's ability to meet the expected rise in costs for employee health benefits. The expenditure plan proposed in the *2002-03 Budget for Current Operations* included $14.9 million, a 10 percent increase, to fund health costs. With the support level proposed for the Partnership Agreement by the Governor and approved in the Senate version of the budget, there is only sufficient funding for a $10 million, or 6.7 percent, increase for employee health benefits. This falls considerably short of the estimated 20 percent to 25 percent increase in the cost of employee health benefits. The State's estimates for increases in health care costs for State employees are similar. The administration is planning to fund two-thirds of the cost increase, with employees covering the remainder. Given the shortfalls in funding for employee health benefits and the actions the State is taking to address the same problem, it will be necessary for UC employees to share in the funding of the increased cost of health care; as a result, costs will increase substantially for many employees. In order to minimize these cost increases, an additional 6 percent annual increase in the Nonresident Tuition Fee for nonresident undergraduates is proposed as one of a number of strategies to fund the University's share of these costs. If implemented for one academic term, after January 2003, when increases in health benefit costs become effective, the additional $235 assessed to nonresident undergraduate students – the amount equivalent to one academic quarter's share of the 6 percent annual increase – will generate about $1.6 million. The full 6 percent annual increase will generate nearly $4.8 million in 2003-04.

Regent Preuss believed that a long-term view should be taken concerning student fees. He was concerned that, as the percentage of out-of-state students, which is already small, diminishes, the diversity of the campus population is affected adversely. He stressed that it was unfair to bolster the University's budget with money from a source that had no local constituency to voice disapproval. Regent Lee agreed with those sentiments.

Regent Connerly also could not support the recommendation. He believed that too many decisions affecting the University were being influenced by political pressures and that the Regents should respectfully assert their right to guide the University according to what they think is in its best interests. He believed that it would be unfair to allow undocumented students who had been in California only three years to pay in-state tuition and at the same time raise fees for those from out of state. He commented also that the University's fee policy had become incoherent. Under political pressure, fees are raised and locked in when times are bad instead of being raised to realistic levels when times are good. He supported the view that the University should strive not just for racial and ethnic diversity but also for diversity of experience among its students.

Regent Ligot-Gordon commented that, although he supported outreach, he could not support the use of discrimination against an individual group of students in order to raise money.

Regent Lozano stated that she would vote in favor only reluctantly because the money is needed to mitigate the increased cost of health care premiums for employees. She supported the establishment of a stable fee policy. Committee Chair Hopkinson expressed a similar view and agreed that the fee policy should be examined without delay.

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

6. **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 10:25 a.m.

Attest:

Associate Secretary

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MORTGAGE ORIGINATION PROGRAM FRAMEWORK

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8. Program participation may continue for the term of employment by the University of California:

-- When the University employment is terminated or, in the case of academic appointees, there is a permanent change to an appointment status not considered to be in full-time service to the University, the mortgage loan is to be repaid within six months of such date of separation or change in status, except that

-- participation can continue when separation is due to disability or retirement, or ~~and~~

-- in the event of the death of the participant, participation can continue for a surviving spouse or surviving domestic partner or, in the absence of a surviving spouse or surviving domestic partner, for a~~n~~ surviving eligible child (as the terms Domestic Partner and Eligible Child ~~that term is~~ are defined by the University of California Retirement Plan ~~Plan Document~~).

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Attachment 2

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SUPPLEMENTAL HOME LOAN PROGRAM
ELIGIBILITY AND PARTICIPATION GUIDELINES

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3. Program participation may continue for the term of the participant's eligible employment at the University, as long as the property securing the loan continues to meet the specifications outlined in #2 under Program Loan Parameters:

   -- if the property securing the loan no longer meets the specifications outlined in #2 under Program Loan Parameters, the mortgage loan shall be reviewed for appropriate disposition; and

   -- if University employment is terminated or in the case of Academic appointees, there is a permanent change to an appointment status not considered to be in full-time service to the University, the mortgage loan is to be repaid within 180 days of such date of separation or change in status, except that:

      -- participation can continue when separation is due to disability or retirement; ~~and~~ or
      -- in the event of the death of the participant, participation can continue for a surviving spouse ~~(~~or~~,~~ surviving Domestic Partner, or in the absence of a surviving spouse or surviving domestic partner, for a~~n~~ surviving eligible child (as ~~that~~ the terms Domestic Partner and Eligible Child are ~~is~~ defined by the University of California Retirement Plan ~~Plan Document~~)~~) in the event of the death of the participant~~.

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