

**HEARING BEFORE THE
SENATE EDUCATION COMMITTEE**

**SEN. FLORENCE SHAPIRO, CHAIR
April 19, 2007**



**TEXAS STATE UNIVERSITY SYSTEM
BOARD OF REGENTS**

**TESTIMONY AND DOCUMENTS
RE SB 1749 AND SJR 60**

Texas State University System Enclosures for Senate Education Committee

1. Testimony of Regent Bernie Francis, Vice Chairman
2. ~~Testimony of Student Regent Maggie Manzano~~
3. Outstanding Bonds
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THE TEXAS STATE UNIVERSITY SYSTEM

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Orange

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San Marcos

TESTIMONY OF BERNIE FRANCIS, MEMBER TEXAS STATE UNIVERSITY SYSTEM BOARD OF REGENTS

Good morning, Chairman Shapiro and members of the Committee. My name is Bernie Francis, and I serve as Vice-Chair of the Texas State University System Board of Regents. Chairman Adams sends his regrets as he was unable to attend today. Thank you for the opportunity to express our concerns with SB 1749 and SJR 60. As some of you know, our Board voted 8-1 to oppose the proposed transfer because we believe it neither serves the policy or fiscal interests of the State of Texas nor otherwise represents the academic best interests for the students.

We have three primary concerns with the potential impact of SB 1749:

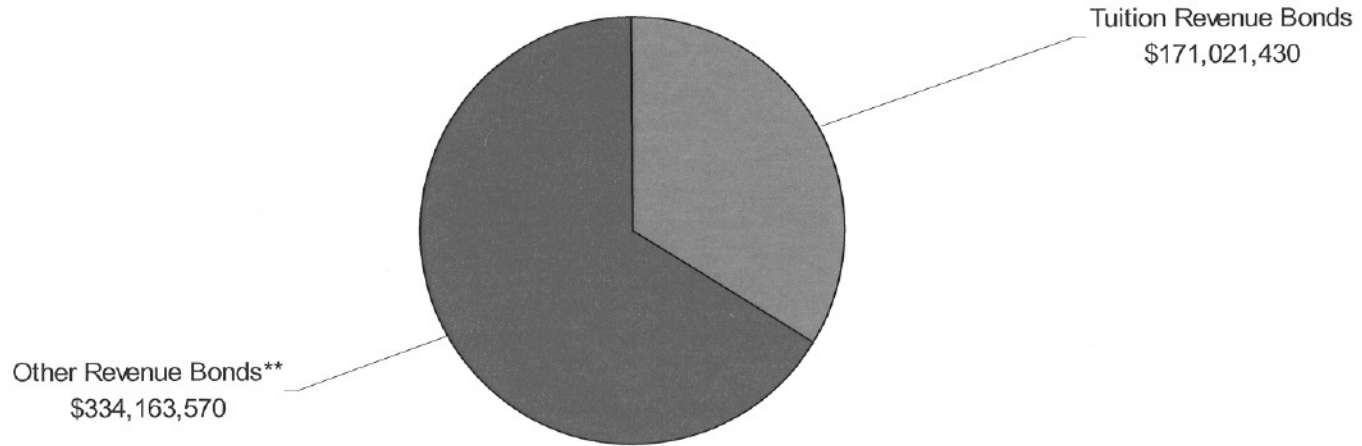
- First, as the third largest university system in the state our institutions are among the most affordable of the four-year colleges in Texas. The System's commitment to providing low cost education is real, with System overhead costs currently at just \$38 per student – by far the lowest in the state. We are concerned about the dramatic shift in costs, particularly system overhead costs that will directly impact the students of Angelo State University.
- Second, the Board has worked hard to provide the type of accountability and oversight demanded by the Legislature in recent years for higher education. The actions we have taken have resulted in millions of dollars in real savings to the System and the state, as well as real benefits to each campus. We are extremely concerned about the negative effect this bill has had and will have on the existing financial structure that has benefited every institution in our system. We firmly believe that this bill does not address the extensive and complicated bond financing issues that are involved not only in the transfer, but in maintaining the financial integrity of the system afterwards, should the transfer be approved.
- Lastly, I started with the students, and I will end with the students. Angelo State University has been a member of our System for 42 years, currently with the 8 percent of the System's student population and approximately 15 percent of the debt. ASU's student population is ethnically and geographically diverse with students representing more than 200 counties

in Texas. More than 60% of the students attending ASU are from outside of Tom Green County. With slightly more than 23% of its student population of Hispanic descent, it is on the verge of becoming a Hispanic serving institution with the benefits that come with that designation nationwide. Although it is located in West Texas, its reach and impact is statewide.

The institution is uniquely situated to continue educating students that are first generation and historically underrepresented, and it does a great job of doing so. Angelo State is fully integrated into our System and has received all the benefits associated with this membership, including participation in the System's *Grow Your Own* faculty initiative, where two Hispanic female doctoral candidates on the campus have been selected as recipients of an award valued at \$50,000 each to pursue their advanced degrees. This bill impacts real people, students whose participation in existing programs/benefits supported by the System or with the support of the System will come to an abrupt end as a result of this bill.

On behalf of the Board of Regents, I thank you for the opportunity to voice these concerns.

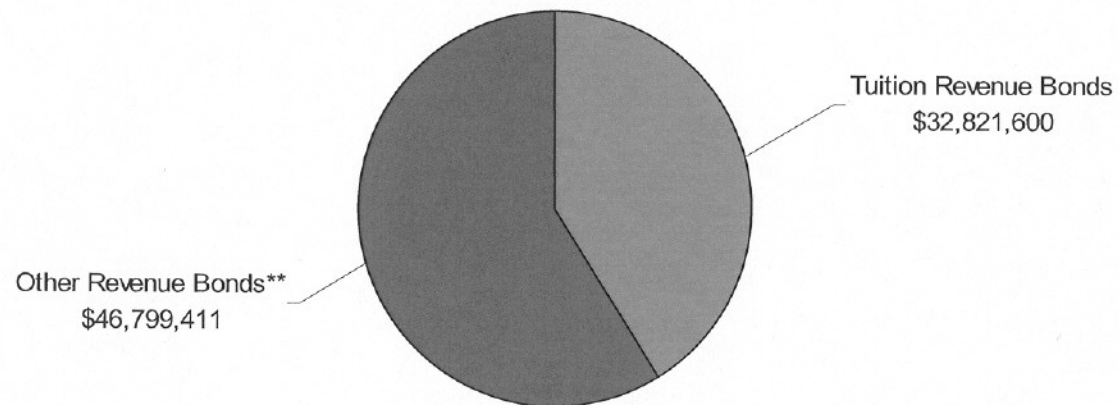
Texas State University System
Outstanding Bonds
03/16/2007



** Sources:
Auxiliary Revenues
Designated Tuition
Student Fees

33.9% of System bonds are Tuition Revenue Bonds

Angelo State University
Outstanding Bonds
03/16/2007



** Sources:
Auxiliary Revenues
Designated Tuition
Student Fees

41.2% of ASU bonds are Tuition Revenue Bonds

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MEMORANDUM

DATE: April 5, 2007
FROM: McCall, Parkhurst & Horton L.L.P.
RE: Procedures Related to Legislative Removal of a Member of a Revenue Financing System

H.B.3564, as filed, would transfer Angelo State University (the "Transferred Institution") from the Texas State University System ("TSUS") to the Texas Tech University System. TSUS has debt outstanding secured by all legally available revenues of its system under a financing structure known as a Revenue Financing System. Under the Revenue Financing System, the debt of the system is allocated to the respective institutions comprising the system. The Revenue Financing System contemplates that institutions may be added or withdrawn from the system and establishes tests that must be satisfied prior to that action taking place. Thus, for the Transferred Institution to be transferred, the requirements of the Revenue Financing System must be met.

The first part of this memorandum sets forth the procedures related to the legislative removal of the Transferred Institution, referred to as a Member of the TSUS Revenue Financing System, as provided in the TSUS Master Resolution. The second part of this memorandum sets forth the legislative actions to be considered in connection with the transfer of the Transferred Institution from TSUS.

This memorandum addresses only the legal issues presented in the TSUS Master Resolution and the business points to be addressed in the legislation. This memorandum does not address any actions to be taken by the recipient institution.

Additionally, this memorandum addresses only the provisions of the TSUS Master Resolution relating to the removal of an institution from the Revenue Financing System. There will be administrative, institutional, contractual, employment and other issues, including other legal issues, related to the transfer that do not fall within the scope of our expertise, and with respect to which we defer to other appropriate officials and consultants for TSUS.

TSUS Revenue Financing System

The Board of Regents of TSUS (the "TSUS Board") established its revenue financing system pursuant to a "Master Resolution Establishing the Texas State University System Revenue Financing System" (the "TSUS Master Resolution") adopted by the TSUS Board on August 13, 1998 and attached hereto for convenience. Any capitalized terms not otherwise defined in this memorandum have the meaning given in the TSUS Master Resolution.

At the time of adoption of the TSUS Master Resolution, the Members of the Revenue Financing System included Angelo State University; Lamar University - Beaumont; Lamar University Institute of Technology; Lamar University - Orange; Lamar University - Port Arthur; Sam Houston State University; Southwest Texas State University (now known as Texas State University - San Marcos); Sul Ross State University; and Sul Ross State University Rio Grande College. To date, no other Members have been added to or removed from the TSUS Revenue Financing System.

TSUS Master Resolution Provisions

Section 7(b) of the TSUS Master Resolution provides the following related to the removal of a Member:

"(b) Release. Subject to the conditions set forth below, any Member or portion thereof may be closed and abandoned by law *or may be removed from the Financing System (thus deleting the revenues, income, funds, and balances attributable to said Member or portion thereof from Pledged Revenues) without violating the terms of this Resolution provided* [emphasis added]:

(1) the Board specifically finds that (based upon an Officers' Certificate) that, after the release of the Member or portion thereof, the Board will have sufficient funds during each Fiscal Year in which Parity Debt shall thereafter be Outstanding to meet the financial obligations of the Texas State University System, including sufficient Pledged Revenues to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System; and

(2) the Board shall have received an Opinion of Counsel which shall state that such release will not affect the status for Federal Income Tax purposes of interest on any Outstanding Parity Debt and that all conditions precedent provided in this Resolution or any Supplement relating to such release have been complied with; and

....

(3)(B) if the Member or portion thereof to be released from the Financing System is to no longer be under the governance and control of the Board, the Board must receive a binding obligation of the new governing body of the withdrawing Member ... obligating said governing body to make payments to the Board at the times and in the amounts equal to said Member's Annual Obligation and to pay or discharge said Member's Direct Obligation"

All provisions set forth in Section 7(b) of the TSUS Master Resolution have to be met in order for the Transferred Institution to be removed from the TSUS Revenue Financing System and for the TSUS System to remain in compliance with the provisions and covenants made to the bondholders of its outstanding debt. Below we have set forth information related to each item required under Section 7(b) of the TSUS Master Resolution.

Findings of Sufficiency - Section 7(b)(1) of the TSUS Master Resolution

The TSUS Master Resolution was written in a way to provide maximum flexibility to the TSUS System. While the TSUS Master Resolution allows for the removal of a Member, the TSUS Master Resolution establishes only the broad outline of the legal requirements of such action. The protection of the interests of the bondholders is the primary purpose of Section 7(b). Section 7(b)(3)(B) of the TSUS Master Resolution permits the removal based upon a "binding obligation" of the new governing body of the withdrawing Member to make payments to the TSUS Board at the times and in the amounts equal to the Member's Annual Obligation.

However, the finding of sufficiency as required by Section 7(b)(1) of the TSUS Master Resolution is a decision made by the TSUS Board, based upon the certification of the Officer (i.e., TSUS Chancellor), and ultimately the TSUS Board and TSUS Chancellor will have to determine what they believe are "sufficient" arrangements related to the removed Member's allocable portion of the TSUS System's debt. The TSUS Master Resolution requires a long-term "binding obligation" of the board of the recipient institution to make payments sufficient to pay the Member's allocable debt.

There are any number of factors the TSUS Board and TSUS Chancellor may want to consider related to making the determination of sufficiency, and such factors may include: (i) a determination of the Annual Obligation of the Member being removed; (ii) consultation with the TSUS System's financial advisor to determine any sufficiency, credit market and rating agency considerations that need to be addressed; (iii) the binding financial commitment of the recipient institution as required by Section 7(b)(3)(B) of the TSUS Master Resolution; (iv) any legislative commitment set forth in the legislation related to the removal of a Member; and (v) any accounting or related financial issues. In addition, the TSUS Board and the recipient institution each will need to approve the arrangements regarding the Transferred Institution's obligation including those relating to tuition revenue bonds.

Tax Opinion - Section 7(b)(2) of the TSUS Master Resolution

Section 7(b)(2) of the TSUS Master Resolution also requires that the TSUS Board receive an Opinion of Counsel (i.e., counsel acceptable to the TSUS Board) prior to removal of a Member. The opinion must state that (i) the release of the Member will not affect the status for Federal Income Tax purposes of interest on any Outstanding Parity Debt of the TSUS System and (ii) all conditions precedent provided in the TSUS Master Resolution or any Supplement issuing a particular series of Parity Debt to such release have been complied with.

The particular federal tax law issues that need to be addressed in order to receive the Opinion of Counsel will depend upon the specifics of the finance plan agreed upon related to the payment of the portion of the TSUS System's debt allocable to the removed Member. However, for so long as TSUS has bonds outstanding for which the Transferred Institution is obligated, there will likely be a need for a tax compliance agreement with the recipient institution to ensure that the recipient institution does not take any action to adversely affect the tax status of the TSUS System's debt. No diligence has been done with respect to the tax issues that may relate to the TSUS System's debt regarding change in use or private activity that may be affected should H.B. 3564 be enacted.

Binding Obligation - Section 7(b)(3)(B) of the TSUS Master Resolution

Since it is contemplated that the Member to be released from the TSUS Revenue Financing System is to no longer be under the governance and control of the TSUS Board, the TSUS Board must receive a binding obligation of the board of the recipient institution obligating it to make payments to the TSUS Board at the times and in the amounts equal to such Member's Annual Obligation and to pay or discharge such Member's Direct Obligation as discussed above.

Other Actions

In connection with the removal of a Member, TSUS will be required to file various disclosure and other notices with the market, rating agencies and bond insurers, specifically a material event notice under Rule 15c2-12, promulgated by the U.S. Securities and Exchange Commission.

Legislative Actions to be Considered

The TSUS Master Resolution was drafted to provide flexibility and a basic contractual framework related to removal of a Member but various details of the transfer or addition of a Member must be addressed by legislative action. As a result, for purposes of the TSUS Master Resolution the following matters will need to be addressed in any legislation transferring a Member: (i) authorize the recipient institution to make payments and pledge its Revenue Financing System to the long-term payment obligation or, alternatively, if revenues are part of the "sufficiency" determination of the TSUS Board and TSUS Chancellor, the legislature will be required to

Revenue Financing System

April 5, 2007

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appropriate or authorize the payment of funds to the TSUS System related to the allocable debt; (ii) authorize the TSUS System to add to its pledge of Pledged Revenues any payments received pursuant to a long-term payment obligation from the recipient institution to assist with coverage and other necessary financial calculations; (iii) a finding by the legislature that the transfer will not adversely impact the ability of either system to meet its financial obligations including specifically assurances as to appropriations to reimburse appropriate institutions related to tuition revenue bonds and higher education assistance funds; (iv) responsibilities and allocation of savings with respect to any refinancing of the Outstanding Parity Debt, if it is not defeased; and (v) authorizing the recipient institution to refund any long-term payment obligations given to the TSUS System (although for federal tax purposes the allocable Parity Obligations and the long-term payment obligation of the recipient institution will likely be treated as one obligation for refunding purposes and refunding opportunities will be accordingly limited for both institutions).

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March 2, 2007

Mr. Robert Kline
Executive Director
Texas Bond Review Board
300 W. 15th Street, Suite 409
Austin, Texas 78701

Dear Bob:

Our firm serves as bond counsel to the Texas State University System (the "System") and a number of the major university systems in the State. In such capacity, we drafted the "Master Resolution Establishing the Texas State University System Revenue Financing System" adopted by the Board of Regents of the System on August 13, 1998 (the "Master Resolution"). To date, eleven supplemental resolutions have been adopted pursuant to the Master Resolution which authorized twelve separate series of bonds for various projects and refinancings for the benefit of the component institutions of the System. A copy of the Master Resolution is attached to this letter.

As you may be aware, the revenue financing system established by the Master Resolution permits the System to issue bonds and other obligations on behalf of the component institutions within the System that are payable from a pledge of all the pledged revenues of the System. Pledged revenues is generally defined in the Master Resolution to include all of the funds and balances now or hereafter lawfully available to the Board of Regents (the "Board") of the System and derived from or attributable to any member [component institution] of the revenue financing system which are lawfully available to the Board for payment of bonds and other obligations.

At the time any new bonds are issued under the revenue financing system, a determination is made by the System that the component institutions for whom the bonds are being issued possess the financial capacity to satisfy their respective obligations to the System. Therefore, each institution is responsible for its pro rata share of the bonds issued for its benefit. However, from a credit perspective, all pledged revenues of the System are available to pay the bond obligations in the event the particular benefitting component institution has insufficient funds. All higher education systems in the State have adopted this type of revenue financing system in order to provide a cost effective and streamlined financing vehicle for their component institutions.

At the time of the initial issuance of bonds for the System, the rating agencies and other market participants required assurances and covenants from the System as to the circumstances under which the security for the bonds issued (i.e., the pledged revenues and component institutions) could change. Section 7(b) of the attached Master Resolution limits the circumstances for the removal of a component institution from the revenue financing system and generally requires that provision be made for the payment of the debt obligations of the component institution being removed.

To our knowledge, there has not been a higher education system of the State that has had a component institution removed and there are a number of state laws, federal tax laws, federal securities laws and credit

Bob Kline

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market issues that need to be considered in connection with any such removal. First, it is unknown how the credit rating agencies will treat the removal of an institution as it relates to the system from which the component is being removed. Removal of an entire revenue stream of a component institution from the System will not strengthen the System's existing debt rating and reputation in the credit market potentially resulting in higher interest borrowing costs. Additionally, the precedent of the Texas Legislature removing a component institution from a revenue financing system could have an impact on the existing debt ratings of other higher education systems in the State.

Second, it is also unknown how the credit rating agencies will treat such a removal as it relates to the system which is receiving the new component institution. A number of the State higher education systems' revenue financing bond resolutions require that the related debt of any new component institution joining an existing system shall be deemed to be senior lien debt with a higher payment priority than such receiving system's existing debt. It is unclear what impact adding new senior lien debt will have on the receiving system's existing bond ratings and bond covenants. Depending upon the amount of debt obligations of the removed component institution, such institution's borrowing capacity may be impacted in the context of the new system's existing debt structure and guidelines.

Third, pursuant to federal tax law, tax-exempt bonds are limited in the number of advance refundings (refundings of bonds more than 90 days before their call date) that can occur. If the new system issues debt to refund and defease debt obligations attributable to the removed component institution, there is a likelihood that some of the outstanding bonds would have to be refunded on a taxable (higher interest cost) basis because of the federal tax law limitation on advance refundings.

Fourth, both the existing system from which the component institution is being removed as well as the new system that is receiving the component institution would have to follow federal securities law guidelines in filing material event notices and providing adequate disclosure to the municipal bond market and be able to address any credit market issues related thereto. It is unclear how the credit and debt markets will react to such notices.

We have tried to provide a brief summary of the pertinent bond documents and public finance issues related to the removal of a component institution from the System, obviously, there may be other issues which arise both from a legal and institutional perspective that would need to be addressed as well but which are outside our expertise. Please do not hesitate to call if you have additional questions or issues you would like us to review.

Very truly yours,

McCall, Parkhurst & Horton L.L.P.



C.D. Polumbo
Managing Partner, Austin Office

cc: Chancellor Matthews
Vice Chancellor Smith

MASTER RESOLUTION ESTABLISHING THE
TEXAS STATE UNIVERSITY SYSTEM REVENUE FINANCING SYSTEM

WHEREAS, pursuant to the provisions of Chapter 95 of the Code, the Board governs the affairs and administers the operations of the Texas State University System as a "University System", as said term is defined in Section 61.003 of the Code; and

WHEREAS, the University System is presently composed of those institutions of higher education set forth in the definition of University System in this Resolution; and

WHEREAS, the terms used in this Resolution and not otherwise defined shall have the meaning given in Exhibit A to this Resolution attached hereto and made a part hereof; and

WHEREAS, the Board heretofore authorized, issued, and delivered, or assumed, various series of outstanding bonds on behalf of the institutions in the University System; and

WHEREAS, in order to reduce costs, increase borrowing capacity, provide additional security to the credit markets, and provide the Board with greater financial flexibility, the Board deems it necessary and desirable to establish a revenue financing program, the Financing System, for revenue supported indebtedness to provide funds to acquire, purchase, construct, improve, renovate, enlarge or equip property, buildings, structures, facilities, roads, or related infrastructure for the Members of the Financing System; and

WHEREAS, the Board determines to make all of the institutions presently a part of the University System Members of the Financing System.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS, TEXAS STATE UNIVERSITY SYSTEM THAT:

Section 1. ESTABLISHMENT OF FINANCING SYSTEM AND ISSUANCE OF PARITY DEBT. There is hereby established the Texas State University System Revenue Financing System for the purpose of providing a financing structure for revenue supported indebtedness of components of the Texas State University System included as Members of the Financing System. This Resolution is intended to establish a master plan under which revenue supported indebtedness of the Financing System can be incurred. Each Supplement shall provide for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of each issue or series of Parity Debt and any other matters related to Parity Debt not inconsistent with the Constitution and laws of the State of Texas or the provisions of this Resolution.

Section 2. SECURITY AND PLEDGE; (a) Pledge. Subject to the provisions of the resolutions authorizing Prior Encumbered Obligations, Parity Debt shall be secured by and payable from a lien on the Pledged Revenues, and the Board hereby assigns and pledges the Pledged Revenues to the payment of the principal of and interest on Parity Debt, and the Pledged Revenues are further pledged to the establishment and maintenance of any funds which may be provided to secure the repayment of Parity Debt in accordance with this Resolution and any Supplement. The Board may additionally secure Parity Debt with one or more Credit Agreements.

(b) Additional Members. As provided in Section 7 of this Resolution, institutions which are not now Members of the Financing System may hereafter become Members and such institutions may, at such time, have outstanding obligations secured by Prior Encumbered Revenues and that, therefore, the lien on and pledge of the Pledged Revenues established pursuant to this Resolution and effective when such institutions become Members of the Financing System will be subject and subordinate only to such institutions' outstanding Prior Encumbered Obligations.

(c) Restriction on Issuance of Additional Debt on a Parity with Prior Encumbered Obligations. Except as provided in Section 4(g) and while any Parity Debt is outstanding, no additional bonds or obligations may be issued or incurred by the Board on a parity with any Prior Encumbered Obligations.

Section 3. RATE COVENANT: PLEDGED REVENUES. (a) Rate Covenant. In each Fiscal Year, the Board shall establish, charge, and use its reasonable efforts to collect at each Member the Pledged Revenues which, if collected, would be sufficient to meet all financial obligations of the Board relating to the Financing System including all deposits or payments due on or with respect to Outstanding Parity Debt for such Fiscal Year.

(b) Pledged Revenues. Subject to the provisions of the resolutions authorizing Prior Encumbered Obligations and to the other provisions of this Resolution and any Supplement, the Board covenants and agrees at all times to fix, levy, charge, and collect at each Member the Pledged General Tuition and other Pledged Revenues from each student enrolled at each Member, respectively, at each regular fall and spring semester and at each term of each summer session, for the use and availability of such institution or branch thereof, respectively, in such amounts, without any limitation whatsoever, as will be at least sufficient at all times, together with other legally available funds, including other Pledged Revenues, to provide the money to make or pay the principal of, interest on, and other payments or deposits with respect to the Parity Debt then Outstanding when and as required. The Pledged General Tuition and the other rentals, rates, fees, and charges included in Pledged Revenues shall be adjusted, if and when permitted or required by this Resolution or any Supplement, to provide Pledged Revenues sufficient to make when due all payments and deposits in connection with the Parity Debt then Outstanding. The Board may fix, levy, charge, and collect the Pledged Revenues in any manner it may determine within its discretion, and in different amounts from students enrolled in different Members, respectively, and in addition it may totally suspend the collection of any item included in Pledged Revenues from the students enrolled in any Member, so long as total Pledged Revenues are sufficient, together with other legally available funds, to meet all financial obligations of the Board relating to the Financing System including all payments and deposits in connection with the Parity Debt then Outstanding. All changes in the Pledged General Tuition shall be made by a resolution of the Board, but such procedure shall not constitute or be regarded as an amendment of this Resolution or any Supplement, but merely the carrying out of the provisions and requirements hereof.

(c) Annual Obligation. If, in the judgment of the Board, any Member has been or will be unable to satisfy its Annual Obligation, the Board shall fix, levy, charge, and collect rentals, rates, fees, and charges for goods and services furnished by such Member and the Pledged General Tuition, effective at the next succeeding regular semester or semesters or summer term or terms, in amounts sufficient, without limit (subject to the provisions of (e) below), together with other legally available funds, including other Pledged Revenues attributable to such Member, to enable it to make its Annual Obligation payments.

(d) Anticipated Deficit. If the Board determines, for any reason whatsoever, (i) that there are not anticipated to be sufficient legally available funds, including Pledged Revenues, to meet all financial obligations of the Board relating to the Financing System, including the deposits and payments due on or with respect to the Parity Debt Outstanding at that time as the same mature or come due, or (ii) that any Member will be unable to pay its Annual Direct Obligation in full, then the Board shall fix, levy, charge, and collect the Pledged General Tuition at each Member, effective at the next succeeding regular semester or semesters or summer term or terms, in such amounts, without any limitation whatsoever (other than as provided in (e) below), as will be at least sufficient to provide, together with other legally available funds, including other Pledged Revenues, the money for making when due all financial obligations of the Board relating to the Financing System including all payments and deposits due on or with respect to Outstanding Parity Debt when and as required by this Resolution or any Supplement.

(e) Economic Effect of Adjustments. Any adjustments in the rate or manner of charging for any rentals, rates, fees, tuition, or other charges included in Pledged Revenues, including the Pledged General Tuition, at any of the Members pursuant to (c) or (d) above will be based upon a certificate and recommendation of a System Representative, delivered to the Board, as to the rates and anticipated collection of the Pledged Revenues at the various Members (after taking into account the anticipated effect the proposed adjustments in such rentals, rates, fees, tuition, or other charges would have on enrollment and the receipt of Pledged Revenues and other funds at each Member) which will be anticipated to result in (i) Pledged Revenues attributable to each Member being sufficient (to the extent possible) to satisfy the Annual Obligation of such Member and (ii) Pledged Revenues being sufficient, together with other legally available funds, to meet all financial obligations of the Board relating to the Financing System including all deposits and payments due on or in connection with Outstanding Parity Debt when and as required by this Resolution and any Supplement.

Section 4. GENERAL COVENANTS. The Board further represents, covenants and agrees that while Parity Debt or interest thereon is Outstanding:

(a) Payment of Parity Debt. On or before each payment date it shall make available to the Paying Agent for such Parity Debt or to such other party as required by a Supplement, money sufficient to pay the interest on, principal of, and premium, if any, on the Parity Debt as will accrue or otherwise come due or mature, or be subject to mandatory redemption prior to maturity, on such date and the fees and expenses related to the Parity Debt, including the fees and expenses of the Paying Agent and any registrar, trustee, remarketing agent, tender agent or credit provider.

(b) Performance. It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Resolution and in each Supplement, and in each and every Parity Debt or evidence thereof.

(c) Redemption. It will duly cause to be called for redemption prior to maturity, and will cause to be redeemed prior to maturity, all Parity Debt which by its terms is mandatorily required to be redeemed prior to maturity, when and as so required.

(d) Lawful Title. It lawfully owns, has title to, or is lawfully possessed of the lands, buildings, and facilities now constituting the Texas State University System, and it will defend said title and title to any lands, buildings, and facilities which may hereafter become part of the Financing System,

whether by the addition to the Financing System of a new institution or institutions, or otherwise, for the benefit of the owners of Parity Debt against the claims and demands of all persons whomsoever.

(e) Lawful Authority. It is lawfully qualified to pledge the Pledged Revenues herein pledged in the manner prescribed herein, and has lawfully exercised such right.

(f) Preservation of Lien. Subject to the conditions set forth in Sections 5, 6, and 7 of this Resolution, it will not do or suffer any act or thing whereby the Financing System might or could be impaired, and that it will at all times maintain, preserve, and keep the real and tangible property of the Financing System and every part thereof in good condition, repair, and working order and operate, maintain, preserve, and keep the facilities, buildings, structures, and equipment pertaining thereto in good condition, repair, and working order.

(g) No Additional Encumbrance. It shall not incur additional Debt secured by the Pledged Revenues in any manner, except as permitted by this Resolution in connection with Parity Debt, unless said Debt is made junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Resolution and any Supplement. Notwithstanding anything to the contrary contained herein, and in addition to the right hereunder to refund the Prior Encumbered Obligations with Parity Debt, the Board reserves the right to issue bonds to refund any Prior Encumbered Obligations and to secure the refunding bonds with the same source or sources securing the Prior Encumbered Obligations being refunded. Upon the defeasance of the refunded Prior Encumbered Obligations, the refunding bonds will be Prior Encumbered Obligations (unless the refunding bonds are made Parity Debt in accordance with the terms of this Resolution) under this Resolution and any Supplement for all purposes.

(h) Investments and Security. It will invest and secure money in all accounts and funds established pursuant to this Resolution and any Supplement in the manner prescribed by law for such funds and in accordance with written policies adopted by the Board.

(i) Records. It will keep proper books of record and account in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the Texas State University System. Each year while Parity Debt is Outstanding, the Board will cause to be prepared from such books of record and account an annual financial report of the Texas State University System and shall furnish such report to the principal municipal bond rating agencies and any owner of Parity Debt who shall request same. In addition, the Board shall submit such financial report and other information required by law for examination in connection with financial compliance and other audits required to be conducted by the office of the Auditor of the State of Texas.

(j) Inspection of Books. It will permit any owner or owners of twenty-five per centum (25%) or more of the then Outstanding Principal Amount, at all reasonable times to inspect all records, accounts, and data of the Board relating to the Texas State University System, except such records as federal or state law may denominate as privileged and exempt from disclosure, including, but not by way of limitation, student educational records, personnel records the disclosure of which would constitute, in the opinion of the administration of the Texas State University System, a clearly unwarranted invasion of personal privacy, or trade secrets of third parties.

(k) Annual and Direct Obligations. In establishing the annual budget for each Member, it shall provide for the satisfaction by each Member of its Annual Obligation. The Direct Obligation shall represent the financial responsibility of each Member with respect to Outstanding Parity Debt. Each Member's Direct Obligation and Annual Obligation shall be evidenced by a financing agreement between the Board and each Member.

(l) Determination of Outstanding Parity Debt. For all purposes of this Resolution, the judgment of the Auditor of the Texas State University System shall be deemed final in the determination of which obligations of the Board constitute Parity Debt.

Section 5. ISSUANCE OF ADDITIONAL DEBT.

(a) Parity Debt. The Board reserves and shall have the right and power to issue or incur Parity Debt for any purpose authorized by law pursuant to the provisions of this Resolution and a Supplement to be hereafter authorized. The Board may incur, assume, guarantee, or otherwise become liable in respect of any Parity Debt if the Board shall have determined, that it will have sufficient funds to meet the financial obligations of the Texas State University System, including sufficient Pledged Revenues to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System.

In addition, the Board shall not issue or incur Parity Debt unless (i) the Board shall determine that the Member or Members for whom the Parity Debt is being issued or incurred possess the financial capacity to satisfy their respective Direct Obligations after taking into account the then proposed additional Parity Debt, and (ii) a System Representative shall deliver to the Board an Officer's Certificate stating that, to the best of his or her knowledge, the Board is in compliance with all covenants contained in this Resolution and any Supplement, and is not in default in the performance and observance of any of the terms, provisions, and conditions hereof or thereof.

(b) Parity Debt Issued for Equipment and Minor New Construction and Repair and Rehabilitation Projects. Notwithstanding the provisions of (a) above, Parity Debt issued in the form of Commercial Paper for equipment, minor new construction, and minor repair and rehabilitation projects which are not required to be approved by the Texas Higher Education Coordinating Board may be issued if the System Representative, on behalf of the Board, delivers a certificate to the Secretary of the Board to the effect that, after the issuance of the Commercial Paper for such purpose, (i) the Board will have sufficient funds to meet the financial obligations of the University System, including sufficient Pledged Revenues to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System, (ii) the Member or Members for whom the Parity Debt is being issued or incurred possess the financial capacity to satisfy their respective Direct Obligations after taking into account the then proposed additional Parity Debt, and (iii) to the best of his or her knowledge, the Board is in compliance with all covenants contained in this Resolution and any Supplement, and is not in default in the performance and observance of any of the terms, provisions, and conditions hereof or thereof.

(c) Non-Recourse Debt and Subordinated Debt. Non-Recourse Debt and Subordinated Debt may be incurred by the Board without limitation.

Section 6. DISPOSITION OF ASSETS ATTRIBUTABLE TO FINANCING SYSTEM MEMBERS.

The Board may convey, sell, or otherwise dispose of any properties of the Board attributable to a Member of the Financing System provided:

(a) Ordinary Course. Such conveyance, sale, or disposition shall be in the ordinary course of business of a Member of the Financing System which uses, operates, owns, or is otherwise responsible for such properties; or

(b) Disposition Upon Board Determination. The Board shall determine that after the conveyance, sale, or other disposition of such properties, the Board shall have sufficient funds during each Fiscal Year during which Parity Debt is to be Outstanding to meet the financial obligations of the Texas State University System, including sufficient Pledged Revenues to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System and the Board shall have received an Opinion of Counsel to the effect that the conveyance, sale, or other disposition of such properties will not adversely affect the status, for Federal Income Tax purposes, of the treatment of interest on then Outstanding Parity Debt issued to acquire, construct, or rehabilitate such properties.

Section 7. COMBINATION, DIVISION, RELEASE, AND ADMISSION OF FINANCING SYSTEM MEMBERS. (a) Combination and Division. Notwithstanding anything to the contrary contained herein, it is recognized that certain Members or institutions which may be made Members of the Financing System may be combined or divided and that so long as such combined or divided institutions continue to be governed by the Board such action shall not be in violation of the provisions of this Resolution or require any amendments of the provisions hereof.

(b) Release. Subject to the conditions set forth below, any Member or portion thereof may be closed and abandoned by law or may be removed from the Financing System (thus deleting the revenues, income, funds, and balances attributable to said Member or portion thereof from Pledged Revenues) without violating the terms of this Resolution provided:

(1) the Board specifically finds that (based upon an Officers' Certificate) that, after the release of the Member or portion thereof, the Board will have sufficient funds during each Fiscal Year in which Parity Debt shall thereafter be Outstanding to meet the financial obligations of the Texas State University System, including sufficient Pledged Revenues to satisfy the Annual Debt Service Requirements of the Financing System and to meet all financial obligations of the Board relating to the Financing System; and

(2) the Board shall have received an Opinion of Counsel which shall state that such release will not affect the status for Federal Income Tax purposes of interest on any Outstanding Parity Debt and that all conditions precedent provided in this Resolution or any Supplement relating to such release have been complied with; and

(3) (A) if the Member or portion thereof to be released from the Financing System is to remain under the governance and control of the Board, the Board must either (i) provide, from lawfully available funds, including Pledged Revenues attributable to said withdrawing

Member, for the payment or discharge of said Member's Direct Obligation or (ii) pledge to the payment of Parity Debt, additional resources not then pledged in an amount sufficient to satisfy such withdrawing Member's Direct Obligation; or

(B) if the Member or portion thereof to be released from the Financing System is to no longer be under the governance and control of the Board, the Board must receive a binding obligation of the new governing body of the withdrawing Member or the portion thereof being withdrawn, obligating said governing body to make payments to the Board at the times and in the amounts equal to said Member's Annual Obligation and to pay or discharge said Member's Direct Obligation, or, in the case of a portion of a Member being withdrawn, the proportion of the Member's Annual Obligation and Direct Obligation, as the case may be, attributable to the withdrawing portion of the Member.

(c) Admission of Members. If, after the date of the adoption of this Resolution, the Board desires for a component of the Texas State University System to become a Member of the Financing System, it may include said institution in the Financing System with the effect set forth in this Resolution by the adoption of a Supplement to this Resolution.

Section 8. WAIVER OF CERTAIN COVENANTS. The Board may omit in any particular instance to comply with any covenant or condition set forth in Sections 3 through 7 hereof if before or after the time for such compliance the Holders of the same percentage in principal amount of all Parity Debt then Outstanding, the consent of which would be required to amend the provisions hereof to permit such noncompliance, shall either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived and, until such waiver shall become effective, the obligations of the Board and the duties of the Board in respect of any such covenant or condition shall remain in full force and effect.

Section 9. INDIVIDUALS NOT LIABLE. All covenants, stipulations, obligations, and agreements of the Board contained in this Resolution and any Supplement shall be deemed to be covenants, stipulations, obligations, and agreements of the Financing System and the Board to the full extent authorized or permitted by the Constitution and laws of the State of Texas. No covenant, stipulation, obligation, or agreement herein contained shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the Board or agent or employee of the Board in his or her individual capacity and neither the members of the Board nor any officer or employee thereof shall be liable personally on Parity Debt when issued, or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 10. SPECIAL OBLIGATIONS; ABSOLUTE OBLIGATION TO PAY PARITY DEBT. All Parity Debt and the interest thereon shall constitute special obligations of the Board payable from the Pledged Revenues, and the owners thereof shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than specified in this Resolution or any Supplement. The obligation of the Board to pay or cause to be paid the amounts payable under this Resolution and each Supplement out of the Pledged Revenues shall be absolute, irrevocable, complete, and unconditional, and the amount, manner, and time of payment of such amounts shall not be decreased, abated, rebated, setoff, reduced, abrogated, waived, diminished, or otherwise modified in any manner or to any extent whatsoever, regardless of any right of setoff,

recoupment, or counterclaim that the Board might otherwise have against any owner or any other party and regardless of any contingency, force majeure, event, or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during, or after the issuance of Parity Debt while any Parity Debt is Outstanding.

Section 11. REMEDIES. Any owner of Parity Debt in the event of default in connection with any covenant contained herein or in any Supplement, or default in the payment of said obligations, or of any interest due thereon, or other costs and expenses related thereto, may require the Board, its officials and employees, and any appropriate official of the State of Texas, to carry out, respect, or enforce the covenants and obligations of this Resolution or any Supplement, by all legal and equitable means, including specifically, but without limitation, the use and filing of mandamus proceedings in any court of competent jurisdiction against the Board, its officials and employees, or any appropriate official of the State of Texas.

Section 12. DEFEASANCE OF BONDS. (a) Deemed Paid. Any Parity Debt and the interest thereon shall be deemed to be Defeased Debt within the meaning of this Resolution, except to the extent provided in subsection (c) of this Section, when the payment of all principal and interest payable with respect to such Parity Debt to the due date or dates thereof (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or provision for the giving of same having been made) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent for such Parity Debt for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) noncallable Government Obligations which mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, or (3) any combination of (1) and (2) above, and when proper arrangements have been made by the Board with each such Paying Agent for the payment of its services until after all Defeased Debt shall have become due and payable. At such time as Parity Debt shall be deemed to be Defeased Debt hereunder, as aforesaid, such Parity Debt and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the Pledged Revenues, and such principal and interest shall be payable solely from such money or Government Obligations, and shall not be regarded as Outstanding for any purposes other than payment, transfer, and exchange.

(b) Investments. Any money so deposited with or made available to a Paying Agent may at the written direction of the Board also be invested in Government Obligations maturing in the amounts and times as hereinbefore set forth, and all income from such Government Obligations received by the Paying Agent which is not required for the payment of the Parity Debt and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Board, or deposited as directed in writing by the Board.

(c) Continuing Duty of Paying Agent and Registrar. Until all Defeased Debt shall have become due and payable, the Paying Agent and Registrar for such Defeased Debt shall perform the services of Paying Agent and Registrar for such Defeased Debt the same as if they had not been defeased, and the Board shall make proper arrangements to provide and pay for such services.

Section 13. AMENDMENT OF RESOLUTION. (a) Amendment Without Consent. This Resolution and the rights and obligations of the Board and of the owners of the Outstanding Parity

Debt may be modified or amended at any time without notice to or the consent of any owner of the Outstanding Parity Debt, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Board contained in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the Board in this Resolution;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Resolution, upon receipt by the Board of an approving Opinion of Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Resolution;

(iii) To supplement the security for the Outstanding Parity Debt;

(iv) To make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of Outstanding Parity Debt; or

(v) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Parity Debt, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Parity Debt.

(b) Amendments With Consent. Subject to the other provisions of this Resolution, the owners of Outstanding Parity Debt aggregating 51% in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in subsection (a) of this Section, to this Resolution which may be deemed necessary or desirable by the Board, provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Parity Debt, the amendment of the terms and conditions in this Resolution so as to:

(i) Grant to the owners of any Outstanding Parity Debt a priority over the owners of any other Outstanding Parity Debt;

(ii) Materially adversely affect the rights of the owners of less than all Parity Debt then Outstanding; or

(iii) Change the minimum percentage of the Outstanding Principal Amount necessary for consent to such amendment.

(c) Notice. If at any time the Board shall desire to amend this Resolution pursuant to Subsection (b) of this Section, the Board shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York, once during each calendar week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of each Registrar for the Parity Debt for inspection by all owners of Parity Debt.

Such publication is not required, however, if the Board gives or causes to be given such notice in writing, by certified mail, to each owner of Parity Debt.

(d) Receipt of Consents. Whenever at any time not less than thirty days, and within one year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the Board shall receive an instrument or instruments executed by all of the owners or the owners of at least 51% in Outstanding Principal Amount, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the Board may adopt the amendatory resolution in substantially the same form.

(e) Effect of Amendments. Upon the adoption by the Board of any resolution to amend this Resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the Board and all the owners of then Outstanding Parity Debt and all future Parity Debt shall thereafter be determined, exercised, and enforced under this Resolution, as amended.

(f) Consent Irrevocable. Any consent given by any owner of Parity Debt pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Parity Debt during such period. Such consent may be revoked at any time after six months from the date of the first publication of such notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar for such Parity Debt and the Board, but such revocation shall not be effective if the owners of 51% in Outstanding Principal Amount, prior to the attempted revocation, consented to and approved the amendment.

(g) Ownership. For the purpose of this Section, the ownership and other matters relating to all Parity Debt shall be determined as provided in each Supplement.

(h) Amendments of Supplements. Each Supplement shall contain provisions governing the ability of the Board to amend such Supplement; provided, however, that no amendment may be made to any Supplement for the purpose of granting to the owners of Outstanding Parity Debt under such Supplement a priority over the owners of any other Outstanding Parity Debt.

Section 14. REPEAL OF CONFLICTING RESOLUTIONS. This Resolution shall become effective immediately and all resolutions and all parts of any resolutions which are in conflict or inconsistent with this Resolution are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

Section 15. FURTHER PROCEDURES. Each System Representative and the other officers, employees, and agents of the System, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the Board all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the intent, the terms, and the provisions of this Resolution.

EXHIBIT "A"

DEFINITIONS

As used in this Resolution the following terms and expressions shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Annual Debt Service Requirements" means, for any Fiscal Year, the principal of and interest on all Parity Debt coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the Board on such Debt, or be payable in respect of any required purchase of such Debt by the Board) in such Fiscal Year, and, for such purposes, any one or more of the following rules shall apply at the election of the Board:

(1) Committed Take out. If the Board has entered into a Credit Agreement constituting a binding commitment within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such Debt is subject to required purchase, all under arrangements whereby the Board's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharging or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added;

(2) Balloon Debt. If the principal (including the accretion of interest resulting from original issue discount or compounding of interest) of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the Board) in any Fiscal Year either is equal to at least 25% of the total principal (including the accretion of interest resulting from original issue discount or compounding of interest) of such Funded Debt or exceeds by more than 50% the greatest amount of principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such principal due in such Fiscal Year for such series or issue of Funded Debt being referred to herein as "Balloon Debt"), the amount of principal of such Balloon Debt taken into account during any Fiscal Year shall be equal to the debt service calculated using the original principal amount of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if a System Representative shall deliver to the Board an Officer's Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer's Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of

retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other debt service charges on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such Debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the Board has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of and interest on Parity Debt, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including without limitation capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Debt;

(5) Variable Rate. As to any Parity Debt that bears interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement then, at the option of the Board, either (1) an interest rate equal to the average rate borne by such Parity Debt (or by comparable debt in the event that such Parity Debt has not been outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, or (2) an interest rate equal to the 30-year Tax-Exempt Revenue Bond Index (as most recently published in The Bond Buyer), shall be presumed to apply for all future dates, unless such index is no longer published in The Bond Buyer, in which case an index of tax-exempt revenue bonds with maturities of at least 20 years which is published in a newspaper or journal with national circulation may be used for this purpose;

(6) Guarantees. In the case of any guarantee, as described in clause (2) of the definition of Debt, no obligation will be counted if the Board does not anticipate in its annual budget that it will make any payments on the guarantee. If, however, the Board is making payments on a guarantee or anticipates doing so in its annual budget, such obligation shall be treated as Parity Debt and calculations of annual debt service requirements with respect to such guarantee shall be made assuming that the Board will make all additional payments due under the guaranteed obligation. If the entity whose obligation is guaranteed cures all defaults and the Board no longer anticipates making payments under the guarantee, the guaranteed obligations shall not be included in the calculation of Annual Debt Service Requirements; and

(7) Commercial Paper. With respect to any Parity Debt issued in the form of commercial paper with maturities not exceeding 270 days, the interest on such Parity Debt shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition.

"Annual Direct Obligation" means the amount budgeted each Fiscal Year by the Board with respect to each Financing System Member to satisfy the Member's proportion of debt service (calculated based on the Member's Direct Obligation) due by the Board in such Fiscal Year on Outstanding Parity Debt.

"Annual Obligation" means, with respect to each Member and for each Fiscal Year, the Member's Annual Direct Obligation plus the amount budgeted by the Board for such Fiscal Year to allow the Member to retire its obligation for intra-System advances made to it to satisfy part or all of a previous Annual Direct Obligation payment.

"Board" and "Issuer" mean the Board of Regents of the Texas State University System or any successor thereto.

"Code" means the Texas Education Code, as amended.

"Credit Agreement" means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase Parity Debt, purchase or sale agreements, interest rate swap agreements, or commitments or other contracts or agreements authorized, recognized and approved by the Board as a Credit Agreement in connection with the authorization, issuance, security, or payment of Parity Debt and on a parity therewith.

"Debt" of the Board payable from Pledged Revenues means all:

(1) indebtedness incurred or assumed by the Board for borrowed money (including indebtedness arising under Credit Agreements) and all other financing obligations of the Board that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet;

(2) all other indebtedness (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction or improvement of property or capitalized lease obligations that is guaranteed, directly or indirectly, in any manner by the Board, or that is in effect guaranteed, directly or indirectly, by the Board through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise; and

(3) all indebtedness secured by any mortgage, lien, charge, encumbrance, pledge or other security interest upon property owned by the Board whether or not the Board has assumed or become liable for the payment thereof.

For the purpose of determining the "Debt" of the Board, there shall be excluded any particular Debt if, upon or prior to the Maturity thereof, there shall have been deposited with the proper depository (a) in trust the necessary funds (or investments that will provide sufficient funds, if permitted by the instrument creating such Debt) for the payment, redemption or satisfaction of such Debt or (b) evidence of such Debt deposited for cancellation; and thereafter it shall not be considered Debt. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted

accounting principles applied on a basis consistent with the financial statements of the Texas State University System in prior Fiscal Years.

"Defeased Debt" means any Parity Debt and the interest thereon deemed to be paid, retired and no longer Outstanding within the meaning of Section 12 of this Resolution.

"Direct Obligation" means the proportionate share of Outstanding Parity Debt attributable to and the responsibility of each respective Financing System Member.

"Financing System" see "Revenue Financing System".

"Financing System Member" or "Member" means each of the institutions currently constituting components of the Texas State University System and such institutions hereafter designated by the Board to be a Member of the Financing System.

"Fiscal Year" means the fiscal year of the Board which currently ends on August 31 of each year.

"Funded Debt" of the Financing System means all Parity Debt created, assumed, or guaranteed by the Board and payable from Pledged Revenues that matures by its terms (in the absence of the exercise of any earlier right of demand), or is renewable at the option of the Board to a date, more than one year after the original creation, assumption, or guarantee of such Debt by the Board.

"Government Obligations" means direct obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, which may be United States Treasury obligations such as its State and Local Government Series, which may be in book-entry form.

"Holder" or "Bondholder" or "owner" means the registered owner of any Parity Debt registered as to ownership and the holder of any Parity Debt payable to bearer.

"Maturity" when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by declaration of acceleration, call for redemption, or otherwise.

"Non-Recourse Debt" means any Debt secured by a lien (other than a lien on Pledged Revenues), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to any other property of the Board attributable to the System, provided that such Debt is being incurred in connection with the acquisition of property only, which property is not, at the time of such incurrence, owned by the Board and being used in the operations of a Member.

"Officer's Certificate" means a certificate signed by a System Representative.

"Opinion of Counsel" means a written opinion of counsel which shall be acceptable to the Board.

"Outstanding" when used with respect to Parity Debt means, as of the date of determination, all Parity Debt theretofore delivered under this Resolution or any Supplement, except:

- (1) Parity Debt theretofore cancelled and delivered to the Board or delivered to the Paying Agent or the Registrar for cancellation;
- (2) Parity Debt deemed paid pursuant to the provisions of Section 12 of this Resolution or any comparable section of any Supplement;
- (3) Parity Debt upon transfer of or in exchange for and in lieu of which other Parity Debt has been authenticated and delivered pursuant to this Resolution or any Supplement; and
- (4) Parity Debt under which the obligations of the Board have been released, discharged or extinguished in accordance with the terms thereof;

provided, that, unless the same is acquired for purposes of cancellation, Parity Debt owned by the Board shall be deemed to be Outstanding as though it was owned by any other owner.

"Outstanding Principal Amount" means, with respect to all Parity Debt or to a series of Parity Debt, the outstanding and unpaid principal amount of such Parity Debt paying interest on a current basis and the outstanding and unpaid principal and compounded interest on such Parity Debt paying accrued, accreted, or compounded interest only at maturity as of any record date established by a Registrar in connection with a proposed amendment of this Master Resolution or any Supplement.

"Parity Debt" means all Debt of the Board which may be issued or assumed in accordance with the terms of this Resolution and a Supplement, secured by a pledge of the Pledged Revenues subject only to the liens securing Prior Encumbered Obligations.

"Paying Agent" shall mean each entity designated in a Supplement as the place of payment of a series or issue of Parity Debt.

"Pledged General Tuition" means all of the aggregate amount of student tuition charges now or hereafter required or authorized by law to be imposed on students enrolled at each and every institution, branch, and school, now or hereafter constituting a Member of the Financing System, but specifically excluding and excepting, with respect to each series or issue of Parity Debt, (1) student tuition charges for any student in a category which, at the time of the adoption of the Supplement relating to such Parity Debt, was exempt by law from paying such tuition, (2) the amount of tuition scholarships provided for by law at the time of the adoption of each Supplement, and (3) any tuition component of Prior Encumbered Revenues; and it is provided by law and hereby represented and covenanted that the aggregate amount of student tuition charges which are now required or authorized by law to be imposed, and which are pledged to the payment of the Parity Debt, shall never be reduced or abrogated while such obligations are outstanding; it being further covenanted that the aggregate amount of student tuition charges now required or authorized by law to be imposed on students enrolled at each and every institution, branch, and school operated by or under the jurisdiction of the Board are set forth in the Code, to which Code reference is hereby made for all purposes.

"Pledged Revenues" means, subject to the provisions of the Prior Encumbered Obligations, the Revenue Funds, including all of the funds and balances now or hereafter lawfully available to the Board and derived from or attributable to any Member of the Financing System which are lawfully available to the Board for payments on Parity Debt; provided, however, that the following shall not be included in Pledged Revenues unless and to the extent set forth in a Supplement: (a) amounts received on behalf of any Member under Article 7, Section 17 of the Constitution of the State of Texas, including the income therefrom and any fund balances relating thereto and (b) except to the extent so specifically appropriated, general revenue funds appropriated to the Board by the Legislature of the State of Texas.

"Prior Encumbered Obligations" means the following heretofore issued or assumed bond issues of the Board, to-wit:

Board of Regents, Texas State University System, Southwest Texas State University, University Housing System Revenue Bonds, Series 1986;

Board of Regents, Texas State University System, Southwest Texas State University, University Housing System Revenue Refunding Bonds, Series 1989;

Board of Regents, Texas State University System, Southwest Texas State University University Housing System Revenue Refunding Bonds, Series 1993;

Board of Regents, Texas State University System, Southwest Texas State University Utility System Revenue Refunding Bonds, Series 1993;

Board of Regents, Texas State University System, Southwest Texas State University University Housing System Revenue Bonds, Series 1994;

Board of Regents, Texas State University System, Southwest Texas State University University Housing System Revenue Bonds, Series 1995; and

Board of Regents, Texas State University System, Southwest Texas State University Utility System Revenue Bonds, Series 1996,

and those bonds or other obligations of an institution outstanding on the date it becomes a Member of the Financing System and which are secured by a lien on and pledge of the Prior Encumbered Revenues charged and collected at such institution and all existing obligations of the Board secured by a lien on a portion of the Pledged Revenues which is superior to the lien established by this Resolution on behalf of Parity Debt.

"Prior Encumbered Revenues" means all of the tuition, fees, charges and revenues of any nature pledged to the payment of Prior Encumbered Obligations and any such tuition, fees, charges and revenues of an institution which hereafter becomes a Member of the Financing System and which are pledged to the payment of bonds or other obligations outstanding on the date such institution becomes a Member of the Financing System.

"Registrar" shall mean the entity designated in a Supplement as the Registrar of a series or issue of Parity Debt.

"Resolution" or "Master Resolution" means this Master Resolution establishing the Financing System.

"Revenue Financing System" or "Financing System" or "Texas State University System Revenue Financing System" means the Texas State University System Revenue Financing System composed of the institutions and agencies currently constituting parts of the Texas State University System including the Texas State University System Administration, and such other institutions and agencies now or hereafter under the control or governance of the Board, and made a Member of the Revenue Financing System by specific action of the Board.

"Revenue Funds" means the 'revenue funds' of the Board (as defined in Section 55.01 of the Code to mean the revenues, incomes, receipts, rentals, rates, charges, fees, grants, and tuition levied or collected from any public or private source by an institution of higher education, including interest or other income from those funds) derived by the Board from the operations of each of the Members, including specifically the Pledged General Tuition. Revenue Funds does not include, with respect to each series or issue of Parity Debt, any tuition, rentals, rates, fees, or other charges attributable to any student in a category which, at the time of the adoption of the Supplement relating to such Parity Debt, is exempt by law from paying such tuition, rentals, rates, fees, or other charges.

"S.B. 1907" means Senate Bill 1907 passed by the State Legislature in the Seventy-fifth Regular Legislative Session.

"Stated Maturity" when used with respect to any Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Debt or such installment of interest as a fixed date on which the principal of such Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

"Subordinated Debt" means any Debt which expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Debt then outstanding or subsequently issued.

"Supplement" or "Supplemental Resolution" means a resolution supplemental to, and authorized and executed pursuant to the terms of, this Resolution.

"System Representative" means any one or more of the following officers or employees of the Texas State University System, to-wit: the Chancellor, the General Counsel, the Director of Finance, or such other officer or employee of the Texas State University System, authorized by the Board to act as a System Representative.

"Term of Issue" means with respect to any Balloon Debt a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or the maximum maturity date in the case of commercial paper or (ii) twenty-five years.

"Texas State University System" or "University System" means and includes each of the following existing and operating institutions, respectively:

Angelo State University;
Lamar University - Beaumont;
Lamar University Institute of Technology;
Lamar University - Orange;
Lamar University - Port Arthur;
Sam Houston State University;
Southwest Texas State University;
Sul Ross State University; and
Sul Ross State University Rio Grande College,

together with every other institution or branch thereof now or hereafter operated by or under the jurisdiction of the Board pursuant to law.

"Texas State University System Revenue Financing System" or "Revenue Financing System" or "Financing System" or "System", see "Revenue Financing System".

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Hot Topic

State Regulation of Public University Tuition Rates Carries Negative Credit Implications

Summary

The continuing and rapid rise in public university tuition rates this decade has prompted several states to discuss ways of regulating or limiting tuition increases, even though the tuition increases are often generated by cuts in state funding. Moody's believes that formal state regulation of public university tuition rates would negatively affect credit quality because of the increasingly critical role of tuition as the revenue source that enables public universities to sustain fiscal balance while adjusting to state funding volatility. While most state legislatures continue to have significant influence over tuition rates through budget and funding appropriation negotiations, Moody's believes legislated controls would likely limit revenue flexibility during times when higher education institutions need it most and that controls would likely affect the ability of institutions to invest and compete with private universities.

Overview of the Public Higher Education Sector

Moody's currently rates nearly 200 four-year public colleges, universities, and higher education systems in the United States - over \$80 billion in outstanding debt - on a non-credit enhanced basis. The median rating for public universities is A2 with the average climbing to Aa3 when weighted by the amount of rated debt. Nearly 66% of public universities are rated in the A category with 28% rated either Aaa or Aa.

The four-year public higher education sector enrolls 39% of all students. Public community colleges enroll an additional 36%, with the remaining students attending private colleges.

Long-Term Trend of Higher Education 'Privatization'

There is a long-term trend of "privatization" of public higher education in the United States. In 1981, according to the U.S. Department of Education, state appropriations accounted for 46% of public university operating funds. Twenty-five years later, Moody's medians show that state funding comprises less than a third of public higher education operating revenues.¹ Moreover, public higher education institutions have assumed increasing responsibility for covering the costs of their buildings, both construction of new facilities and maintenance of existing facilities.



Tuition revenue has risen to fill the gap left by decreasing state support. Based on Moody's data, tuition and fee revenue on the median now accounts for over a quarter of public higher education revenues. From 2002-2006, while state appropriations on a per-student basis declined by 5%, net tuition revenue rose by almost 48%, enabling the sector to sustain, indeed improve, credit quality during a challenging external funding environment. While the 48% increase is large in percentage terms, the median net tuition per-student rose approximately \$1,700 in dollar terms over that time frame, a relatively moderate amount.

Figure 1

	2002	2003	2004	2005	2006*
Net Tuition per Student	\$ 3,516	\$ 3,860	\$ 4,381	\$ 4,900	\$ 5,194
Tuition as % of Revenue	20%	22%	24%	25%	26%
State Appropriations Per Student	\$ 7,089	\$ 6,912	\$ 6,534	\$ 6,658	\$ 6,728
State Appropriations as % of Revenue	39%	37%	34%	33%	31%

*2006 is estimated based on 40% of Moody's rated public university portfolio
SOURCE: Moody's

States Re-Examining Control over Tuition-Setting Authority

Over the past two years, policymakers have been considering steps to potentially increase state control over tuition and fees in response to mounting public concerns related to affordability and access to higher education. The discussion of tuition caps also can stem from a belief by policymakers that public universities can make efficiency gains through cost controls rather than continuously increasing expenses and passing the cost on to families. According to a November 2006 report from the State Higher Education Executive Officers (SHEEO) based on a survey of the states, 18 had some sort of tuition curb, cap, or freeze placed on tuition over the prior three years while 33 declined to do so and 23 states established study groups to focus on higher education policies, including tuition policies.²

The tuition-pricing discussions are most pronounced for in-state undergraduate students, with nonresident and graduate students typically expected to bear a more market-oriented price. The pressure has also been especially felt in states with state financial aid programs that cover tuition expenses. Incremental tuition increases directly raise the cost of providing the politically popular aid, creating a direct impediment to lawmakers considering tuition increases.

Actual tuition-setting authority varies from state to state, but in most states the legal authority now rests with the board of trustees overseeing each individual institution or system. Indeed, during the period from 2002-2005, Texas and many other states took action to loosen direct state regulation of tuition or fees in order to provide their constituent institutions with the ability to respond to large and unexpected cuts in state support. In some cases where tuition regulation has been lessened, institutions have been required to dedicate a portion of tuition increases to financial aid.

More recent regulation proposals include:

- Linking permitted tuition increases to growth in family income levels (proposed in Indiana this session)
- Regulating the dollar or percentage increases permitted each year (Ohio typically establishes caps in the biennial operating budget bill with a current fiscal year cap of 6% or \$500 for a full-time student, whichever is less; the Governor is proposing moving to a compact strategy akin to California),
- Guaranteeing tuition levels for four years for entering students (Illinois adopted in 2005).

We believe that these discussions are part of an ongoing dialogue that is likely to continue over the coming years as states and their higher education systems work through broader questions of control and oversight in an increasingly privatized environment. Even absent direct regulation of tuition rates, however, states maintain significant control over tuition increases through the negotiations that occur each budget session. For example, some states link increases in direct state funding to actions by institutions on limiting tuition increases.

1. DOE and Moody's data may not be exactly comparable due to different calculation methods but we believe these figures accurately reflect the trend that has occurred.

2. *State Tuition, Fees, and Financial Assistance Policies for Public Colleges and Universities, 2005-2006*

Direct Regulation of Tuition Could Negatively Affect Bondholders

As tuition has become an increasingly important revenue stream for public higher education institutions, we believe formal regulation or control of tuition rates by states could have a negative impact on bondholders in the following ways:

- Many institutions pledge tuition and fees to bondholders in order to pay debt service, either through a direct pledge of specific portions of tuition and fees or through a broader legally available funds pledge. State control would potentially limit the ability to increase tuition to offset increasing debt service costs or limit the ability of institutions to debt-finance critical capital projects.
- Increases in tuition are often used to fund strategic initiatives such as maintaining competitive faculty salaries, sustaining or enhancing academic program offerings, tackling deferred and ongoing plant maintenance, improving available technology, and maintaining manageable class sizes.

- Inability to raise tuition could inhibit these investments, potentially affecting student demand and enrollment.
- Legislative caps on raising tuition could prevent institutions from being able to rationally react to unexpected cuts in state funding and could make achieving fiscal balance increasingly challenging during the normal swings in state support driven by economic cyclicalities.
- As with private institutions, tuition and financial aid policies and strategies have become a critical tool in marketing to and attracting students. The inability of an institution to establish market-appropriate pricing policies could impact student demand. Overall centralized pricing policies ignore substantial variations in the market profile of individual public universities within a state potentially punishing those with uncommonly strong or weaker student demand.

Moody's will continue to monitor legislative proposals regarding the regulation of tuition and report on any that we believe could clearly have a negative impact on credit quality for higher education institutions in that state.

Related Research

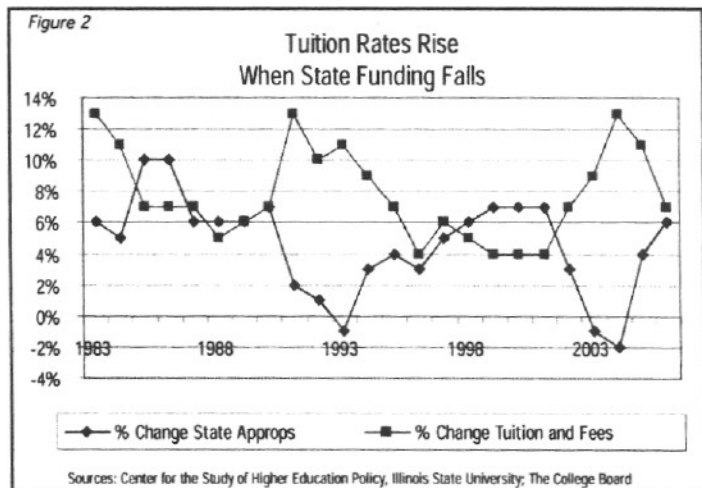
Special Comment:

[Public College and University Medians 2006, June 2006 \(98025\)](#)

Rating Methodology:

[Public Colleges and Universities, November 2006 \(100363\)](#)

To access any of these reports, click on the entry above. Note that these references are current as of the date of publication of this report and that more recent reports may be available. All research may not be available to all clients.



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Report Number: 102534

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**MINUTES
OF
THE BOARD OF REGENTS
OF
THE TEXAS STATE UNIVERSITY SYSTEM**

Special Called Board Meeting

March 2, 2007

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I. CALL TO ORDER

The special called Board of Regents meeting via telephone of The Texas State University System was called to order on Friday, March 2, 2007 at 11:01 a.m. CST by Chairman Kent Adams.

II. ATTENDANCE

Present:

Chairman Kent Adams
Vice Chairman Bernie Francis
Regent Dora Alcalá
Regent Alan Dreeben
Regent John Dudley
Regent Don Flores
Regent Ken Luce
Regent Pollyanna Stephens
Regent Greg Wilkinson
Student Regent Maggie Manzano

Absent:

None

Also Present:

Chancellor Charles R. Matthews; President E. James Hindman – ASU (telephonically); Dr. Fernando C. Gomez, Vice Chancellor and General Counsel; Ms. Carole M. Fox; Director of Audits and Analysis; Ms. Teresa Tanny, Executive Assistant to the Chancellor and Ms. Wana Dee Box, Carr Foundation Director of Operations

III. AGENDA ITEMS

2007-62 Proposed Movement of Angelo State University (ASU) from the Texas State University System – TSUS

Upon motion of Regent Dreeben, seconded by Regent Alcalá, by a vote of 8 to 1, with Regent Stephens dissenting, it was ordered to convey the Board's opinion that moving Angelo State University from the Texas State University System into another System neither serves the policy or fiscal interests of the State of Texas nor otherwise represents the academic best interests of her students.

There was further discussion regarding this motion. Regent Flores remarked that this was an appropriate move on the System's part and expressed his disappointment in the way the proposed movement has transpired. Specifically, he stated that, when the Texas State University-San Marcos name change was proposed, Senator Jeff Wentworth first met with the Board of Regents. Such consultation did not occur in this case. Chairman Adams mentioned his conversations with both the Chairman and Chancellor of the Texas Tech University System; remarked that this appears to be an independent movement on the part of two legislators; and stated it is the System's responsibility to investigate.

2007-63 Ad Hoc Regents' Committee on the Proposed Movement of ASU – TSUS

Upon motion of Regent Alcalá, seconded by Regent Dreeben, with all Regents voting aye, it was ordered that the Board Chairman be authorized to appoint an *ad hoc* Regents' committee (to include the Chancellor):

1. To study the specific impact upon our students and on the State of Texas of removing Angelo State University from the Texas State University System;
2. To examine the fiscal, policy and taxpayer implications of such a move;
3. To report its findings to this Board and, as lawful and necessary, to the Governor and to the Texas Legislature.

Chairman Adams mentioned the possible negative fiscal impact of moving ASU out of the Texas State University System. Regent Stephens stated that lawyers have looked at this and assured her that this is not an issue. Chancellor Matthews informed the Board that the System's bond counsel has sent a letter to the Executive Director of the Texas Bond Review Board regarding the possible fiscal impact and that the bond counsel (who is also Texas Tech's bond counsel) has stated her opinion in that letter that there is a fiscal issue with such a move. He promised to share the bond counsel's opinion with the Board following the meeting.

IV. ADJOURNMENT

Upon motion of Regent Dreeben, seconded by Regent Alcalá, with all Regents voting aye, the meeting was adjourned at 11:10 a.m.

Dr. Charles R. Matthews
Chancellor and Secretary to the Board