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1. **CALL TO ORDER/ROLL CALL/WELCOME**

President Lorenzen called the meeting to order at 8:11 a.m. Board members present included Henry Lorenzen, Gerry Blakney, Bridget Burns, Adriana Mendoza, Tim Nesbitt, Geri Richmond, Gretchen Schuette, Howard Sohn, and Tony Van Vliet. Directors Don Blair and John Von Schlegell were absent due to business conflicts.

Chancellor’s Office staff included Chancellor George Pernsteiner, Neil Bryant, Ryan Hagemann, Jay Kenton, Ben Rawlins, Diane Saunders, Marcia Stuart, and Susan Weeks.

Others present included Presidents Dan Bernstine (PSU), Martha Ann Dow (OIT), Khosrow Fatemi (EOU), Dave Frohnmayer (UO), John Minahan (WOU), Ed Ray (OSU), and Elisabeth Zinser (SOU). Provost Lesley Hallick (OHSU) was also present. Chris Ertel (GBS), Bill McGee (DAS), Provost Earl Potter (SOU), Jim Sager (Governor’s Office), and Melissa Unger (OSA) were also present.

2. **DISCUSSION ITEM**

a. **Long-Range Planning**

**Introduction** – Chancellor Pernsteiner began the discussion with an outline of the topics for consideration at the meeting. Additionally, he reminded participants of the four outcomes of the Long-Range Planning:

- Creating, enhancing, and supporting an educated citizenry with opportunity for all qualified Oregonians to have access to higher education;
- Quality student learning and successful graduates;
- Original knowledge creation, both for its own sake and for the sake of energizing faculty and students and for the sake of spurring the economy of Oregon; and
- The economic and civic benefits that having institutions of higher education in the state and in the communities can bring.

**Portfolio Approach**: The focus on the missions of the institutions suggested that a portfolio of institutions might bring new clarity as to how and what can vary within the System, institution-by-institution, with the major objective being how to optimize the four outcomes. The institutions will vary, based on a variety of factors and no two institutions are envisioned as being exactly the same; they will not have exactly the same academic discipline program mix because it will vary based on mission, location, and mode of program delivery. Further,
institutions will vary regarding their research focus, both in terms of the intensity and breadth of the research and the focus of that research agenda. Collaborative arrangements will be different from one institution to another. Some will partner mainly with community colleges and others with private institutions of higher education and still others with a mix of these. For some, the major focus will be on business and/or governmental organizations and still others on K-12 public schools.

There will be great variation in the size of the institutions, just as there is today, as well as the mix of students who choose to attend the institutions. Some institutions will focus primarily on undergraduate education, while still others on graduate program offerings. Some institutions will focus primarily on students from their regions; others will attract large numbers of foreign or out-of-state students. No two institutions are likely to be funded exactly the same, even with state appropriations. Tuition levels, which are different at the present time, could vary even more; some may have a high tuition/high aid model while other campuses probably would not have the price flexibility to allow them to raise the price of attending.

Institutions must be enabled to have legal flexibility and differences in governance structures in order to better serve students with increasingly less state support.

**DISCUSSION:**

President Frohnmayer opined that getting to the goal of 115,000 students by 2025 will not be the same as it is today because of the changing demographics of Oregon and the progress the K-12 sector makes in assuring students are ready to enter post-secondary education. OUS has a big stake in whether or not there is the “human material” with whom to work. Further, he pointed out “there may be 13 ways in which we are different, but we forget that there is one huge thing that we all have in common—that is undergraduate education. Whatever be the variability—the size, the shift in mission—there is a core of activity that is fundamental to what we’re doing and that is the core that unites us, undergraduate education.”

The portfolio framework isn’t strategic planning. Rather, it is one of the underpinnings or one of the preambles of the strategic plan. There are some particular circumstances that drive a need for a focused strategy. The Board will have to pick a few things that are going to be emphasized in the period ahead and those few things will be driven by the particular circumstances of projections about numbers and funding.

The statement of creating an educated citizenry has shifted too much to focusing only on being competitive and not on what that means to a democracy. Our democracy is dependent upon our global competitiveness and having people ready is what is important.

“Qualified” Oregonians can be defined in many ways. It should mean all Oregonians who have the interest, ability, and aspiration to secure a higher education. Qualified cannot become a barrier. Perhaps the word encourage should be included. People earn opportunity by their
ability, interest, and drive, as opposed to opportunity being just that we’re opening the doors for everyone.
OUS must actively encourage people to enter into higher education.

Access is an input to an educated citizenry. Affordability is not all there is to access.

A strategic focus might be to have OUS not only expect that the high school diploma prepares individuals for college, but also helps make it so by being a resource to secondary schools in each of the disciplines as an enabler to them of a preparation level that makes it unnecessary for the universities to do the remedial work and unnecessary for the students to take the extra courses to get ready for something for which they should be prepared. There are outcome implications for having an educated citizenry. Then the high school students will also be educated to be citizens whether they go to college or not.

Going forward, all education sectors should be operating differently than they have been to this point because it is clear that the present System is not working. OUS has a role – it’s not that we have a passive role to play in saying, for example, that pre-K-12 didn’t deliver the goods. Part of our strategies ought to be a really meaningful agenda for what our role is in the pre-K-20 collaboration.

Goals and Outcomes

In the definition of a quality education, the quality of faculty must be included as well as the student/faculty ratio.

Quality instruction is taking a student from where she/he is at the present to a much higher level.

Concern was expressed regarding the use of the term “program completion” as a metric. Students are increasingly going to be using the universities, not to complete a program, but to refresh their learning. To the extent that program completion becomes a measure, it is inconsistent with encouraging older Oregonians to attend a university and continue as a lifelong learner.

Many university programs have an element of professionalism associated with them. Therefore, an outcome may be a requirement that the graduate become professionally registered or licensed or whatever term is used. Measures of success must also include bringing people to the level that allows them to have successful careers.

Inspiring students to want to be students, to want to learn, and to want to progress should be hallmarks of quality at all of our institutions.
Creation of Original Knowledge

The professions, science, technology, arts, and letters should be included in goals for creation of original knowledge.

Creation of original knowledge concerns more than just economic benefit. It should also include civic benefits and should include other disciplines.

A component should be holding ourselves accountable.

It should mean reaching back into the System and having advanced work in the Schools of Education and include the whole learning experience. This might be where OUS identifies its responsibility to the other educational sectors.

Cultural richness is not captured here. We need to include things like the Oregon Shakespeare Festival and the Oregon Bach Festival. They have economic benefits, but we don’t think of them only in that inhuman dimension. The cultural richness is not captured here at all.

We are using a budget term, statewide public services. There should also be campus public services.

We talk about wanting to create original knowledge that is globally competitive or has global importance. But we really don’t say that. What we need to be doing is training students who can be globally competitive because it is not just within the boundaries of the state where their careers will have an impact.

There isn’t a secondary focus on the value of original knowledge and promoting innovation and of that having direct benefit to economic development and innovation.

Guiding Principles

The guiding principles are more the “how,” and the “goals and outcomes” are the what.

System Governance

One of the basic premises of the portfolio approach is not just to rationalize the variability among the institutions, but also to think it through more thoroughly. The direction seems to say that we want more flexibility and variability because we keep using the term “relative autonomy.

The portfolio approach highlights the inevitable tension between focused mission and autonomy. There isn’t, at the present time, a financially sustainable System of institutions. Part of the planning exercise should be to examine how OUS delivers those services that are very important for the state as a whole.
One dimension of the planning is to answer the question, “How do we get to the goal of educating 115,000 students by 2025 and which programs does each institution have, what size is each institution, and so on toward that goal. It is a way of organizing thinking and a way of allowing tradeoffs to be made and a framework in which the Board can make decisions over time.”

President Frohnmayer made three observations:

- It is not clear why it is important to have sharply focused missions; the implicit expectation needs to be made explicit in terms of the why. Is it to avoid duplication? Is it to specify some form of market niche? Is it to identify already existing quality? Until the reason for having sharply focused missions is made a little bit, it is a lurking ambiguity.
- This is a statement about governance and it is maybe peculiar for what it doesn’t say. We have a System Board, which means it is not involved in the individual institution day-to-day or even in mid-range policy decisions. The effective voice for the Board is the Chancellor. Happily, there is a very healthy relationship with the Chancellor when we need permission or help facilitating something or a sense for when we’re on the right track. That is a system of governance. It is implied that the Board is satisfied apparently in this statement that it will continue to be one, overall governing board with a strong and effective Chancellor and individual institutions that operate essentially without that layer of governance board that other institutions have.
- The single most important decisions that the Board has made with respect to governance in the past years have been: to let us keep our tuition and to separate out nonresident tuition and the policies that we apply to that independent of the System pulling them into the vast model and spraying it around without accountability.

What we are talking about is a System that is economically sustainable. Now it is in a crisis mode and the question becomes, what are the assumptions on how we might change the structure in order to make it more economically sustainable. What is the financial advantage of mission differentiation? If there is enough difference, we have the possibility of changing the tuition structure because different products may be provided for different groups at different costs.

**Sustainable Financial Structure**

Vice Chancellor Kenton provided an overview of the current financial status that he characterized as “on the brink of a crisis. We have two institutions today that, in my words, are teetering on the edge. They have unresolved faculty labor agreements; they have diminishing reserves. We have four more institutions that are close to the edge. The fund balances of all of the institutions and the Chancellor’s Office are eroding.”

There are some environmental factors that are also affecting the financial situation.

- Salaries are the single largest expense of the System. Roughly 76 percent of Education & General monies go to salaries, wages, and other payroll expenditures.
• PERS increased 26 percent going into 2005-2007. It costs the System $26 million a year to fund it.
• PEBB is the third largest expense item – for health care. It increased by 8 percent a year and is forecast to increase 16 percent over the biennia.
• Workers’ Compensation increased 56 percent in 2005-2007 and the projection is that it will go up another 38 percent in 2007-2009.

Dr. Kenton outlined the factors that affect the OUS budget:
• The Oregon economy is rebounding, but it isn’t clear how far it will rebound or how quickly.
• OUS is highly dependent on enrollment. In 2005-2007 enrollment was expected to grow 3-4 percent; in fact, it actually only grew by .8 percent in terms of FTE. Institutions are making deep cuts and some of those cuts are going to affect academic programs and some are going to reduce the capacity of the System to serve students.
• Intergovernmental transfers to other state agencies are a big negative and have created the huge Department of Human Services hole, which, in turn, drains potential resources from OUS. Rural Oregon is poised to lose millions from the loss of timber taxes and state General Funds will probably be required to backfill those voids.

The bottom line, according to Vice Chancellor Kenton, is that costs are growing faster than revenues.

Chancellor Pernsteiner added that six of the seven campuses and the Chancellor’s Office are reducing budgets. “We are in a situation where our costs, many of which are mandated, are growing much more rapidly than our revenues. The Governor is proposing something that has not been proposed before and that is to guarantee OUS a 10 percent growth in the dollars that we receive. Our embedded cost base says that, in fact, the costs are going up 14-15 percent, the revenue would go up by 10 percent. Automatically, assuming just the guaranteed 10 percent increase, we’re looking at approximately $30 million less in real terms from the state next biennium.”

Continuing, the Chancellor indicated that OUS would solve the problem, because we have to, because for Oregonians to be successful in the 21st century, we need to figure this out. “If we focus too much on being the lowest cost provider, we may lose sight of providing the level of quality that we need for our citizens to be competitive and successful. That is a creative tension,” the Chancellor observed. “We talk about flexibility – institutional flexibility, flexibility for the System, flexibility in relationships with the state and other entities. Do they make us comfortable? No. Do we like them? Not if we had money, no. Do we need them to go forward as points of discussion to create opportunities for us to address these problems? Arguably, I would say yes.

“What happens if we don’t do this, if we don’t address this successfully? If you don’t have state money and you can’t raise tuition, what do you do? You limit enrollment. We are masters at
getting by. We look good, but it’s not sustainable. You cannot have fewer faculty today than you did when you had 20,000 students fewer. We have fewer faculty now than we did in 1995 and we have 20,000 more students.”

Director Nesbitt pointed out that OUS is not alone. “We exist in a state financial structure that is unsustainable,” he observed. He added that, in his opinion, “we need to talk about what role we can play in promoting tax reform for a sustainable tax structure at the state level.”

“We need to address the near term situation. It would be irresponsible for us and certainly self-defeating for us not to try to gather the leadership to give Jay’s and George’s message across the state,” Director Schuette added. “We need to call our colleagues and all of the leadership we can find to create clarity about the picture, even if it will go down to defeat.”

President Ray suggested that in all of the documents and statements, there is not a statement of the current reality; there is no section that says that this is the world we live in and then outlines strategies for dealing with those realities. “Our strategic plan needs to be the next three-to-five years, on the way to a vision of what we want to deliver to this state 20 years from now,” he emphasized.

“The problem statement seems to me was quite starkly and accurately portrayed by Jay, George, and Ed,” President Frohnmayer added, “and that is, if quality is allowed to deteriorate, access will spin out of control downward. Put resources in some series of strategies rather than to say there is a single, one size fits all strategy. If that isn’t pursued, then the policy consequence is to limit access and enrollment rationally, rather than irrationally, and we will not meet the opportunity goal of Oregonians.”

Mr. Sager pointed out that the OUS situation must be put in the perspective of the entire state. “What I feel in a lot of the operational and financial flexibility proposals is that you are trying to take OUS and say it is not a part of the state. What you are doing is shifting costs to other sections of the state budget, which has consequences. The legislature will say, ‘fine, you saved $10 million there; we won’t give you $10 million.’ I just caution us that we need to think about the collaboration across sectors inside education, which we’ve tried to touch here a little bit. But the impact that we have when we try to isolate ourselves from the greater state and the greater state budget will have consequences,” he concluded.

It was suggested by Director Dyess that, “We should just stop strategic planning and start solving the problems that we have in front of us. I think we are wasting our time. We have to take some expense out of this System and we have to do it really fast and in the least painful ways that we can,” she observed. “We don’t have a lot of degrees of freedom. Somewhere along the line we have to make some decisions. They will be tough ones and, by the way, not everyone is going to like them. But, so far, we’re hearing everything that we can’t do and we have to figure out what we can do and do it!” she concluded.
3. **Action Item**

   a. **Proposed Legislative Concepts**

   **Docket Item:**

   As was discussed in the February 2006 OUS planning session, staff have been investigating legislative concepts that would give the OUS greater flexibility in operations in order to better manage both revenues and expenditures. As was noted in this session, legislative concepts are due to the Department of Administrative Services (DAS) on April 3, 2006. Although this is the stated deadline, DAS administrators have indicated that they would accept legislative concept placeholders that can be more fully developed later in 2006.

   Most concepts discussed in the February planning session included concepts that would give OUS greater flexibility in managing its revenues or expenditures. Staff believes that better management of these items is imperative to gain greater control over finances and to better achieve the mission and goals of OUS and the state.

   There are multiple ways that this flexibility could be achieved: OUS could appeal to the legislature to become a public corporation or other political subdivision status that would remove it from being considered a state agency; alternatively, OUS could request greater statutory flexibility in the areas most needed to achieve greater control over its operations. It is the latter of these options that staff recommend in this docket item; a set of actions that will be referred to collectively as attempting to garner status as a “Special State Agency.” Through this set of actions, OUS would be exempted from many of the strictures that govern most state agencies. This set of actions would allow OUS to become more flexible and cost-effective in its operations and more nimble and responsive in its actions so as to better achieve its mission and the goals of the state.

   The following concepts for legislative changes are presented for Board consideration:

   **PEBB Health Benefits:**

   ORS 351.094, which addresses provision of group insurance for employees, currently states as follows: “Notwithstanding any other provision of law, the Oregon University System shall provide group insurance to its employees through the Public Employees’ Benefit Board, but may elect, at the discretion of the State Board of Higher Education, to provide alternative benefit plans to its employees, should the same level of benefits be available at a lower cost than through the Public Employees’ Benefit Board.”

   As was noted in the planning session, staff has met with PEBB officials to begin the conversation about giving OUS greater control over health care plan design and cost. At present PEBB and OUS are working with PEBB’s consultants (Aon) to determine what effect OUS’ withdrawal of some or all OUS employees from the state’s group insurance plans would have on the state’s rates. In addition, Aon will work with OUS to determine the type of plan design changes that
would be needed to achieve a 20 percent reduction in overall cost, assuming that OUS were to withdraw some or all of its employees from the statewide plans.

Achievement of these objectives may or may not require a statutory change. However, given this uncertainty, staff is recommending that OUS submit a legislative concept placeholder to eliminate the provision in ORS 351.094 to provide the same level of benefits at a lower cost. Again, the reason for this action would be to free up resources that could be redirected to increase faculty salaries in order to allow OUS to be nationally competitive in recruiting and retaining quality employees and in competing for extramural funding.

PERS Retirement Benefits:
PERS defined benefit plans have experienced significant cost increases due to plan commitments, investment performance, and increases in life expectancy. Costs in these plans increased by 26 percent from 2004-05 to 2005-06 and are expected to increase again in 2007-2009. Currently OUS’ retirement contributions are 22 percent for Tier I and II PERS employees and 14 percent for Oregon Public Service Retirement Program (OPSRP) employees. Peer institutions report retirement contributions that average 9-10 percent and many noted that they are in the process of switching from defined benefit to defined contribution plans. In a recent meeting with PERS management, OUS staff expressed concerns regarding the cost of employee retirement plans. PERS management could not identify concrete means for achieving savings. When staff asked about withdrawing some or all future new OUS employees from the plan, PERS management expressed concerns as current and future employees pay not only for themselves, but also for other retired employees. To determine the magnitude of this reliance on current and future employees to fund pension plans, PERS and OUS staff agreed to engage Mercer Consulting.

In addition, OUS offers an optional retirement plan (ORP) that is a defined contribution plan. This plan’s rate is currently statutorily coupled to the PERS rate, thus Tier I and II members receive a 22 percent contribution and OPSRP members receive a 14 percent contribution.

Staff recommended that OUS investigate two statutory changes regarding retirement plans for some or all OUS employees, including: 1) creation of mandatory defined contribution plan with the rate to be set by OUS; and 2) decoupling the ORP rate from the PERS rate. Again, the goal is to free up resources that could be re-directed to faculty salaries and to otherwise ensure that OUS remains competitive nationally.

Investment Income:
At present, all idle cash balances are invested; however, only those balances specified by statute accrue to the benefit of OUS. All other investment earnings on idle balances accrue to the General Fund of the state.

Staff recommended that OUS submit a legislative concept to enable the investment of all cash balances with investment earnings to accrue to OUS.
**State Assessments:**
Today OUS pays in excess of $10 million annually for state assessments. These assessments include charges for risk management (property, tort, and workers’ compensation), auditing services, banking services, and other general government services.

Staff recommended that OUS submit a legislative concept placeholder to exempt OUS from some or all of these assessments pending further investigation.

**Legal Services:**
Currently OUS must use DOJ legal services unless specifically exempted. As you will recall, last session OUS entered into a Memorandum of Understanding (MOU) with DOJ to allow OUS to directly hire and appoint up to seven attorneys designated as a special assistant attorney general (SAAG). The MOU also allowed OUS to request authority to hire additional attorneys with this designation subject to the approval of the Attorney General. Although this has been requested, permission to do so has not been forthcoming.

Staff recommended that OUS submit a legislative concept to allow OUS to: 1) hire and designate additional attorneys as SAAGs; and 2) to empower all OUS attorneys designated as SAAGs with the authority to perform legal sufficiency reviews; or 3) to empower OUS to retain attorneys for all legal work except litigation and representation at the appellate level.

**Campus Public Safety:**
The University of Oregon is proposing legislation that would grant Campus Public Safety Officers full police authority and empower officers to carry firearms. Staff recommended that OUS submit a legislative concept placeholder to facilitate this request.

**Faculty Step Increases:**
Currently, even though staff are funded each biennium for salary step increases, OUS does not receive funding for faculty salaries. OUS is attempting to work with DAS to get credit for faculty salary increases in the biennial budget roll-up funding process. Should this be denied, staff recommended that OUS submit a legislative concept to require this in statute.

**Taxing Authority:**
Increasingly, it is becoming more and more difficult to fund the capital needs of OUS. Article XI-G bonds have always required a dollar for dollar match; however, in the past this match was provided by legislative appropriations. As the state’s budget became constrained, more and more of OUS was left to raise this match from other funds, specifically gifts, grants, or contracts. Staff recommended that OUS submit a legislative concept to enable OUS, with appropriate voter approval, to levy property taxes for capital items, not unlike community colleges or other political subdivisions like Metro, etc. By allowing institutions to issue bond levies, local voters can decided if they would like to support their universities through a property tax levy that could be used to fully fund the project or match Article XI-G bonds.
Capital Budget Changes:
Staff recommended that OUS submit a legislative concept to change the manner in which capital budgets are approved each biennium such that the Governor and legislature would establish aggregate capital debt limitations by funding type, but would empower the OUS Board with the authority to determine which projects be approved and completed each biennium within available capital debt limitations.

Debt Financing Changes:
Staff recommended that OUS submit a legislative concept placeholder to enable the use of variable rate and synthetic fixed rate debt financing limitations as advised by bond counsel and Treasury debt managers.

Expansion of Tax Credits Available to Support Research Commercialization:
Staff recommended that OUS submit a legislative concept to expand the authority granted under SB 853 in 2005-2007 through the extension of this act and the approval of another $10 million in tax credits for those who donate to this program.

Community College Relationship/Merger of Programs:
At least one OUS campus is considering a different and more formal arrangement with a community college. Although the final outline of this proposal is not clear, it is likely that a statutory change will be required. Staff recommended a placeholder.

Staff Recommendation to the Board:
Staff recommended that OUS submit legislative change concept placeholders for these items; however, further directs the staff to continue working with the various stakeholders to determine the impact that these changes will have on other agencies and the necessity of taking these actions in lieu of other changes with the expectation of reporting back to the OUS Board periodically with additional information garnered through these conversations.

BOARD DISCUSSION AND ACTION:
Vice Chancellor Kenton reminded the Board that, through the legislative concepts, the System is seeking greater flexibility in the way in which it conducts business. He indicated that it is not suggested that OUS be removed from being a state agency, but rather it is seeking a slightly different status. OUS is seeking to gain more flexibility – a way in which to gain greater control over revenues and greater operational flexibility.

“We’re proposing to submit what I’m going to call broad brushed concepts that are placeholders. It is my understanding, in conversations with the Department of Administrative Services, that we can submit these as placeholders with a general description. Then we can continue to work on refining them over the next few months,” Dr. Kenton explained.

Beginning with the last item in the docket, Community College Relationships/Merger of Programs, it was explained that OUS could collaborate on a spectrum or continuum that could include, in the future, mergers. It could include close collaborations where the community
college would offer the lower division courses and the higher education institution offers the upper division and graduate programs. It could also include shared administrative services. There is an endless array of possibilities with this Legislative Concept. Director Van Vliet underscored the number of possibilities but questioned what percentage of students are envisioned taking advantage of the arrangements. And secondly, there are differences between the two sectors regarding mission and responsibilities.

**Expansion of Tax Credits Available to Support Research Commercialization** is a request to extend the authority granted under Senate Bill 853 to grant an additional $10 million in tax credits. Getting private investors to invest money in OUS institutions, monies that can then be used to support the commercialization of research out of the laboratories, is very important.

The Legislative Concept around **Debt Financing Changes** has been discussed with a group that included representatives from State Treasury, DAS, Bond Council, Department of Justice, and OUS Controller Mike Green. The concept is to have legislation that would allow OUS to use variable rate debt instruments and possibly the ability to use synthetic fixed rate debt instruments. It was generally agreed that OUS should have 20 percent of its bonds in variable rate instruments. “We have about $600 million in bonds outstanding. That translates into over $100 million, possibly, that could be converted to variable. At $15,000 per million, that is $1.5 million in annual savings; $45 million in savings in interest costs over the life of those bonds,” Dr. Kenton pointed out. “Again, this is a portfolio approach in an attempt to garner savings. It introduces complexity into our operation and possibly some risk.” President Lorenzen indicated he approved of the concept but said, in his opinion, OUS needs to make sure that there are safeguards in place so that OUS doesn’t get exposed to risk that is inappropriate.

(NOTE: At this point in the meeting, Directors Blair and Von Schlegell joined the meeting by phone.)

**Capital Budget Changes** are actually housekeeping items to explore if there are better, more efficient ways of approving debt limits for OUS. Vice Chancellor Kenton expressed the belief that there are ways that the state could control its total debt capacity by setting aggregate limits and then giving the Board the authority to allocate within those limits rather than having to go back through the Emergency Board or the legislature to do it.

**Taxing Authority** – this legislative concept would be to explore whether OUS could have the ability to levy property taxes for capital items. It is assumed that those capital items would be subject to the Ballot Measure 5 limitations that currently limit operating budget levies. Having this authority would be a major change for OUS. In many cases, the universities offer community assets and, therefore, it would seem appropriate to have the same authority that school districts and community colleges currently have. Director Nesbitt offered that there is a constitutional authority for the state, on a statewide basis, to levy property taxes.

**Faculty Step Increases** – Vice Chancellor Kenton indicated that OUS is not proposing that faculty automatically and arbitrarily get an increase every year. The concept is to propose that, in the
EBL budget, there is some acknowledgement of the cost growth associated with average faculty increases granted by the institutions. Presently, OUS does not get that acknowledgement and this would be a request for an exception to the EBL roll-up this year. This proposal is to get recognition, in the statute, that granting faculty pay increases actually costs money and should be built up in the same way that granting staff pay increases are done.

**Campus Public Safety** – the University of Oregon withdrew this concept.

**Legal Services** – this concept was submitted last legislative session and OUS was not successful in gaining support. There are areas in which faculty are engaged, especially in the commercialization of research, where DOJ doesn’t have a very high level of expertise. OUS would benefit from having the ability to hire and designate additional special assistant attorney generals and empower them to do legal sufficiency reviews and empower OUS to retain attorneys for specialized legal work, with the exception of litigation and appellate work. Chancellor Pernsteiner provided further clarification indicating that the work of universities is understood best by attorneys who work in universities and who deal with the intellectual property and student confidentiality issues, and the whole panoply of matters that come before universities in the normal course and scope of business.

**State Assessments** – OUS pays in excess of $10 million annually for state assessments. Some of the assessments cover services that OUS receives directly. In the insurance realm, there is a belief that we may be able to buy it for less from the private sector. Areas such as worker’s compensation, auditing services, banking services are all areas where assessments are made. OUS would like demonstrable proof that the costs for these services are competitive or that there are better deals that can be obtained elsewhere. There are groups such as WICHE and other higher education organizations that pool risk and offer a more competitive, somewhat commercial rate, that OUS could join. Three areas are being explored in conversations with the state:

- What can you do to help us manage our costs?
- Provide OUS the data so that we can get another bid for comparison to determine if there are better deals.
- What would the financial impact be on other agencies if OUS pulled out?

If OUS were granted the authority to seek other sources and there were savings, those savings would be reallocated to higher priority areas such as faculty salaries; in other areas, 62 percent are largely paid by the students from Other Funds, and OUS has an obligation to keep costs down and demonstrate a new and better way of doing business.

**Investment Income** – Vice Chancellor Kenton indicated that at the present time all idle cash balances in the state are invested and are working on behalf of the state. On some of those balances, the revenues accrue to OUS, other balances to the General Fund. Tuition and much of the auxiliary and other designated operating monies accrue to the state General Fund. It is estimated that there is approximately $5 million a year that could be accruing to OUS. “I believe, if we had the incentives to speed up our revenue collections, to slow down expenditure
collections, we could possibly double or triple that,” Dr. Kenton explained. “We have an obligation to explore this avenue of revenue.” It is estimated that over half of these revenues come from students through tuition and auxiliary enterprises.

At this point in the discussion, President Lorenzen suggested voting on the nine legislative concepts that had been presented. Director Richmond indicated she would recuse herself from voting on the faculty step increase item. Director Blakney requested that the items on state assessments and legal services be pulled out for further investigation.

Director Schuette moved, seconded by Director Blakney to approve the legislative concepts dealing with Community College Relationship/Merger of Programs, Expansion of Tax Credits Available to Support Research Commercialization, Debt Financing Changes, Taxing Authority, and Investment Income. Those voting in favor: Directors Lorenzen, Blair, Blakney, Burns, Mendoza, Nesbitt, Richmond, von Schlegell, Schuette, Sohn, and Van Vliet. Those voting no or abstaining: none. Motion carried.

Director Dyess moved, seconded by Director Sohn to approve the Legislative Concept on faculty step increases. Those voting in favor of the motion: Directors Lorenzen, Blair, Blakney, Burns, Mendoza, Nesbitt, von Schlegell, Schuette, Sohn, and Van Vliet. Those voting no or abstaining: none. Motion carried. Director Richmond recused herself from the vote.

Director Sohn moved, seconded by Director Schuette, to approve the Legislative Concept on Legal Services. Director Blakney indicated that, from the student perspective, this concept was a little “worrisome about how it would look to the rest of the state, especially the legislature, if we are putting forth placeholders that make us stand out.” Consultant Bryant reminded the Board that the bill, last session, had the approval of the Governor. When it didn’t pass, OUS tried a new contract to see if it would, in a more “peaceful” way, address the challenges. Unfortunately, there are more glitches and working with DOJ has too many obstacles to make it efficient. “The rest of the state agencies aren’t surprised by this. In fact, some of them are probably envious that we have the freedom and flexibility that we do now with the SAGs that we have both internally in the Chancellor’s Office and on the campuses at OSU and UO and soon PSU. It ties in well with all the other visioning the Board has done. You need to have this flexibility, this expertise on the campuses. I strongly encourage including this legislative concept,” Mr. Bryant concluded.

Continuing, Director Blakney explained that the last time this was submitted, OSA opposed it and there are already conversations indicating they will again this time.

At the conclusion of the discussion, a vote was taken on the legal services concept. Those voting in favor of the motion: Directors Lorenzen, Blair, Burns, Mendoza, Nesbitt, Richmond, von Schlegell, Schuette, Sohn, and Van Vliet. Those voting no: Director Blakney. Those abstaining: none. Motion carried.
Director Blair moved, seconded by Director Dyess, approval of the legislative concept regarding state assessment. Director Blair indicated that he views this concept as an issue of transparency. “I think that, to the extent that a portion of student tuition is going to maintaining the Capitol Mall in Salem, it is important for people to understand that and certainly, I also believe that is an obligation to make sure that the resources that we have available to us are used to advance the education mission of the System.”

Director Sohn added that this concept might be a waste of time, as he thinks the chances of the legislature supporting it are very slim. It was pointed out that introducing a concept such as this might, at the least, begin conversations of working through different models for allocating costs of such items as upkeep of the Capitol Mall.

At the conclusion of the discussion, the following voted in favor of the legislative concept regarding state assessments: Directors Lorenzen, Blair, Burns, Mendoza, Richmond, von Schlegell, Schuette, Sohn, and Van Vliet. Those voting no: Director Blakney, Nesbitt, and Schuette. Those abstaining: none. Motion carried.

Director Blair, acknowledging the past experiences with wage freezes and the reality that faculty salaries are significantly below relevant benchmarks around the country, suggested that it was important for OUS to have the flexibility to set faculty compensation at a competitive level. “What I’m suggesting is that we seek the flexibility to deploy our financial resources in a manner that will attract and retain the highest quality faculty.”

Director Blair moved, seconded by Director Sohn, that a legislative concept be submitted to give OUS the flexibility to deploy financial resources in a manner that will attract and retain the highest quality faculty. Director Nesbitt made a friendly amendment to add, “subject to collective bargaining, where applicable. Those voting in favor of the motion: Directors Lorenzen, Blair, Blakney, Burns, Mendoza, Nesbitt, von Schlegell, Schuette, Sohn, and Van Vliet. Those voting no or abstaining: none. Motion carried. (NOTE: Director Richmond was not present for this vote.)

PERS Legislative Concept – Vice Chancellor Kenton reiterated that the PERS program is continuing to cost OUS a great deal of money and it is projected to grow more in the next biennia. There are aspects of PERS that the institutions have to pay out of their budgets. “What we are suggesting is that, for new faculty only, new hires, after a specified date of the legislation would be placed into a different program. I’m suggesting a defined contribution program with the rates of the contribution being established by this Board.” Continuing, he observed that OUS is hiring faculty today at the market rates and we’re giving them a premium benefit plan. “The real losers in this equation are our current faculty. The compression at the associate and full professor levels is growing and we don’t have the resources to redress those inequities. I’m suggesting that savings achieved from these benefit plans for new faculty would be redirected to those existing employees to redress that compression problem.” OUS has coupled together a defined contribution rate with a defined benefit program. Another aspect is to decouple the ORP rate from the present PERS rate. “We have coupled together a defined
contribution rate with a defined benefit program. They are two different types of programs. There were some statutory changes made in the 2005-2007 session that have attorneys and PERS people scratching their heads trying to figure out how we’re going to run this. It is unclear whether we’re doing what the Legislature intended because there are different interpretations from different parties. It is a latent liability to the System. I’m deferring to your prerogative, whether you want to adjust this for current employees or whether you would like to leave them where they are and only offer this option to new employees or the decoupled option to new employees.”

Director Nesbitt questioned the legality of trying to change what is basically an implied contract on the ORP. “It may be confusing how PERS calculates its rates, but I thought the understanding about the ORP was that its contribution rate is a defined contribution plan.” Dr. Kenton agreed that was correct. In response, Director Nesbitt indicated that it was an explicit promise and that “we tamper with that at our peril.”

There was discussion about how to proceed and the question was raised as to how transportable the retirement benefits were. It was pointed out that ORP is very transportable while in PERS, you basically leave your money. If, after leaving OUS, an individual continues to work, they will probably end up with two retirement accounts.

Director Van Vliet moved, seconded by Director Sohn, to approve the legislative concept regarding PERS. Those voting in favor of the motion: Directors Lorenzen, Blair, Mendoza, von Schlegell, Sohn, and Van Vliet. Those opposed: Directors Blakney, Nesbitt, and Schuette. Those abstaining: none. Motion carried.

PEBB Legislative Concept – Director Nesbitt noted that he had the same points of concern about PERS as he had with PEBB concerning the taxable dollar and the non-taxable dollar and that moving from the latter to the former is not necessarily a good deal. He pointed out that PEBB is a very well managed plan and the benefit levels that are purchased with the PEBB contributions are very cost effective. Additionally, the administrative overhead is low.

Director Dyess observed that the proposal is not to necessarily go away from PEBB. Rather, it is a request to do so if, in fact, it saves the System money. “I would support this because it gives us the flexibility to look at it and make a decision as to whether or not we want to withdraw. I would like to have the flexibility.”

It was highlighted by Director Nesbitt that the current statute says we can elect to separate now as long as we don’t reduce the level of benefits. In response, Chancellor Pernsteiner said that, “what we’re proposing is the opportunity to move some of the dollars that would have gone for faculty benefits back into faculty salaries. The way it reads is that it may take a plan design change for that group or a cafeteria plan for that group. We’re not sure that the current statute countenances anything different than whatever the PEBB one-size-fits-all says.”
Director Dyess moved, seconded by Director Blair to approve the PEBB legislative concept. Those voting in favor of the motion: Directors Lorenzen, Blair, Dyess, Mendoza, Richmond, von Schlegell, and Van Vliet. Those opposed: Director Blakney. Those abstaining: Directors Nesbitt and Schuette. Motion carried.

(NOTE: Directors Blair and von Schlegell left the meeting at 1:42 p.m.)

Additional Legislative Concept: Sell or Close one of the Seven OUS Institutions – Director Dyess moved that a legislative concept be put forward to either sell or close one of the seven OUS institutions. “We have hit the wall and we all know it. Every person in here knows that we have hit the wall and yet we keep wanting to talk about other things. I don’t want to be on the Board that makes the University System insolvent,” she emphasized. Continuing, she added, “Let’s say none of the other legislative concepts go forward and we find no other way to get some flexibility so that we can become financially viable.”

In response, Director Nesbitt proposed that “the idea should be part of the planning process and the Board should challenge itself to think of what it does to access or if closing one school means having to absorb those populations elsewhere. What is the net loss, he asked? What is the net cost per student? What’s the gain?” Director Schuette added that, “It’s irresponsible to, with all due respect, put that motion forward without having discussion about the implications.”

At this point, Director Richmond seconded Director Dyess’ motion. Continuing, she added, “All options have to go on the table, not just this one. That is my reason for seconding the motion: we do need to put all options on the table if we’re going to be solid and sustainable.”

President Zinser noted that the motion did not include the concept of a merger. She pointed out that among the legislative concepts are some very bold ideas and that the Board is not yet at that point of wanting to take the many risks and damages that could occur in the context of enrolling students and the messages of closure could convey. “So, quite unlike many of these very bold ideas that are here, I think there are some potentially serious damages that could occur just by having the concept out there and the difficulty that the public would have understanding that this is just there as a placeholder.”

After discussion, Director Richmond withdrew her second of the motion to close or sell an institution. In turn, Director Dyess withdrew her motion and commented, “I can’t in all good conscience stay on this Board and go down this path and not take action. We have an urgent financial situation and we have to do something about it. We need the students, we need the faculty, and we need everybody rallying around it to get it done.”

(NOTE: Director Schuette left the meeting at 2:04 p.m.)
4. **ADJOURNMENT**

“Pursuant to Article II, Section 5 of the Bylaws of the Board of Higher Education, the Board delegates to the Executive Committee authority to take final action as here designated or deemed by the committee to be necessary, subsequent to the adjournment of this meeting and prior to the Board’s next meeting. The Executive Committee shall act for the Board in minor matters and in any matter where a timely response is required prior to the next Board meeting.”

It was moved by Director Dyess, seconded by Director Van Vliet, to approve the delegation of authority. Those voting in favor: Directors Lorenzen, Blakney, Mendoza, Nesbitt, Richmond, and Van Vliet. (There was not a quorum for the vote.) Those voting no or abstaining: none. Motion passed. With no further business, the meeting was adjourned at 2:05 p.m.