President Layman called the adjourned session of the regular State Board of Higher Education meeting of March 23, 1976, to order at 10:30 A.M., Pacific Daylight Time, April 29, 1976, in Room 338, Smith Memorial Center, Portland State University, Portland, Oregon. The following Board members were present:

Mrs. Jane H. Carpenter
Mrs. Betty Feves
Mr. Edward C. Harms, Jr.
Mr. Robert C. Ingalls
Mr. Philip A. Joss
Mr. Marc F. Maden
Miss Valerie McIntyre
Mr. W. Philip McLaurin
Mr. Louis B. Perry
Mr. Loran L. Stewart
Mr. George H. Layman

Absent: None.

Establishment of School of Urban Affairs, PSU

The Chancellor reported that the restructuring of the administrative organization to accommodate a number of departments had been under consideration at Portland State University for some time. These departments have now been approved for designation as the School of Urban Affairs. However, the Chancellor pointed out that there has always been a certain degree of uncertainty about the extent to which this kind of internal organization requires Board consideration. The determination of which items should be brought to the Board for consideration and which should be reported as an administrative accomplishment has not been consistent.

At the request of the Chancellor, Dr. Romney then described the following proposed School of Urban Affairs. He said President Blumel recommended the establishment of a School of Urban Affairs by bringing together under the umbrella of the new school a number of curricular and research programs currently under the jurisdiction of the Dean of Graduate Studies and Research, and the Dean of the College of Social Science.

Under the plan, the following units would become part of the new School of Urban Affairs:

- The following units which now report directly to the Dean of the College of Social Science.

<table>
<thead>
<tr>
<th>Faculty FTE</th>
<th>Total Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration of Justice Program</td>
<td>3.00</td>
</tr>
<tr>
<td>Institute on Aging</td>
<td>3.67</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>3.67</strong></td>
</tr>
</tbody>
</table>

- The following units which now operate under the Director of Urban Affairs, and through him report to the Dean of the College of Social Science.

<table>
<thead>
<tr>
<th>Faculty FTE</th>
<th>Total Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Studies Certificate Program</td>
<td>3.00</td>
</tr>
<tr>
<td>Urban Studies Undergraduate Certificate Program</td>
<td>1.78</td>
</tr>
<tr>
<td>Urban Studies Center</td>
<td>.75</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5.53</strong></td>
</tr>
</tbody>
</table>

- The following units which now operate under the Director of Urban Studies and through him report to the Dean of Graduate Studies and Research.

<table>
<thead>
<tr>
<th>Faculty FTE</th>
<th>Total Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Studies Graduate Programs</td>
<td>11.59</td>
</tr>
<tr>
<td><strong>Total Faculty and Budget Proposed School of Urban Affairs</strong></td>
<td><strong>20.59</strong></td>
</tr>
</tbody>
</table>
An additional five to eight faculty FTE on grants and six to eight classified staff on grants and/or regular instructional funds would be part of the new school.

The College of Social Science would remain a large instructional unit with over 90 faculty FTE.

Curricular and Fiscal Implications

No new curricula would be involved and there would be no added administrative costs growing out of the creation of the new school.

Background Out of Which the Decision
To Establish the New School Emerges

The decision to establish the new school emerged out of the following background:

- 1974 study committee report. Increased interest in the foregoing programs and mounting administrative difficulties in coordinating them led to the establishment in the summer of 1974 of a ten-member review committee of faculty, students, and local governmental representatives to examine the organization of the urban-related programs at Portland State University and to consider alternative administrative arrangements for administering the programs here under discussion, including the possible establishment of a School of Urban Affairs.

The committee completed its work by December 1974. It recommended the establishment of a School of Urban Affairs in preference to possible alternative approaches to improving the administration and coordination of the foregoing programs. The committee felt that such a school would enhance and strengthen interactions between the University and the broader community and would highlight the urban mission of the University.

- 1975 committee to recommend the units to be included in the new school.

In January 1975, a new committee was appointed to consider just which units within the institution might most advantageously be brought under the umbrella of the new school.

After interviews with a large number of program administrators, the committee recommended that the six units earlier identified in this presentation should be brought within the new school structure. The committee considered that this could be achieved without necessity for committing additional administrative funds. The Director of Urban Studies position would be replaced by the position of Dean of the School of Urban Affairs.

- Faculty Senate vote. In November 1975, the Portland State University Faculty Senate reviewed the proposal to establish a new School of Urban Affairs and voted 44 in favor, 3 opposed, and 1 abstention. The Senate also requested that the administration consult with appropriate faculty on the development of working relationships between the new school and related programs within the University. That consultation has taken place, President Blumel reports.

Mr. Joss moved that the Board accept the report as presented.

Mr. Ingalls asked whether approval of the motion would establish a policy that the Board would receive reports of similar internal reorganizations at the institutions.

Mr. Layman explained that would be the understanding as a result of the motion unless the Board established a more specific overall policy.
Mr. Ingalls indicated he favored permitting the presidents of the institutions to determine their internal organization.

Mr. Stewart said he would support the motion but wanted the Board to continue to receive reports of the actions taken by the institutions.

The Board approved the motion with the understanding that reports of additional internal reorganizations of a similar nature would be reported to the Board in the same manner. Those voting in favor were: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman.

Acceptance of Bid for $1,250,000 State of Oregon, State Board of Higher Education Building Bonds, Series 1976 A, Article XI-F (1)

The Vice Chancellor for Administration reported that at 9:00 A.M., Pacific Daylight Time, on April 29, 1976, three sealed bids were received, pursuant to an advertisement authorized by the Board of Higher Education at its regular meeting on March 23, 1976, for the proposed sale of $1,250,000 State of Oregon, State Board of Higher Education Building Bonds, Series 1976 A. Present was Mr. Richard Roberts of Rankin, Ragen, Roberts, Samson & Gallagher, Bond Attorneys. The bonds were to be sold at a price of not less than $98 for each $100 par value thereof. Bids received for the bonds were as follows:

<table>
<thead>
<tr>
<th>Name of Bidder</th>
<th>Designated Maturities</th>
<th>Interest Rate</th>
<th>Total Coupon Interest Cost</th>
<th>Add Discount or Deduct Premium</th>
<th>Total Net Interest Cost</th>
<th>Effective Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>United California Bank</td>
<td>1979-1986</td>
<td>5.00%</td>
<td>$1,483,395.00</td>
<td>$15,530.95</td>
<td>$1,498,925.95</td>
<td>5.902445%</td>
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<tr>
<td></td>
<td>1987</td>
<td>5.10%</td>
<td></td>
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<tr>
<td></td>
<td>1988</td>
<td>5.20%</td>
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<td></td>
<td>1989-1990</td>
<td>5.30%</td>
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<tr>
<td></td>
<td>1991</td>
<td>5.40%</td>
<td></td>
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<tr>
<td></td>
<td>1992</td>
<td>5.50%</td>
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<tr>
<td></td>
<td>1993</td>
<td>5.60%</td>
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<tr>
<td></td>
<td>1994</td>
<td>5.75%</td>
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<tr>
<td></td>
<td>1995-1999</td>
<td>5.90%</td>
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<tr>
<td></td>
<td>2000-2006</td>
<td>6.00%</td>
<td>$1,483,395.00</td>
<td>$15,530.95</td>
<td>$1,498,925.95</td>
<td>5.902445%</td>
</tr>
<tr>
<td>U. S. National Bank of Oregon (Joint Manager); L. F. Rothschild &amp; Co. (Joint Manager); Wauterlek &amp; Brown, Inc.; Seattle-First National Bank; Blyth Eastman Dillon &amp; Co., Inc.</td>
<td>1979-1987</td>
<td>5.00%</td>
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<td></td>
<td>1988</td>
<td>5.10%</td>
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<td></td>
<td>1989</td>
<td>5.25%</td>
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<tr>
<td></td>
<td>1990-1991</td>
<td>5.40%</td>
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<td></td>
<td>1992</td>
<td>5.60%</td>
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<td></td>
<td>1993</td>
<td>5.70%</td>
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<td></td>
<td>1994</td>
<td>5.80%</td>
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<tr>
<td></td>
<td>1995-1995</td>
<td>5.90%</td>
<td></td>
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<tr>
<td></td>
<td>1996-1997</td>
<td>6.00%</td>
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<td></td>
<td>1998-2002</td>
<td>6.10%</td>
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<tr>
<td></td>
<td>2003-2004</td>
<td>6.10%</td>
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<td></td>
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<tr>
<td></td>
<td>2005-2006</td>
<td>--</td>
<td>$1,495,740.00</td>
<td>$16,250.00</td>
<td>$1,511,990.00</td>
<td>5.9538%</td>
</tr>
<tr>
<td>Harris Trust and Savings Bank; First National Bank of Oregon; The Northern Trust Company</td>
<td>1979-1986</td>
<td>5.75%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1987-2000</td>
<td>6.00%</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>2001-2002</td>
<td>6.10%</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>2003-2006</td>
<td>6.20%</td>
<td>$1,979,462.50</td>
<td>$180.00</td>
<td>$1,979,282.50</td>
<td>6.077%</td>
</tr>
</tbody>
</table>

Following the reading of the bids, the Vice Chancellor for Administration indicated that the most favorable bid was that of United California Bank with a total net interest cost of $1,498,925.95 and an effective interest rate of 5.902445 percent per annum. He also stated that the bonds were to be in denominations of $5,000.

It was recommended that the low bid be accepted by adoption of the following resolution:
RESOLUTION

BE IT RESOLVED that the ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($1,250,000) STATE OF OREGON, STATE BOARD OF HIGHER EDUCATION BUILDING BONDS, SERIES 1976 A, sold to United California Bank at $98.7576 on the 29th day of April, 1976, be issued to bear date the fifteenth day of April, 1976; to bear interest at the rate of 5.00 percent per annum for the bonds of the issue maturing on April 15, 1979 to 1986 inclusive, at the rate of 5.10 percent per annum for the bonds of the issue maturing on April 15, 1987, at the rate of 5.20 percent per annum for the bonds of the issue maturing on April 15, 1988, at the rate of 5.30 percent per annum for the bonds of the issue maturing on April 15, 1989 to 1990 inclusive, at the rate of 5.40 percent per annum for the bonds of the issue maturing on April 15, 1991, at the rate of 5.50 percent per annum for the bonds of the issue maturing on April 15, 1992, at the rate of 5.60 percent per annum for the bonds of the issue maturing on April 15, 1993, at the rate of 5.75 percent per annum for the bonds of the issue maturing on April 15, 1994, at the rate of 5.90 percent per annum for the bonds of the issue maturing on April 15, 1995 to 1999 inclusive, at the rate of 6.00 percent per annum for the bonds of the issue maturing on April 15 of the years 2000 to 2006 inclusive; and

BE IT FURTHER RESOLVED that the bonds be issued to mature serially on the dates provided in the resolution of the Board duly adopted at the regular meeting of the Board duly and legally held on March 23, 1976, and that both the principal of and interest upon the bonds be paid at the Fiscal Agency of the State of Oregon, in the City and State of New York; and

BE IT FURTHER RESOLVED that the said bonds and coupons annexed thereto be executed in the form prescribed in the resolution adopted by the Board at the March 23, 1976, meeting; and

BE IT FURTHER RESOLVED that the bonds be in denominations of $5,000, as provided in the resolution adopted by the Board at the March 23, 1976, meeting; and

BE IT FURTHER RESOLVED that the March 23, 1976, resolution of the Board authorizing the issuance of said bonds, and all acts performed by the Board in adopting the said resolution, and by the Secretary of the Board and the Vice Chancellor for Administration in connection with the issuance and sale of the said bonds, including the notice of bond sale and its publication in Oregon on April 6, 1976, and April 13, 1976, be and they hereby are fully approved, ratified, and confirmed.

BE IT FURTHER RESOLVED that functions of the Secretary of the Board in preparing and providing of transcript material, and other actions relating to the bond issue shall be performed by the Secretary of the Board or by the Assistant Secretary of the Board; and correspondingly, functions of the Vice Chancellor for Administration shall be performed by the Vice Chancellor for Administration or by his Administrative Assistant.

It was moved by Director Perry that the Board accept the low bid and adopt the proposed resolution. The President of the Board stated that it had been moved that the Board accept the low bid as indicated and adopt the proposed resolution.

On roll call vote the Board voted on the adoption of the motion as follows:

Those voting yes: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman.

Those voting no: None.

The President of the Board declared said motion duly adopted by a unanimous vote.
The Vice Chancellor for Administration reported that at 9:00 A.M., Pacific Daylight Time, on April 29, 1976, three sealed bids were received, pursuant to an advertisement authorized by the Board of Higher Education at its regular meeting on March 23, 1976, for the proposed sale of $1,600,000 State of Oregon, State Board of Higher Education Facilities Bonds, Series 1976 B. Present was Mr. Richard Roberts of Rankin, Ragen, Roberts, Samson & Gallagher, Bond Attorneys. The bonds were to be sold at a price of not less than $100 for each $100 per value thereof. Bids received for the bonds were as follows:

<table>
<thead>
<tr>
<th>Name of Bidder</th>
<th>Designated Maturities</th>
<th>Interest Rate</th>
<th>Total Coupon Interest Cost</th>
<th>Deduct Premium</th>
<th>Total Net Interest Cost</th>
<th>Effective Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>United California Bank</td>
<td>1979-1994</td>
<td>5.75%</td>
<td>$1,928,902.50</td>
<td>--</td>
<td>$1,928,902.50</td>
<td>5.922329%</td>
</tr>
<tr>
<td></td>
<td>1995</td>
<td>5.80%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1996-1999</td>
<td>5.90%</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>2000-2006</td>
<td>6.00%</td>
<td></td>
<td></td>
<td></td>
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<td>1979-1987</td>
<td>5.75%</td>
<td>$1,946,920.00</td>
<td>--</td>
<td>$1,946,920.00</td>
<td>5.9776%</td>
</tr>
<tr>
<td></td>
<td>1988-1995</td>
<td>5.80%</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>1996-1997</td>
<td>5.90%</td>
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</tr>
<tr>
<td></td>
<td>1998-2002</td>
<td>6.00%</td>
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</tr>
<tr>
<td></td>
<td>2003-2006</td>
<td>6.10%</td>
<td>$1,946,920.00</td>
<td>--</td>
<td>$1,946,920.00</td>
<td>5.9776%</td>
</tr>
</tbody>
</table>

Following the reading of the bids, the Vice Chancellor for Administration indicated that the most favorable bid was that of United California Bank with a total net interest cost of $1,928,902.50 and an effective interest rate of 5.922329 percent per annum. He also stated that the bonds were to be in denominations of $5,000.

It was recommended that the low bid be accepted by adoption of the following resolution:

RESOLUTION

BE IT RESOLVED that the ONE MILLION SIX HUNDRED THOUSAND DOLLARS ($1,600,000) STATE OF OREGON, STATE BOARD OF HIGHER EDUCATION FACILITIES BONDS, SERIES 1976 B, sold to United California Bank at $100 on the 29th day of April, 1976, be issued to bear date the fifteenth day of April, 1976; to bear interest at the rate of 5.75 percent per annum for the bonds of the issue maturing on April 15, 1979 to 1994 inclusive, at the rate of 5.80 percent per annum for the bonds of the issue maturing on April 15, 1995, at the rate of 5.90 percent per annum for the bonds of the issue maturing on April 15, 1996 to 1999 inclusive, at the rate of 6.00 percent per annum for the bonds of the issue maturing on April 15 of the years 2000 to 2006 inclusive; and

BE IT FURTHER RESOLVED that the bonds be issued to mature serially on the dates provided in the resolution of the Board duly adopted at the regular meeting of the Board duly and legally held on March 23, 1976, and that both the principal of and interest upon the bonds be paid at the Fiscal Agency of the State of Oregon, in the City and State of New York;
BE IT FURTHER RESOLVED that the said bonds and coupons annexed thereto be executed in the form prescribed in the resolution adopted by the Board at the March 23, 1976, meeting; and

BE IT FURTHER RESOLVED that the bonds be in denominations of $5,000, as provided in the resolution adopted by the Board at the March 23, 1976, meeting; and

BE IT FURTHER RESOLVED that the March 23, 1976, resolution of the Board authorizing the issuance of said bonds, and all acts performed by the Board in adopting the said resolution, and by the Secretary of the Board and the Vice Chancellor for Administration in connection with the issuance and sale of the said bonds, including the notice of bond sale and its publication in Oregon on April 6, 1976, and April 13, 1976, be and they hereby are fully approved, ratified, and confirmed.

BE IT FURTHER RESOLVED that functions of the Secretary of the Board in preparing and providing of transcript material, and other actions relating to the bond issue shall be performed by the Secretary of the Board or by the Assistant Secretary of the Board; and correspondingly, functions of the Vice Chancellor for Administration shall be performed by the Vice Chancellor for Administration or by his Administrative Assistant.

It was moved by Director Perry that the Board accept the low bid and adopt the proposed resolution. The President of the Board stated that it had been moved that the Board accept the low bid as indicated and adopt the proposed resolution.

On roll call vote the Board voted on the adoption of the motion as follows:

Those voting yes: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman.

Those voting no: None.

The President of the Board declared said motion duly adopted by a unanimous vote.

Addition to Administrative Rules of AR 70.185, Prequalification for Public Improvements

Staff Recommendation to the Board

The Board on January 20, 1976, adopted as a temporary rule AR 70.185, Prequalification for Public Improvements. In accordance with the Administrative Procedures Act, it was recommended that AR 70.185 below be adopted as a permanent rule for inclusion in the Board's Administrative Rules.

70.185 Prequalification for Public Improvements

Pursuant to ORS 279.039(1) and OAR 127-40.030 of the Public Contract Review Board, the Department of Higher Education requires prequalification prior to bidding of all persons or firms desiring to bid for contracts for public improvements of the classes of work hereinafter specified which exceed $50,000 in estimated value. The prescribed prequalification application shall be submitted to the Vice Chancellor for Facilities Planning of the Oregon State Board of Higher Education, P. O. Box 3175, Eugene, Oregon 97403, or to such person as he may designate. Such application shall be submitted on forms prescribed by the Public Contract Review Board and may be submitted at any time. Only one such application needs to be filed each year. It may be prepared as of any date selected by the prospective bidder, provided complete and accurate information is available. Applications which have been filed and are still current will be considered in determining prequalification status on bid invitations prior to the expiration of such applications.
Blanket approval of prequalification with the Department of Higher Education will not be given for any period of time. Rather, a separate review will be made by the Vice Chancellor for Facilities Planning of the Oregon State Board of Higher Education (or his authorized representative) for each construction project and contract under consideration in order to determine whether or not a prospective bidder is qualified to bid thereon.

In order to qualify to bid upon a particular project, if an application has been filed currently, then the prospective bidder must advise either the architect or engineer or the Vice Chancellor for Facilities Planning in writing of his intention to bid upon the particular project at least ten days prior to the date set for opening bids thereon. If such a current application has not been filed previously, then in order to qualify to bid on a particular project, the prospective bidder will be required to submit a prequalification application either to the project architect or engineer or to the Vice Chancellor for Facilities Planning of the Oregon State Board of Higher Education (or his authorized representative) at least ten days prior to the date set for the opening of bids. A prequalification application submitted less than ten days before the bid opening may be considered, but final action cannot be assured.

Classes of work for which prequalification is required:

( ) Highway, Road & Street Improvements
( ) Concrete Paving and Flatwork
( ) Rock Crushing
( ) Bituminous Oiling
( ) Bituminous Paving
( ) Reinforced Concrete Construction
( ) Bridge and Overcrossing Construction
( ) Dredging and Piledriving
( ) Excavation and Grading
( ) Sewer Construction
( ) Sewage Treatment Plants
( ) Sewage Pumping Stations
( ) Water Lines
( ) Water Reservoirs
( ) Water Tanks - Steel
( ) Water Tanks - Concrete
( ) Electrical Wiring
( ) Traffic Signalization
Mr. Layman said the proposed addition to the Board's Administrative Rules of AR 70.185, Prequalification for Public Improvements, had been properly noticed and no request had been made for a public hearing.

Mr. Hunderup indicated that one letter had been received in opposition to the proposal from Mr. Clark Smith of Hillsboro, Oregon. Mr. Larson read the following letter from Mr. Smith.

The State Board of Higher Education
P. O. Box 3175
Eugene, Oregon
Att: Board Secretary
D. R. Larson

Dear Sir;

I personally object to your proposal for prequalifying of bidders. This will do just what it is intended to do - namely it will stifle the competitive bid and believe me I know what I am saying.

We have seen this happen in the building industry and we have seen this creeping cancer infest such high places as CH2M Hill and other Engineering Companies who will not devote the time and study to determine each bid on its merit.

The State does not save money - this is a mirage. Steven, Thompson and Runyon or CH2M Hill might justify higher cost as their fee is a percentage of the total however no government can afford to eliminate anyone who bids their business.

It's very time consuming and costly to bid state business and this merely adds to the expense.

The State of Oregon in their purchasing department without fail does the poorest job of purchasing of any agency in the Northwest. I believe it approaches Watergate and your suggestion, believe me, will in a short time be as bad.
Many of us helped fight the State in the last legislature to see that the state writes specifications and not name brands or conditions that are self limiting.

If this Rule is adopted, we will fight you to "hell freezes over" to see that this rule is changed and that the change will be law.

Friend, you know not of what you speak and your suggestion approaches the illegal as passed by the last legislature.

I would appreciate being informed of the action of this board when and if any action is taken for or against.

Sincerely,

Clark Smith
155 N. W. 338th
Hillsboro, Oregon 97123

It was stated by Mr. Branchfield that new procedures pertaining to public hearings permitted the Board to call a hearing at its own discretion or to publish the appropriate notices and to hold a public hearing only if sufficient requests for a hearing were received. No requests had been received for a public hearing on AR 70.185 but in acting upon the proposed rule, it would be appropriate for the Board to consider the letter from Mr. Smith.

Mr. Hunderup commented that the temporary rule previously adopted was in response to the administrative rules of the Contract Review Board which became operational on January 1, 1976, under the provisions of Chapter 771, Oregon Laws 1975. He noted that a minor change had been made from the temporary rule to substitute the term "prequalification application" for "prequalification statement." Similar mandatory prequalification rules have been adopted for the Oregon Highway Division and the Department of General Services.

In referring to the letter from Mr. Smith, Mr. Hunderup said the comments in the letter referred more to products than to prequalification of bidders and may have resulted from a misunderstanding of a report on the proposed rule change in an article in the Daily Journal of Commerce.

Mr. Stewart moved that the Board adopt AR 70.185, Prequalification for Public Improvements, as a permanent rule.

Mr. McLaurin moved to amend AR 70.185 as presented so that prequalification of bidders for public improvements would be required for contracts in excess of $50,000 rather than $10,000. He said the amendment would assist minority contractors by helping them to demonstrate their ability to work on certain projects over a period of time so that they would then be eligible to bid on larger projects.

In discussing the amount legally requiring prequalification of bidders, it was stated that it had previously been $10,000, but that section of the statute was repealed when the Contract Review Board statute was enacted. A public body can set the amount now, although there are two references in the statutes to $50,000 as being the maximum that a public body can undertake with its own forces.

The Board voted to amend the proposed AR 70.185 by changing $10,000 to $50,000 in the first paragraph thereof. Those voting in favor were: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, Mcintyre, McLaurin, Perry, and Layman. Those voting no: Director Stewart. The President thereupon declared the amendment duly adopted.

Upon motion by Mr. Stewart, the Board approved the staff recommendation and adopted AR 70.185, Prequalification for Public Improvements as set forth above. The following voted in favor of the motion: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, Mcintyre, McLaurin, Perry, Stewart, and Layman. Those voting no: None.

The President of the Board thereupon declared the above AR 70.185 duly adopted.
President Layman said the Board, under its discretionary authority, had agreed to review and hear the appeal of Dr. Anne Frentz, Visiting Assistant Professor at the University of Oregon. He said the Board was hearing the appeal under AR 41.393 and called attention to Subparagraph 5 of that rule which states:

The consideration of any such request shall be limited to appellate review of alleged errors by the appointing authority with respect to procedure, adherence to the Administrative Rules or other applicable law and fair consideration of the facts. The scope of the review shall not include a de novo review on the merits of the institutional executive's delegated discretion.

Mr. Layman said the participants in the presentation had been notified that 15 minutes had been allowed for the presentation by the appellant, 20 minutes for any response from the University of Oregon, and a 5 minute closing by the appellant. Mr. Layman asked that all participants adhere to the rule that the Board was considering the fairness of the procedure only from the standpoint of fairness.

Mr. Maden requested an explanation of the language in Subparagraph 5 so that there would be a clear understanding of what would be decided.

Mr. Branchfield explained Subparagraph 5 required the Board to limit its consideration to procedural matters and to determine whether the decision of the institution was arbitrary and not based upon fact, whether there was failure to provide due process to the appellant, and whether procedural rules were followed substantially. Minor deviations from the procedural rules would not be justification to order a different result provided they did not interfere with due process or the rights of the appellant.

Dr. Anne Frentz stated that she was a woman faculty member at the University of Oregon and introduced her attorney, Miss Charlene Sherwood, who is also an attorney for the Oregon State Employees' Association.

Miss Sherwood asked whether the Board had, as a part of the record, the findings from the committee dated November 18, 1975, and the response from President Boyd dated December 22, 1975. Mr. Layman replied that these had not been made available to all the members because the Board was considering procedure, not substance. However, this material was available in the file. A copy was provided for reference.

Miss Sherwood described the background and grievance procedure which had been followed in the case of Dr. Frentz. She said three people had been designated as a hearing panel and had heard eleven hours of testimony and had access to numerous pages of supporting documents. The unanimous decision of the hearing panel was that Dr. Frentz had been subjected to discrimination and the report was sent to President Boyd. President Boyd reviewed the testimony and also ten letters which were received subsequently from women working in the same department which stated that they had not been discriminated against.

Miss Sherwood said that on the basis of these letters, President Boyd overturned the decision of the hearing panel and decided that Dr. Frentz was not discriminated against. Miss Sherwood stated that Title VI of the Civil Rights Act of 1974 and Title IX of the Education Amendments of 1972 require that a university must not discriminate but, in fact, must also have some kind of affirmative action program which includes the resolving of grievances. This affirmative action program, including the grievance procedure, was adopted into the University of Oregon's administrative rules. Furthermore, under Chapter 183, the definition of a contested case requires that the person is entitled to notice, is entitled to cross-examine people, and is entitled to hear the opposing evidence. Miss Sherwood asserted that it was obvious from President Boyd's letter that he had considered evidence which was not part of the hearing and based his decision to overrule the recommendation of the committee on material that was not part of the record.
The Equal Employment Opportunity Committee and other groups concerned with discrimination in employment are concerned that there is no purpose served by the committee if the president of the institution has the authority to disregard the recommendations made by the committee on the basis of the hearing. She said these groups are concerned that if there is an Equal Employment Opportunity Committee that is to have any merit or substance, the procedures of that committee must be followed and there must be some due process accorded to those individuals who follow the prescribed procedures.

Miss Sherwood asked that the case be remanded to President Boyd and that he act in compliance with the administrative rules and state and federal laws.

Mr. Layman said one of the points made by Miss Sherwood was the failure to have due process in that the Administrative Procedure Act was not followed. He asked if there was some doubt as to whether the Administrative Procedure Act applied to these hearings or whether that was without question. Miss Sherwood said she believed it was without question that the Administrative Procedure Act applied to this hearing. It was also indicated that the ten letters had not been made available to Dr. Frentz.

Mr. David Frohmayer, Special Assistant to President Boyd for Legal Affairs, said he strongly disagreed with opposing counsel on a number of points, particularly on the applicability, if any, of the Administrative Procedure Act. Mr. Frohmayer said that even though he believed that everything President Boyd did was proper, if you accept all of the procedural objections which were advanced by the applicant, they were not prejudicial because the report of the committee must fall as a legal matter. He said the question was an employment dispute which arises out of a position funded by federal funds. There has been a universal policy at the University of Oregon that persons employed through federal funds were not on the tenure track but were on fixed-term appointments. All persons employed on federal funds receive a standard letter detailing the terms of their employment and stating that continuation of the appointment is contingent upon renewal of the grant. The letter states further that employment can be assured only for the period indicated and that if the grant is continued, the individual may be considered for reappointment. He quoted the letter from Dr. Frentz accepting the position offered and indicating her understanding that the position might be temporary.

Subsequently, the grant was not renewed and the position of Dr. Frentz was terminated as were those of one female and three male professional staff members of the affected academic unit.

In citing the case of Seitz v. Clark, decided by the 9th Circuit Court of Appeals in September, Mr. Frohmayer said it was made abundantly clear that in considering the contractual obligations of a public employer, only the official correspondence and notices of appointment were to be the legal obligations to the employee.

The Dean of the affected subunit filed a rejoinder to the recommendation of the committee. Dr. Frentz was also extended an opportunity to submit a response and meet with University personnel. At about the same time a number of concerned women employees, both professional and clerical, from the academic unit affected, spontaneously wrote their replies to the president. Mr. Frohmayer said the spontaneous nature of these letters had been investigated very carefully and there appeared to be no question that the letters were spontaneous and not a result of command influence. President Boyd made no attempt to conceal the receipt of the letters and they are subject to inspection by Dr. Frentz to the extent that they are personal records affecting the employee within the meaning of the Oregon Records Act that applies to higher education. There has been no attempt to be devious with respect to these letters, but no formal request has been made to the President's Office to see the letters.

Mr. Frohmayer summarized his remarks by saying that purely on legal grounds the president was urged to reject and did reject the report of the hearing panel. The hearing panel based its decision on a purported oral contract which was inconsistent with the contractual obligations and formal correspondence on the subject.
Mr. Frohnmayer referred to the administrative memorandum covering the hearing of employee grievances and said there was no restriction with respect to the time for submission of documents or the type of evidence that could be submitted. In other words, Mr. Frohnmayer said there was no violation of any legal procedural rule, of which he was aware, that took place in the case of Dr. Frentz.

Mr. Frohnmayer objected to the argument that the grievance procedure fell under the contested case provisions of the Administrative Procedure Act. The committee was advisory and investigatory rather than a formal judicial model. The committee recommendation to the president and the rules state clearly that the president is free to depart from the recommendation of the committee. However, if he does so, he must set forth his reasons in a letter to the committee, and this has been done.

The three-member panel rather than the full committee heard the evidence. There was no requirement that the record be transcribed, nor was there a requirement for findings of fact and conclusions of law, all of which would be necessary in a contested case proceeding.

Mr. Frohnmayer said the committee ignored the official contract signed by both parties. The impact of the decision that President Boyd was asked to make went beyond the impact on the immediate parties to the grievance and affected policies of concern to the University, the State System and the State of Oregon. The report recommended action which, in effect, would be official censure of a number of individuals and recommended the removal of a particular person from a job assignment although that person had not been a formal party to the grievance. It also ordered the revision of a staff plan provided by the department. The recommendation had monetary consequences. It urged the reordering of the academic and research priorities which were properly in the province of an academic unit to determine and realign. Finally, it accepted the proposition that on the basis of evidence about alleged oral agreements, the official correspondence and contracting authorities of the university could be ignored.

Mr. Layman asked whether there was any reason the letters received by President Boyd could not have been made available and comment solicited before the decision was reached. Mr. Frohnmayer responded that most of the correspondence was received from two to four days before the regulations required that the review be completed.

President Boyd did not attempt to conceal the fact the letters had been received and this additional evidence showed that the report of the hearing panel was incomplete.

In rebuttal, Miss Sherwood said she agreed that when a position involved federal funding there is no guarantee the federal funding will be available. However, the issue is that a grievance committee established as required by law had determined that a person was discriminated against because of her sex. A result of that discrimination may have related to her position. Miss Sherwood said the record was held open for seven days and no letters appeared, but at some time, ten letters were received which changed President Boyd's decision about the entire case. She said Mr. Frohnmayer indicated that due process was not needed in this case nor cross examination or representation by counsel. Miss Sherwood reiterated her opinion that the case is a contested case, the Administrative Procedure Act applies, and the law requires specifically that the determination be made solely on the record and that there must be findings of fact and conclusions of law.

Miss Sherwood concluded her rebuttal by suggesting that the case be remanded to President Boyd, that he act in compliance with the law, and that a grievance procedure be established in a proper manner.

Mr. Layman asked Mr. Branchfield if he had an opinion on whether the Administrative Procedure Act applied to the case of Dr. Frentz.
Mr. Branchfield said that contrary to a statement made by Miss Sherwood, he had written no opinion saying that the Administrative Procedure Act applies to the case. He said he did not think anyone could say positively that it does or does not apply at the present time. He said there have been no cases in Oregon of which he was aware that say how far the Administrative Procedure Act contested case procedures go into procedures in higher education. If the Act does apply, then there is a very serious probability that it will no longer be possible to use faculty committees and student committees to conduct hearings. The hearings would be conducted by hearing officers. Mr. Branchfield said it was his opinion the Administrative Procedure Act did not require that this particular case be a contested case hearing, and clearly the federal affirmative action requirements do not require it to apply.

Miss Sherwood said she had not intended to indicate that Mr. Branchfield had written a formal Attorney General's opinion but had written an informal letter to Mr. Gil Polanski, employee representative for the Oregon State Employe's Association, in which he stated that it was his opinion the Administrative Procedure Act would apply.

Mr. Layman requested the Secretary of the Board to read two letters which had been addressed to the Board concerning the case of Dr. Frentz. Mr. Harms and Mr. Joss questioned the propriety of presenting the letters because they were additional testimony in a similar category to the ten letters received by President Boyd. Mr. Layman said all parties to the hearing were present and he did not wish to exercise censorship of the material.

In the absence of further objections, Mr. Layman requested the Secretary of the Board to read the following communications:

711 W. 11th Ave.
Eugene, OR 97402
April 19, 1976

George Layman
President, State Board of Higher Education
P. O. Box 68
Newberg, OR 97132

Dear Mr. Layman and members of the Board,

I am a recent graduate of the University of Oregon and am one of many who was alarmed at President Boyd's action of overturning a unanimous decision of the Committee on Equal Employment Opportunity regarding the Dr. Anne Frentz grievance. President Boyd stated in his letter to the EEO Committee: "I will not, nor do I believe it my function to review the evidence exhaustively..." A failure to review the evidence in a careful manner, followed by a reversal of the recommendations "without judging the merits of the situation" (Pres. Boyd's words) strikes one as being a strange and indefensible way to make a decision. This kind of arbitrary decision seriously undermines any sense of justice and fair play. What is the point of hearings panels when the finding of such a group can summarily be dismissed without a full examination of the evidence upon which the findings were based?

Dr. Frentz filed a discrimination complaint, the hearings panel conducted extensive hearings, and reviewed approximately 350 pages of written evidence. They concluded that Dr. Frentz was a victim of sex discrimination. Is it reasonable to assume that a slap, bam and thank you to the committee for its many hours of consideration and a reversal of their recommendations is a sufficient and proper reply to what appears to be a bona fide case of sex discrimination?
Meeting #429-244

April 29, 1976

I spoke with Dr. Abbott and he was unwilling to release a copy of his rebuttal statement to the EEO report which forces me to conclude that he does not believe his document can stand the test of public scrutiny. He assured me, however, that the main reason for failing to retain Dr. Frentz was economic. Yet an ordinary person finds it difficult to understand why there is no money to hire Dr. Frentz when new people are being hired to work in newly created positions. No claim has ever been made that her teaching or her research work does not meet the highest of academic standards.

My experience in her class was a rewarding one. I found her teaching style - both content and style - to be exceptionally stimulating. She sparked an interest for me in school finance, no small feat for one who detests math as I do! The class, co-taught by Dr. Frentz and Steve Goldschmidt was, in fact, the best class of my graduate program.

It seems an injustice is being committed. I urge that the State Board of Higher Education take actions to remedy this situation.

Sincerely,

/s/ Barbara Koser
Barbara Koser

American Association of University Professors
University of Oregon
Eugene, Oregon 97403

George H. Layman, President
Oregon State Board of Higher Education

Dear Mr. Layman:

This letter relates to the scheduled appearance of Professor Anne Frentz before the Board of Higher Education on Thursday, April 29. For reasons set forth in the next paragraph, we respectfully recommend that the case of Professor Frentz be given a further hearing before a qualified body, perhaps remanded to the University of Oregon Equal Employment Opportunity Committee for further consideration in the light of all evidence now available.

Our reason for recommending a further hearing lies in the so far inconclusive result of the first hearing by the Equal Employment Opportunity Committee and the subsequent review by President Boyd. The Committee, after receiving 350 pages of documentary evidence and taping eleven hours of testimony, recommended in Professor Frentz's favor. President Boyd declined to support the Committee's recommendation, relying importantly on new evidence that had not been submitted to the Committee. In his reply to the Committee President Boyd referred to the investigation as "simply incomplete" and said "I make no final judgments." Noting the new evidence he added "I would deeply appreciate the opportunity to meet with you to share the information in these communications and to determine, mutually, what further investigatory action should be taken. But since I am constrained by the grievance procedures to act within a given time limit, I have no choice but to reject at this time the findings of the Committee as conclusive on the issue of discrimination."
We are not informed in detail regarding the basis of Professor Frentz's charges. Only a few days were available between our receipt of information on the case and the meeting of the Board of Higher Education. We make no representation regarding the substance of the case, but ask for further consideration on the ground that normal grievance procedures do not appear to have been carried to their logical consummation.

Our judgment regarding the procedures is based on examination of three documents:

(2) Letter from President Boyd to Professor Vernice Nye, Chairperson, Committee on Equal Employment Opportunity, December 22, 1975.
(3) Memorandum from Anne Frentz to Interested Parties, January 16, 1976.

Sincerely yours,
/s/ Edward T. Price
Edward T. Price, Chapter President,
for Executive Committee, U of O Chapter

President Boyd asked for an opportunity to respond to statements made by the counsel for Dr. Frentz. The first was the statement that he had not read the evidence. Dr. Boyd stated that he had read every piece of evidence submitted from the committee to his office. He said it was also inaccurate for Miss Sherwood to say that he had based his decision on the ten letters received. President Boyd said the totality of the record made it perfectly clear that his findings were not based on those ten letters.

Mr. Layman declared the presentations closed. He said the Board could defer action, affirm the decision of President Boyd, or send the case back for further investigation and hearing. It was agreed it would not be appropriate for the Board to consider the matter in Executive Session during lunch.

Mr. Stewart moved that the Board recess for lunch prior to reaching a decision.

Mr. Ingalls objected because a number of people were present to hear the results of the decision in the case.

The following voted in favor of Mr. Stewart's motion: Directors Carpenter, Feves, Harms, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman. Those voting no: Director Ingalls.

The Board recessed until 1:15 P.M.

The Board reconvened following the luncheon recess.

Mr. Frohmayer requested an opportunity for President Boyd to make a further statement. Miss Sherwood objected. Mr. Maden moved that the request be denied. His motion was defeated by a vote of eight to three. Those voting in favor were: Directors Maden, McIntyre, and McLaurin. Those opposed: Directors Carpenter, Feves, Harms, Ingalls, Joss, Perry, Stewart, and Layman.

President Boyd said the most important part of this case is not whether the particular decision is to be upheld but whether an environment for teaching and learning existed at the University. He said he did not believe the best possible environment would be served by having the decision upheld because regardless of the vote, there would still be doubts whether justice had been upheld. He said he believed the university community would be served best if the case were remanded to the committee to be heard under current procedures.
Miss Sherwood suggested that the case be remanded to President Boyd and that he act in conformance with the law and with the rules and stated that there was no need for the committee to hear the testimony again.

Mr. Layman asked Mr. Frohnmayer what his concept of further proceedings would be if the Board were to remand the case to the University.

Mr. Frohnmayer said he and President Boyd had been disturbed over serious omissions in the information obtained to assure a full, fair and complete hearing of fact. He said it is possible to work with the tape recordings, but that does not address the issue of the incomplete report.

Mr. Layman then asked whether there would be any problem under either the rules of the Board or of the University, why there would not be an ample opportunity for supplemental information to be presented in the event the case were remanded.

Mr. Frohnmayer said he would regard the Board's action as simply granting a rehearing. He said, in his opinion, it is never wrong for an administrative body to attempt to amplify the findings upon which it bases official action. Much of the material could be covered by stipulation.

Mr. Layman asked Mr. Frohnmayer if he would envision the proposal made on behalf of the University that action by the Board should simply be a remanding for further proceedings, without directing the state of the proceedings.

Mr. Frohnmayer responded that the Board would have plenary power to direct any action it desired but it would be consistent with the language of the discretionary review provision. It is simply remanding back to the institutional level. It would then be at the discretion of the president of the institution to determine the appropriate channel by which further proceedings should be conducted.

In response to a similar question, Mr. Branchfield said the University would proceed in accordance with its own rules and procedures so that due process would be followed. Further the procedure could include some rehearing of the case.

Dr. Frentz responded to the final statement by Mr. Frohnmayer. She said the committee heard all the evidence brought by both parties and she did not feel the existence of ten letters could have such an overwhelming effect on the decision. She said Mr. Frohnmayer made this statement although he had not heard the tapes of the hearing. She said she did not have a great deal of confidence in the ability of Mr. Frohnmayer or the University to act impartially. She said she cannot have confidence these people can judge discrimination.

Mr. Layman then said the options before the Board were to remand the matter in accordance with the suggestion by President Boyd, to affirm the present decision in the case, or to postpone a decision.

The Board approved a motion by Mr. Stewart that, in accordance with the request of President Boyd, the case of Dr. Anne Frentz be remanded to the University for further proceedings in accord with the rules of the Board and the University. Those voting in favor were: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman. Those voting no: None.

(Considered by Committee on Instruction, Research, and Public Service Programs, April 29, 1976; present--Carpenter, Feves, Harms, Joss, Maden, McLaurin.)

Mr. Joss said the Committee on Instruction, Research, and Public Service Programs had recommended that the Board approve the following resolution:
Certificate of Recognition
Honoring
Dr. Roy A. Young

April 29, 1976

WHEREAS Dr. Roy A. Young has served Oregon State University with distinction for the past twenty-eight years as professor, dean of research, acting president, and vice president for research and graduate studies;

WHEREAS his strong sense of purpose, his unyielding dedication to the pursuit of excellence in education and his scholarly leadership have played a vital role in helping to develop Oregon State University into one of the great research centers in the country;

WHEREAS his scientific achievements as distinguished research professor have won him national and international recognition, as well as the respect and gratitude of his colleagues and others who recognize his contributions to the extension of knowledge and the growth of higher education; and

WHEREAS Dr. Young has resigned from Oregon State University to accept the position of Chancellor of the University of Nebraska at Lincoln; now, therefore,

BE IT RESOLVED that the State Board of Higher Education take official recognition and pay honor to Dr. Young's accomplishments and express deep gratitude on behalf of all Oregonians for the many contributions he has made to Oregon State University and to higher education generally; and, further,

BE IT RESOLVED that the Board extend best wishes to Dr. Young in his new position as chief executive of a major institution.

Upon motion by Mr. Joss and second by Mr. Stewart, the Board adopted the above resolution, with the following voting in favor: Directors Carpenter, Feves, Hamms, Ingalls, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman.

Those voting no: None.

The President of the Board thereupon declared the above resolution duly adopted.

Mr. Larson read the following letter, dated April 8, 1976, from Dr. John H. Block, President of the Oregon State University Chapter of the American Association of University Professors:

THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS
OREGON STATE UNIVERSITY
CORVALLIS, OREGON 97331

Mailing Address:
School of Pharmacy
Oregon State University
Corvallis, Oregon 97331

April 8, 1976

Mr. Donald R. Larson, Secretary
State Board of Higher Education
P. O. Box 3175
Eugene, Oregon 97403

Dear Mr. Larson:

The Executive Board of the Oregon State University Chapter of the American Association of University Professors wishes to commend the State
Board of Higher Education for its recent actions concerning the faculty
salary increases. I would appreciate your distributing this letter to
the State Board members.

We wish to commend the State Board for stating that the six per cent
across-the-board increase will be distributed to all faculty who are per-
forming fully satisfactory service in their rank or position. By this
action, it now becomes the responsibility of the faculty member's department
head and/or dean to document when a faculty member is not performing fully
satisfactory service. Faculty morale has suffered with the various attacks
in the lay press and by the occasional politicians concerning the poor
teacher, lazy faculty member and other general pronouncements of a negative
nature. Thus the recognition by the State Board that the faculty are doing
their job is welcome.

Our chapter board agrees with the decision of the State Board which
directed each campus to decide how the remaining four percent of the salary
increases will be distributed. This is consistent with the AAUP view that
each institution in the State System is a separate academic community with
unique strengths and traditions.

Finally we are very appreciative that the State Board explained to
the student witnesses that the salary increases granted the faculty were
fully justified and that it would be short-sighted to take advantage of
the current surplus of faculty in certain subject areas.

Sincerely,
/s/John H. Block
John H. Block, President
OSU Chapter - AAUP

Statement to the Board on Intercollegiate Athletics

The Chancellor summarized the statement to the Board on intercollegiate athletics
which was distributed to the Board on March 23, 1976. The full statement follows.

At its November 1975 meeting the Board was apprised, in a general way, of
the difficulties faced by the State System institutions in maintaining their
athletic programs and, at the same time, remaining financially solvent.

The Problem

The problem, especially at the three universities, is that the rising cost of
doing business is eroding the capacity of football and basketball to support the
other activities.

Rising cost is the consequence of three principal factors. They are (1) inflation,
(2) Title IX with its emphasis on equal treatment of women, and (3) the emergence
of a few "athletic powers," such as Oklahoma, the Ohio State University, Alabama,
the University of Michigan, and Notre Dame, with their seeming ability to finance
increasingly expensive intercollegiate athletic programs.

Although football and basketball, especially at the University of Oregon and
Oregon State University, appear to be able to support themselves through gate
receipts, television, radio and conference income, and contributions, they are
unable to generate the income which, even in combination with student incidental
fees, will maintain a competitive level of support for any substantial number of
"other" intercollegiate athletic activities, including women's activities.

Thus, at the three universities, the "other" intercollegiate athletic activities
constitute an endangered species.
We do not assume that the recommendations in this report, if adopted, would slow the eroding effects of inflation. Nor do we expect that the recommendations would provide a solution to meeting the requirements of Title IX. (They would permit a solution but would not provide it.) Nor would they (the recommendations) be expected to level out the competitive imbalance created by the emergence of a group of athletic super-powers. The latter problem must be dealt with by some nation-wide organization.

The recommendations, if adopted, would be expected to provide a State System policy which would permit the major revenue-producing activities, probably football and basketball at the three universities, but possibly including some other activities, to be self-supporting; and would encourage the use of student incidental fees and state general fund support to enable the "other" athletic activities, including women's athletic activities, to survive in the face of the rising cost of doing business.

Background

You instructed me, at the January meeting, to examine the question, "Should the Board become more actively involved in athletic policy determination?" You also authorized me to modify the admission requirements for non-resident transfer students if I determined that the University of Oregon and Oregon State University were being placed at a recruiting disadvantage with the other Pac-8 institutions.

In January I recommended to you that (1) you approve, on a regular basis, the action I took to authorize a uniform admission requirement of 2.0 GPA for both resident and non-resident transfer students; and (2) henceforth the Board relate itself more directly to the determination of policy for intercollegiate athletics.

You approved both of those recommendations at your January meeting and asked that I return, at a later date, with recommendations on a variety of policy questions.

Before responding to those questions, it seems appropriate to describe briefly the current financing of intercollegiate athletic programs in the System.

At the three universities, intercollegiate athletic programs are supported mainly from gate receipts, student incidental fees, television and radio income, conference income and contributions. An athletic director is responsible for the administration of the programs, and he administers a staff which is paid from these sources of income. To the extent the athletic staffs participate in the instructional program, salary costs are met from instructional funds. In the main, applicable physical plant costs are paid from the athletic department budgets.

At the state colleges and Oregon Institute of Technology, intercollegiate athletic programs are financed from incidental fees, gate receipts (nominal), contributions (nominal), and state funds appropriated for education and general purposes. The latter are used only for coaches salaries and for physical plant costs, not for any other operating cost.

The differences between the athletic funding practices at the universities and at the colleges result from gradual evolution of practices growing out of institutional choice rather than from differences in Board policy.

Issues Posed at the January Meeting

I turn now to the issues posed at the January 5 meeting.

1. Should the several institutions continue to seek to field intercollegiate athletic teams of competitive quality? Or, should athletic activities be limited essentially to the intramural level?
The presidents and your staff believe that we should continue to attempt to field athletic teams of high quality. Further, we believe the institutions can be successful in that effort.

This is not to say that colleges and universities cannot carry out their essential missions of teaching, research and service without competitive athletic teams. Ample evidence exists to indicate that they can. We believe, however, that competitive athletic teams contribute to instructional programs, enrich the collegiate experience, and assist the institutions in establishing cordial and effective relations with their supporting publics.

2. If competitive athletic teams are desirable, should the several institutions seek to maintain essentially their current level of competition? Or, should a different level of competition be sought?

In general, we believe the current level of competition is suitable. That is, the University of Oregon and Oregon State University should continue to compete with Pac-8 Conference schools. The state colleges and Oregon Institute of Technology have established reasonably stable and appropriate competitive relationships in the Evergreen Conference.

Portland State University has not established a conference relationship, except in baseball, and will continue to seek an appropriate and stable level of competition.

3. Should the several institutions continue to fund their athletic programs as at present? Or, should some state tax funds be sought to assist the three universities with their athletic programs? Or, should athletic programs be supported only by non-tax funds?

The policy recommendations which follow, if adopted, would produce some change in the funding of athletic programs. The present funding arrangement would continue at the state colleges and Oregon Institute of Technology and those funding arrangements would be extended to those university athletic activities which are determined to be non-major revenue-producing. Separate funding would be provided for those activities determined to be major revenue-producing.

The impact of the recommendations on the "Education and General Services" budget would depend on the number of activities determined not to be major revenue-producing. The prorated salaries of a limited number of persons at the universities assigned coaching duties in the non-major revenue-producing activities would be shifted to the education and general services budget. Administrative costs would be prorated between the two categories of activities. Some physical plant costs, now paid from athletic budgets, would be shifted to the education and general services budget.

4. What changes are needed, if any, to accommodate the requirements of Title IX?

We believe that the policy recommendation, if adopted, would permit full accommodation to the requirements of Title IX.

A System-Wide Policy for Intercollegiate Athletics

Your staff has drafted for your consideration a policy statement which is applicable uniformly throughout the System. The suggested policy statement, which would be effective beginning fall term, 1977, follows:
Introduction

Intercollegiate athletic programs are considered by the Board to assist the colleges and universities in achieving their goals. They

- contribute to the instructional programs by providing highly competitive opportunities for those students who excel in the various physical education activities;
- enable the institutions to prepare professionals to serve the schools and colleges as athletic coaches;
- provide many students opportunities, especially in football, basketball, and baseball, to prepare for careers in professional sports;
- provide many students with spectator satisfaction and with an opportunity to identify with their institutions outside the classrooms and laboratories; and
- enable the institutions to involve many persons, not otherwise related to the institutions, in the lives of the colleges and universities.

Categories

Two categories of intercollegiate athletic activities are established to include (1) major revenue-producing athletic activities and (2) other athletic activities.

Major revenue-producing athletic activities are defined as those which, in the judgment of the institution president (concurring in by the Board) are expected to be individually or collectively capable of producing revenue in excess of operating and capital expenditures.

Financing

Major revenue-producing athletic activities are, by definition, fully self-supporting from gate receipts, television and radio income, conference income, and contributions. Any incidental fees used to support major revenue-producing athletic activities will be assumed to be for the purpose of buying student tickets. No state tax funds, appropriated for education and general purposes, are to be used for either operating or capital expenditures. "Operating expenses" include salaries and applicable physical plant costs.

Other athletic activities are to be financed from student incidental fees, gate receipts, contributions, and state funds appropriated for education and general purposes. Salaries for administrators and coaches of "other athletic activities" and associated physical plant costs are appropriate charges against state funds appropriated for education and general purposes.

Rationale

The following is intended to provide the logic which led to the policy recommendations calling for a single uniform system-wide policy and the establishment of two distinct categories of intercollegiate athletic activities.

A Uniform Policy

In the main, policy statements of the Board apply uniformly to all (or, at least, several) of the institutions under its control. The only exceptions are those policy statements which (1) appear to be applicable to only one institution (for example, those policy statements which are uniquely applicable to the University of Oregon Health Sciences Center), and (2) appear not to be applicable to all institutions (for example, those policy statements which apply to all institutions except the Health Sciences Center).
Thus, if the Board decides to adopt policy positions concerning intercollegiate athletics, those positions should apply uniformly to all institutions which offer intercollegiate athletic programs. The proposed statements do apply uniformly to all institutions except the Health Sciences Center.

Two Categories

The proposed distinction between "major revenue-producing" and "other" athletic activities is based upon the conviction that a varied athletic program is desirable and that the major revenue-producing sports no longer can support a sufficiently varied program of "other" activities.

The argument might be advanced that all intercollegiate athletic programs should receive support from "education and general" sources. The proposed policy results from two practical conclusions that (1) some intercollegiate athletic activities can be fully self-supporting and (2) the general public and the Legislative Assembly would look with disfavor upon the use of tax dollars in support of intercollegiate athletic activities which capable of supporting themselves.

Comparison with Public Schools and Community Colleges

Interschool and intercollegiate athletic programs in the public schools and community colleges are supported, almost without exception, at least as generously from tax funds as is here proposed for "other" athletic activities. Thus, the proposal appears not to be at all inconsistent with other statewide policies.

Financial Implications

Using the initial budget for 1975-76 as a guide, and assuming that football at the three universities and basketball at Oregon State University and the University of Oregon would be the only activities designated as "major revenue-producing," the proposal, if implemented, would result in shifting approximately $400,000 of annual expenditure from athletic budgets to education and general budgets.

It would make some or all of the current incidental fee support for football and basketball available for use in support of "other" intercollegiate activities, including women's athletic activities, except insofar as the latter might become major revenue-producing.

Additional state support should be sought to offset the proposed added burden on the "Education and General Services" budget. Otherwise, the added burden would need to be accommodated either by an increase in tuition or by a reduction in the resources available for other education and general programs. Neither of these latter alternatives is recommended.

Consideration should be given to identifying a unit to measure the work load related to coaching those students for whom no credit hours are assigned. Such a work load unit appropriately might be introduced into the budget justification and provide logic for some additional allocation of funds to the education and general budgets of all the fouryear institutions.

Title IX

It is believed that many issues related to Title IX could be resolved within the framework of the proposed policy. In the event a women's intercollegiate athletic activity assumed "major revenue-producing" status, it would be managed and funded as would all other major revenue-producing athletic activities. "Other" athletic activities would include women's athletic activities, and all would be treated in similar fashion.
Board Discussion and Action

Mr. Stewart asked for comments on the statement from the presidents of the three universities.

President Boyd said he would favor implementation of the policy if it represented money which the University would not have otherwise. He would oppose the policy if it meant diversion of funds which would have been available for the educational program.

President MacVicar said he believed the statement was sound in principle. He suggested that intercollegiate athletics has an educational as well as a public service function and, if so, it does have to be treated in that fashion. He said he would favor approval of the proposal as submitted.

President Blumel concurred with the recommendation, subject to the caution stated by President Boyd. He said intercollegiate athletics are an important aspect of higher education and the recommendation represented a step forward in solving some serious problems. President Blumel said he was particularly interested in the contribution the policy statement would make to the problems in women's athletics.

President Briggs said the statement would solve some of the problems at the major institutions but would not address the difficulties faced by the smaller institutions in mounting an acceptable competitive student-supported intercollegiate athletic program. These institutions are totally dependent upon incidental fee income for the generation of operating funds for those programs other than coaching.

The Chancellor said comments by President Briggs expressed well the view of the four smaller institutions and he shared this concern. The statement was not intended to deal with that part of the problem which must be addressed in a further report.

Dr. Margaret Lumpkin, Professor of Education at Oregon State University, cautioned the Board to investigate the facts thoroughly before accepting the Chancellor's recommendation. She said the exemption of football and basketball from intercollegiate athletics by placing them on a self-sustaining basis was proposed in the Tower Amendment defeated by Congress. Dr. Lumpkin said, in her opinion, the proposal is probably illegal under Title IX.

Dr. Lumpkin said the statement had been made that no state funds were used for athletics but the Oregon State University Foundation and the University of Oregon Development Fund serve as conduits for directing private donations to athletics. She said she believed the Board was already in violation of Chapter 204 and Title IX and urged Mr. Branchfield and others to examine the premise on which these statements are made.

Mr. James Bernau said students recognized that athletics are important to personal development and benefit the community and the spectator. However, students are also concerned about the effect the proposed policies will have on the academic program and the political implications in the Legislature.

Mr. Mark Cogan expressed concern over the policies and the expenditures by the individual athletic departments. Mr. Bernau said students were also particularly interested that equal opportunity be provided for women.

Mr. Perry said the Board should proceed with caution, not just in terms of the discrimination issues, but in considering the total financing and the attitude of the Legislature. The Board should also establish priorities so that alternative positions are determined with respect to requests to the Legislature and the eventual result as far as the impact of athletic funding is concerned.
In response to a question from Mr. Maden concerning consideration of other alternatives to the recommended policies, the Chancellor described some of the possible choices. The Chancellor said if he were beginning a program of intercollegiate athletics with full authority to make the necessary decisions, he would select a model which would permit far wider participation and less financial support. However, that option is not available because the present intercollegiate athletics situation is an established circumstance.

Board members indicated a desire for additional information and time to consider the proposed policies.

Mrs. Carpenter requested information on the dimensions of the problem in terms of sports and funding, particularly the role of women's sports as compared to men's sports.

Mr. Ingalls moved the establishment of a special ad hoc committee of five members to consider the recommendation and report to the Board.

Mr. Harms said he was aware of some additional information which the committee should request from the athletic departments. He also commented that acceptance or rejection of this policy statement would not change the status of the development funds.

The Board approved the motion by Mr. Ingalls, with the following voting in favor: Directors Carpenter, Feves, Harms, Ingalls, Joss, Maden, McIntyre, McLaurin, Perry, Stewart, and Layman.

Those voting no: None.

ADJOURNMENT

The meeting was adjourned at 2:30 P.M. April 29, 1976.

George H. Layman, President

D. R. Larson, Secretary