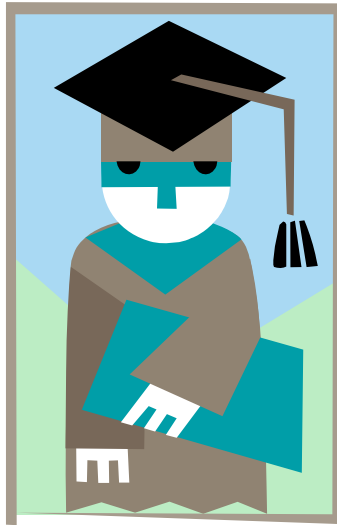


# **The Coming Crisis in College Completion: Oregon's Challenge and a Proposal for First Steps**



**Prepared by Dave Frohnmayer  
President Emeritus, Professor of Law  
University of Oregon**

**November 2009**

# The Coming Crisis in College Completion: Oregon's Challenge and a Proposal for First Steps

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**The Coming Crisis in College Completion: Oregon’s Challenge and a Proposal for First Steps** was commissioned by the Oregon University System, Office of the Chancellor to explore alternatives to the current unstable and inadequate level of state funding for higher education in Oregon. Opinions expressed in this paper do not necessarily represent the opinions of the OUS or the State Board of Higher Education. For more information about this report, please contact Di Saunders (di\_saunders@ous.edu) or Bridget Burns (bridget\_burns@ous.edu), Office of the Chancellor, at 503-725-5700.

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## **The Coming Crisis in College Completion: Oregon's Challenge and a Proposal for First Steps**

**Prepared by Dave Frohnmayer  
President Emeritus, Professor of Law  
University of Oregon**

### **I. Introduction and Problem Statement**

Oregonians rightly celebrate the heritage of a sesquicentennial year. But the hardships of the economic recession have tempered the enthusiasm of our celebration, giving us sobering perspectives on the opportunities and crises of our 150 years of history as a state. We take pride in Oregon — “Eden’s Gate”— as an ultimate destination for livability. Native born, or recent migrant, we all appreciate the opportunity for a quality of life here that in many respects is unique in the world.

Yet we also are a state that too quietly allowed crises to develop in institutions that are vital for the creation of an abundant future. This paper focuses on serious dangers in Oregon’s struggle to provide adequate higher education opportunities for our deserving citizenry. We are currently on course to lose that struggle. The threat is more insidious because its consequences largely will be experienced not by those of us living in Oregon today, but by the next, and succeeding, generations.

**A. The Political Landscape of Budgeting**

It is easy, but also fruitless, to assign blame to specific persons, institutions, or political parties. Oregon’s growing challenge in funding higher education, documented below, is

collective as well

as structural. Even

a casual observer

of recent history is

aware of the

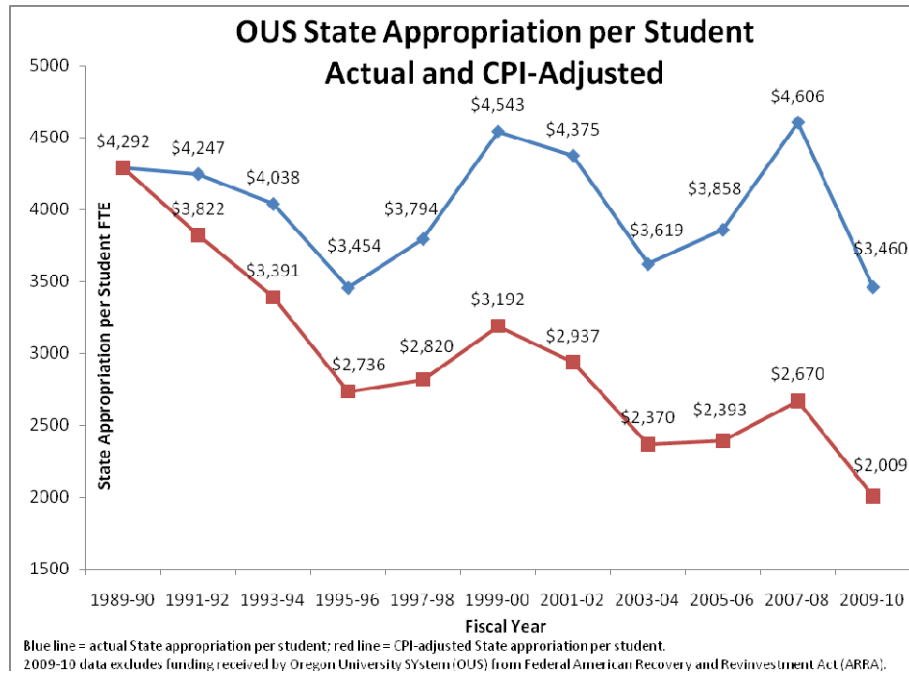
volatility of

Oregon’s personal

income tax, and

the excessive

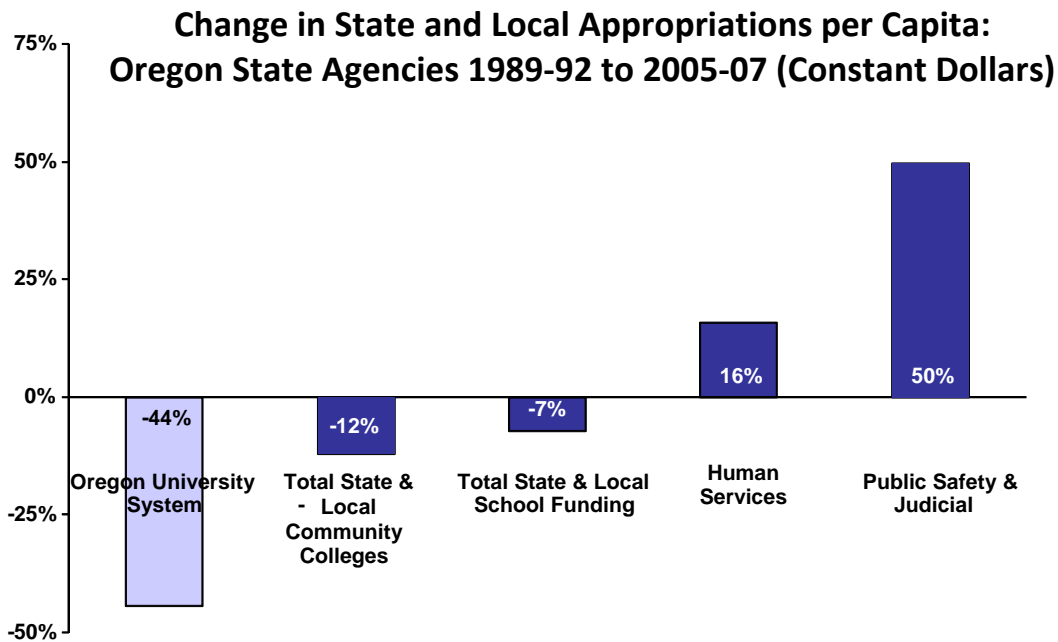
swings of state



revenues that are exaggerated by cyclical economic currents. The shock of federal policies and dwindling resources that rocked the timber industry two decades ago was cushioned only temporarily by the rapid growth of an also cyclical high technology industry. Real wages for many of Oregon’s workers have declined in absolute and relative terms over the last few decades. Regardless of its intent, the initiative system of direct democracy has led to revenue-draining or expenditure forcing mandates such as the 1990 Measure 5 (property tax limitations and income tax diversion) and the 1994 Measure 11 (mandatory criminal sentences and prison construction requirements). Legalization of video poker resulted in modest state lottery revenue infusions. The

lottery has masked as well as cushioned the depth of state revenue gaps, bringing ethical challenges but not providing consistent or sustained fiscal energy.

The prospect of a “jobless economic recovery” or at least an extended period of high un- or underemployment in Oregon appears real, and will slow the pace of state government’s revenue rebound, at least for several more years<sup>1</sup>. Similar developments in our neighbor, California, have rendered that state insolvent and nearly ungovernable.



NOTE: Includes local property tax revenue for schools and community colleges.

Sources: (1) Oregon Department of Administrative Services, Budget and Management; (2) Legislative Fiscal Office; (3) Paso Seguro Consulting.

These larger political trends, as well as the revenue-draining and expenditure-forcing mandates in Oregon, suggest that simplistic solutions to state financial problems in the short run will be elusive, if not politically impossible to devise and deliver.

<sup>1</sup> State Economies May Suffer a 'Lost Decade', *The Chronicle of Higher Education*, 11-13-09

## **B. Emerging Challenges**

But these harsh realities of the political landscape exist alongside other pressing realities of equal power and commanding importance. The need for educational attainment as a vehicle of individual and community survival in our global economy is obvious and urgent. A new more culturally and ethnically diverse population will demand its rightful place at opportunity's table. Beyond these givens, our country's growing elderly population will need increasing levels of support. As Baby Boomers and the next generations age, Oregon must develop a highly skilled and educated workforce to address its social security and healthcare needs. In addition, Oregon requires the engines of knowledge transmission and the discovery of new knowledge to drive its economic and cultural potential.

Failure to meet this set of challenges can destroy our treasured quality of life and render the state a stagnant backwater, fit only to be the bleak colony of more vibrant regional economies elsewhere in the country and world. These challenges are not overdrawn, and, though the data are familiar, the challenges are worth summarizing.<sup>2</sup>

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<sup>2</sup> In pursuing this assignment, I have interviewed the presidents of all four public research universities in Oregon (including OHSU), countless other past and present senior officials of the Oregon University System, and former university presidents and chancellors outside Oregon. I have drawn on the extensive prior studies of Dr. Gerald R. Kissler and the research on this general topic of Dr. Michael Redding, Vice President of University Relations and Chief of Staff at the University of Oregon. I am deeply grateful for the legal insights of former Deputy Attorney General Peter Shepherd and his present colleagues at Harrang, Long, Gary and Rudnick, who have special expertise dealing with the legal status of independent public corporations. Special thanks are due for the technical assistance and policy insights of the OUS Office of the Chancellor, including Chancellor Pernsteiner, Vice Chancellors Kenton, Weeks and Kieran, Communications Director Di Saunders, and Bridget Burns, OUS Senior Policy Advisor. The inquiry has been extensively informed by these and many other sources, but I am solely responsible for its conclusions.

## 1. The Challenge of Educational Attainment: College Degree Gaps

By every index, the lifetime earning potential of persons with some level of post-high school attainment is greater than that of high school graduates. The gap grows with each additional year of college, widening even further with the attainment of a graduate degree.<sup>3</sup> This trend is obvious and consistent throughout the world, and accounts for the major investments in higher education by China, Singapore, Taiwan, South Korea, and a host of developing

nations that

recognize the

connection between

a strong, stable

economy and an

educated populace.

The September

2009 study by the

Organisation for Economic Cooperation and Development (OECD)<sup>4</sup> validates the

challenges of worldwide competition in the education realm, as well as this nation's

threatened loss of its once commanding lead in educational attainment across its

citizenry.<sup>5</sup>

Median Earnings in 2007 by Educational Level

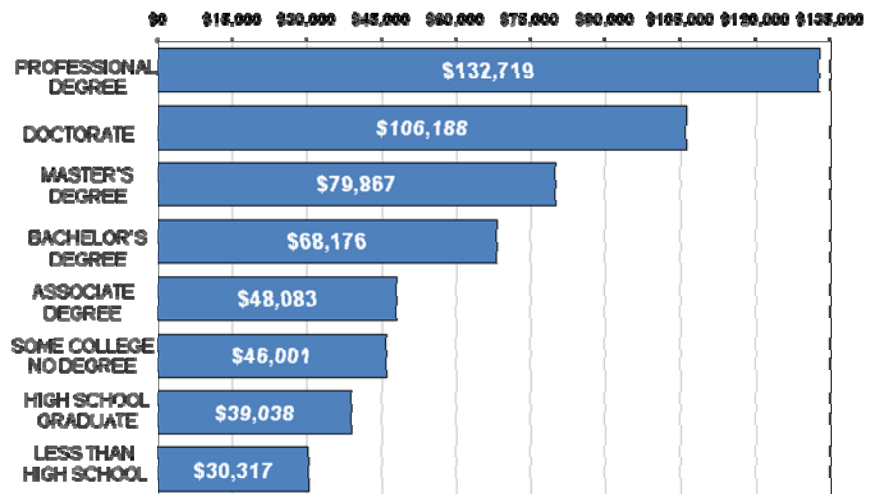


Chart Source: Postsecondary Education Opportunity

<sup>3</sup> Experts at the University of Wisconsin have developed an intriguing quantitative model that allows a user to estimate the increased value of an academic degree in presently discounted dollars. The model factors values by family wealth, financial aid, tuition level, demographic profile and even academic major chosen. See <http://payback.wisc.edu>

<sup>4</sup> "Education at a Glance 2009, OECD Indicators," September 2009, Organisation for Economic Cooperation and Development

<sup>5</sup> The headlines alone from a series of in-depth stories in *The Chronicle of Higher Education*, October 5, 2009 edition, make this point very graphically: "America Falling: Longtime Dominance in Education Erodes"; "Asia Rising: Countries Funnel Billions into Universities"; "China: Attract Talent First, and Outstanding Universities Will Follow"; "South Korea: Government Support for Research Builds Industries"; "Singapore: Teaming Up with Foreign Universities for Innovative Research."



But degree attainment has immediate social, economic, and governmental consequences as well. University of Wisconsin Chancellor Emeritus John Wiley has developed compelling data demonstrating that the state's entire K-12 and public university system is financed by the value-added of the college-graduate sector of its population.<sup>6</sup> Said somewhat brutally another way, only the tax-increment of these graduates is sufficient to pay their and everyone else's educational costs. Because of the similarity of Oregon's demographics to those of Wisconsin, it is highly likely that the same is true here.

In purely economic terms, the value of a college degree has continued to grow since the 1970s. In 2007, the average full-time U.S. worker with a four-year degree earned \$68,176 or 75% more than the \$39,038 earned by workers holding a high school diploma alone. Master's degree holders earn more than twice as much yearly as high school graduates, and holders of professional degrees more than three times as much. College graduates also are more likely to receive health insurance and retirement benefits. Increased income levels translate into increased tax revenue, especially important in Oregon, which is reliant on income tax revenue to support state agencies and programs.

Nationally, the average college graduate working full-time year-round paid over 134% more in federal income taxes and about 80% more in total federal, state, and local taxes than the average high school graduate.<sup>7</sup> The OECD study just referenced shows that the public, not merely private, benefits of higher education are real in virtually every one of

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<sup>6</sup> Wiley, John "From Crossroads to Crisis." *Madison Magazine*, (2008): August 2008

<sup>7</sup> *Education Pays 2007: The Benefits for Individuals and Society*, College Board (Baum and Ma)

the 30 nations studied. On average across the OECD, the net return to the public on the cost of providing a university education for a male student in the U.S. is in excess of \$50,000, which is almost twice the amount of public investment made to educate a student in the higher education system.<sup>8</sup>

Additionally, four-year degree holders rely less on public assistance, have a lower rate of unemployment, and have a far lower rate of poverty. Two studies

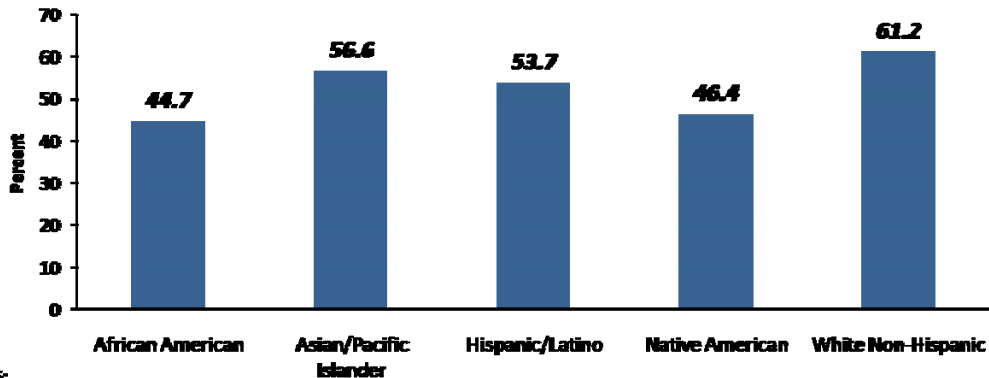
**Oregonians with Lower Education Levels Use More Social Services**

	Percent with h.s. diploma or less
Oregon Health Plan participants	62%
Institutionalized in correctional or mental health facilities	71%
Unemployment insurance claimants	71%
Welfare recipients	63%
Medically uninsured	53%

Source: Oregon Business Council Education Roundtable, White Paper Reports, commissioned in 2005. Impresa estimates from 2000 Census and 2002 Population Survey. Data are for adults age 18 through 64.

show how quickly an increase in educational attainment can positively impact state revenues and lower state expenditures. One thousand women without a high school diploma will cost the state in social services an average of \$1,750 per year *each* (males

**OUS Six-Year Graduation Rates by Race/Ethnicity, 2007-08**



NOTES:  
 • Percentages reflect the proportion of students entering as freshmen and completing a bachelor's degree within six years, and include students transferring within OUS after initial enrollment. Two-year degrees earned in three years or less are counted as completions.  
 Source: OUS Institutional Research & Planning/Performance Measurement & Outcomes

Source: OUS Institutional Research & Planning/Performance Measurement & Outcomes

<sup>8</sup> A. Labi, "Across 30 Nations, Public Spending in Higher Education Pays Off, Report Says," *The Chronicle of Higher Education*, September 8, 2009; and Organisation for Economic Co-operation and Development, *Education at a Glance, 2009, OECD Indicators*; See: <http://www.oecd.org/dataoecd/41/25/43636332.pdf>

are at a similar level)<sup>9</sup> for a total of \$1.75 million annually. Another study shows the net benefit of educational attainment, with 1,000 Oregonians with a bachelor's degree contributing a total of \$62 million in state and local taxes paid over their working lifetime.<sup>10</sup>

College degree attainment is, and should be, a paramount goal for Oregon. In fact, official policymakers have set as a goal the establishment of the 40-40-20 policy developed by the Oregon Progress Board, at the request of Governor Kulongoski and the Oregon business community. This policy establishes the goal that by the year 2025, 40% of Oregonians will have a bachelor's degree or higher, 40% will have an associate's degree or certificate, and 20% will have a high school diploma. The daunting implications of this official policy will be examined below, but there are compelling reasons for establishing it.

The level of a state's educational attainment and its economic development are interrelated and connected in many ways. A highly educated workforce is cited frequently by business and industry representatives as a key factor in where they choose to locate and how they are able to expand operations. The Oregon Business Council noted in its Education Roundtable report, "Education is critically important to Oregon's long-term economic success because it determines how successful Oregon businesses can be. The availability of skilled workers is increasingly becoming the most critical element

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<sup>9</sup> Source: *Education Pays 2004: The Benefits for Individuals and Society*, The College Board (Baum and Payea)

<sup>10</sup> Source: U.S. Census Bureau, Oregon Profile, 2000.

in economic success.”<sup>11</sup> Investing in the education of Oregon’s “human capital” spurs economic development through enhancing business activity and growth throughout the state.

Readers of this report are broadly familiar with these arguments. They account for the unwavering focus on college access throughout the last 150 years, from development of the land grant universities concept in the mid-nineteenth century to the post-World War II GI Bill, and continuing through enactment of the Pell Grant and State Scholarship funding. Degree attainment is a major proxy for the capacity to acquire a place in the sun—to enjoy the fruits of opportunity for oneself and one’s family instead of living on the threatened economic margins—“nickel and dimed,” in writer and social observer Barbara Ehrenreich’s poignant words. But beyond what economists call a “private good” that benefits individuals who achieve degrees, higher education is also indisputably a “public good.” Supporting this objective should be an unwavering subject of public and private investment.

The public good of higher education is an outcome that has real dimensions; it is more than an intangible collection of aspirational values. Economists Robert Haveman, Barbara Wolfe and others observe that these goods are seldom noted and rarely evaluated, but that they are perhaps as large as the market-based effects of education to which economists pay so much attention. These and other economists attempt persuasively to quantify these benefits within ranges, including health status and charitable giving; the capacity to adapt to technological change, make informed

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<sup>11</sup> Source: Oregon Education Roundtable, “Raising the Bar for PreK-20 Education in Oregon: 6 White Papers,” pages 2-5 and 2-6.

governmental choices, and participate in securing community cohesion; and other characteristics.<sup>12</sup> Others have completed an analysis of the literature in this area, and have also analyzed the difficulties of developing precise estimates of these non-private, non-market, non-earnings measures of the public goods of higher education. It is important to note that if the public goods are close to equivalent to the private good, the overall return on investment in higher education is double what usually is calculated!<sup>13</sup>

### **1.a No Longer Leading but Needing to Compete**

The history of higher education in America tells a compelling story—a story that illustrates the power of public investment, transforming the economic vitality of a nation and the creation of an entire middle class. Historically, no other country in the world had invested in higher education opportunity more than did the United States after World War II, leading to the “massification” of public higher education. This national focus on education opportunity was made in recognition of the fundamental public and economic good it creates. The superior quality of American higher education is the envy of the world, as virtually any attempt at a worldwide ranking system quickly reveals. However, recent history has also shown that the very foundation of America’s economic prowess is at risk as public investment has decreased at many of our country’s great public universities.

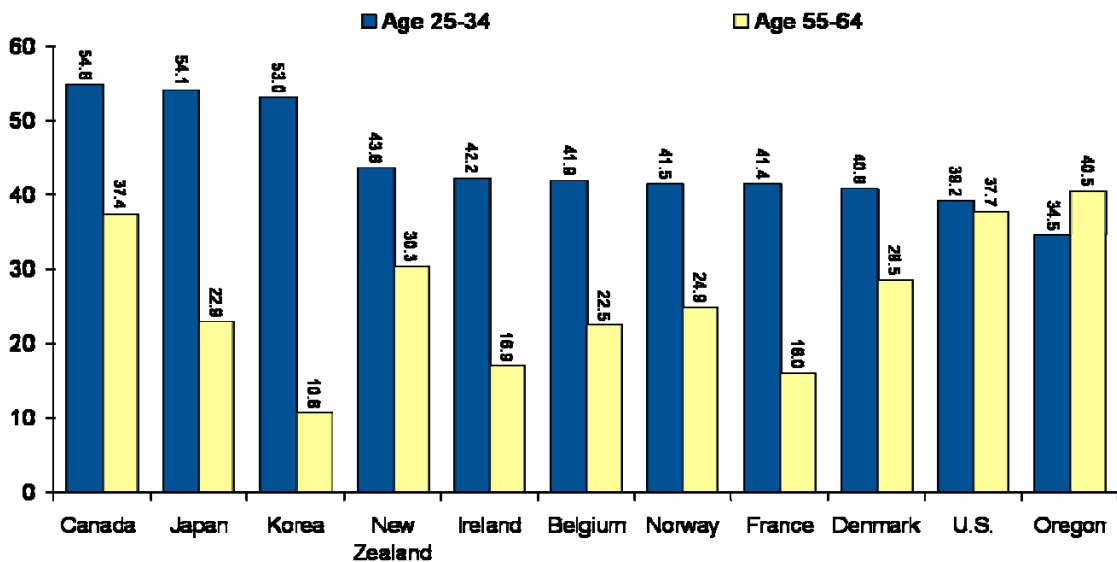
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<sup>12</sup> See generally: R. Haveman and B. Wolfe, “Schooling and Economic Well-Being: The Role of Non-Market Effects,” *Journal of Human Resources* (June 1984); R. Haveman and B. Wolfe, “Accounting for the Social and Non-Market Benefits of Education,” in J. Helliwell, ed., *The Contribution of Human and Social Capital to Sustained Economic Growth and Well-Being* (OECD/Human Resources Development Canada, 2001); R. Haveman and B. Wolfe, “Social and Nonmarket Benefits from Education in an Advanced Economy,” in Y. Kodrzycki, ed. *Education in the 21<sup>st</sup> Century: Meeting the Challenges of a Changing World* (Boston: Federal Reserve Bank of Boston, 2003); R. Haveman and B. Wolfe, “In Defense of Higher Education: More Last Words,” *The Milken Review* 5 (2), 2003, pp 84-90

<sup>13</sup> See generally: W. McMahon, *Higher Learning, Greater Good: The Private and Social Benefits of Higher Education* (Johns Hopkins University Press, 2009)

Our international peers have observed this lesson with great concern. As recently as October 5, Karin Fischer, a journalist for *The Chronicle of Higher Education*, wrote that America is falling: longtime dominance in education is eroding as governments in East Asia funnel significant resources into universities to finance basic research, and expand access to vocational and junior colleges, all with the goal of driving economic development. Fischer cites Hong Kong, Taiwan, China, South Korea, and Singapore as governments that are now rushing to create centers of innovation. My experiences in official visits over the last dozen years interacting with government officials and higher education experts in each of these locations powerfully reinforce the reality of their zeal to expand their educational attainment through investment in students and higher education.

**Percent of Adults with an Associate Degree or Higher by Age Group – Oregon, U.S. & Leading OECD Countries**



Source: OECD, *Education at a Glance*

Asia's approach to higher education contrasts markedly with that of the United States, where the percentages of state budgets dedicated to higher education have been in steady decline, and, significant for Oregon, have fallen further here than in any other state.

"Asians have studied very carefully the reasons why Western populations are now successful," says Kishore Mahbubani, a dean at the Lee Kuan Yew School of Public Policy at the National University of Singapore and author of the book, *New Asian Hemisphere: The Irresistible Shift of Global Power to the East*. "They realize that unless you create good universities and attract the best minds in the world, you can't move into the next phase of development." This is a lesson America seems to have forgotten.

This report is written following the publication in September 2009 of a monumental study of American higher education, Crossing the Finish Line: Completing College at America's Public Universities (Princeton, 2009). The conclusions of the authors—William Bowen, Matthew Chingos and Michael McPherson—should be required reading for every concerned policymaker. They exhaustively examine new data documenting the crisis of college completion at America's public universities. The context is the national stagnation in educational attainment generally since the mid-1970s compared to prior generations. The conclusions are particularly compelling for underserved students and students from poor families, who have markedly lower graduation rates and longer time to degree than more socially advantaged peers.

Improved transfer student opportunities and financial policy changes promise improved possibilities for increasing degree attainment. But the authors cite the recent observation

by Federal Reserve Board Chairman Ben S. Bernanke (June, 2008) that, "...the best way to improve economic opportunity and to reduce inequality is to increase the educational attainment and

skills of

American

workers."<sup>14</sup> In

accord,

conservative

columnist David

Brooks of *The*

*New York Times*

recently noted

the "skills

slowdown" as the "biggest issue facing the country."<sup>15</sup> Oregon University System (OUS)

Chancellor George Pernsteiner, to whom this report primarily is directed, has warned

publicly and repeatedly that Oregon faces the possibility, for the first time in the history

of this nation, that a new generation will be less well-educated than its parents.<sup>16</sup> Oregon

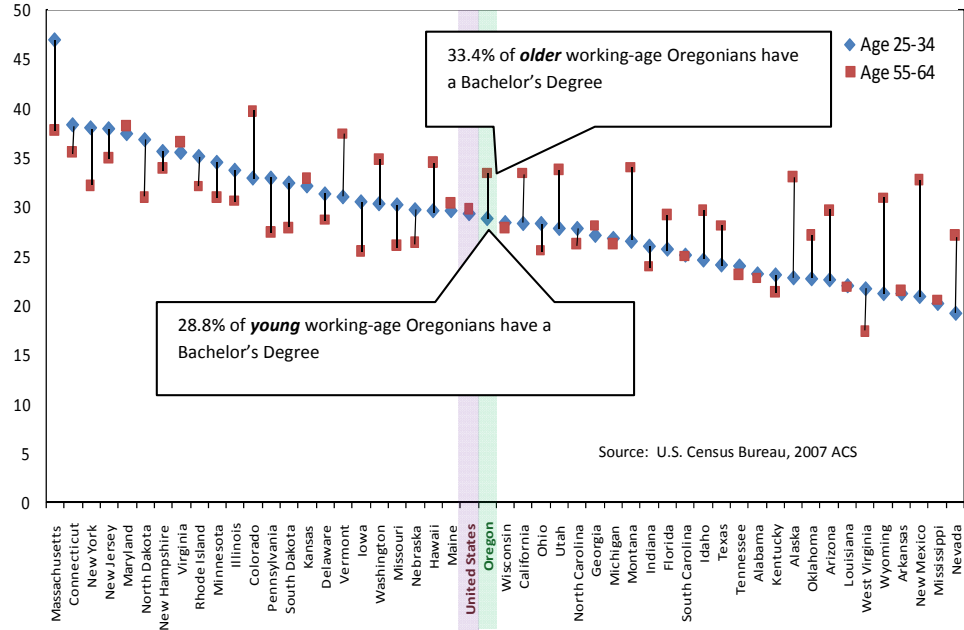
State University President Ed Ray raised a similar alarm in his persuasive editorial

commentary of Sunday, September 27, 2009, in *The Oregonian*. Nobel Prize-winning

economist Paul Krugman echoed the warning on declining higher education attainment

Percentage of College Attainment (Bachelor's or Higher)

Early Career vs. Late Career, 2007



<sup>14</sup> Additional citation: Ben S. Bernanke, "Remarks on Class Day 2008 at Harvard University, June 4, 2008," Board of Governors of the Federal Reserve System, Washington, D.C., p. 5, available at <http://www.federalreserve.gov/newsevents/speech/bernanke20080604a.htm>

<sup>15</sup> Brooks, David "The Biggest Issue." *The New York Times* (2008): July 29, 2008

<sup>16</sup> The achievement gap is already starkly noticeable, as the graphs on page 14 and on this page demonstrate. The urban-rural disparity in college degree attainment is even greater, but exploration of the latter issue is beyond the scope of this report.

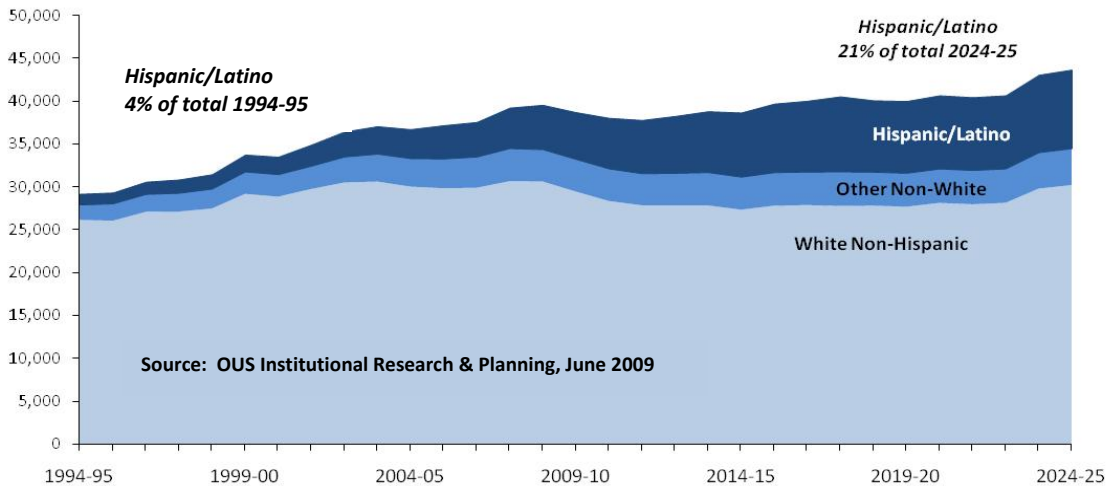


rates recently in an op-ed in *The New York Times*: "...one of the keys to our nation's success is now a wasting asset."<sup>17</sup> It takes no prophet Jeremiah, no mystical Cassandra, no overwrought hyperbole to see this trend as a recipe for the universal fate of unmindful civilizations: decline and fall. The enduring problem of prophets is not our belief in their predictions; it is the challenge to us to heed their warnings through timely action.

## 2. The Challenge of and Promise of Demography

A simple graph tells this story. Oregon's college-eligible population will grow over the next decade, unlike some other states where populations will age or decline. But Oregon's growth will come almost exclusively in non-Caucasian census categories, with particularly notable growth in the Latino/Hispanic population. In less than a decade, this college age population will at least double. A study released in 2008 by the Western Interstate Commission for Higher Education<sup>18</sup> states that by 2014-15, Hispanic/Latino

**Oregon High School Completers by Race/Ethnicity  
Actual and Projected, 1994-95 through 2024-25**



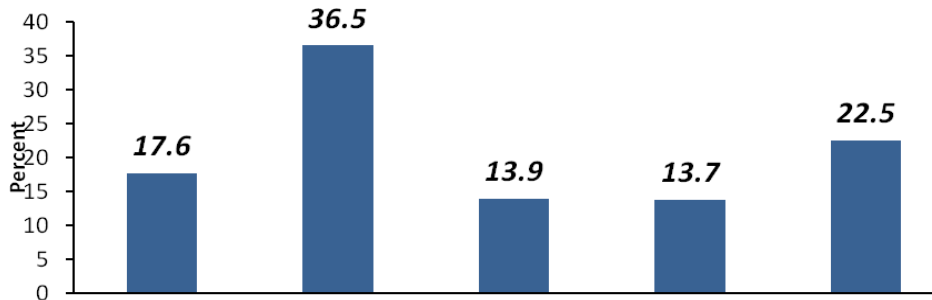
NOTE: Includes public and private high school graduates and home schooled completers.

high school graduates in Oregon will have increased 137% over a ten year period (2004-05 to 2014-15), while White non-Hispanic graduates will have decreased 20%. The Hispanic/Latino student population currently has significantly lower high school graduation rates compared to other student populations.

This rapid demographic shift, quite probably the most notable in Oregon history since statehood, will bring major challenges for pre-college student preparation, recruitment, financial assistance, student support for degree completion, and pedagogical techniques and offerings.

Oregon is not ready, and we have not made the investments that will allow us to be confident of success in

**OUS Freshman Participation Rates by Race/Ethnicity,**



Note: The participation rates reported for individual racial/ethnic groups do not include in the denominator private school graduates or home schooled completers.  
Source: OUS Institutional Research & Planning/Performance Measurement & Outcomes

increasing educational attainment for the state's most underserved populations.

While the significant increases in the need-based Oregon Opportunity Grant in the last few biennia have helped increase affordability for students attending 2- and 4-year institutions in Oregon, the grant program remains over-subscribed. It has a waiting list of thousands each year and early cut-off dates when funds run out. And just as these grant amounts increased for students, Oregon's funding crisis forced higher tuition levels, and

more students and families faced unemployment and other financial challenges which watered-down Oregon’s advances in the Opportunity Grant program. According to The National Center for Public Policy and Higher Education, the percentage of average family income needed to pay for public 4-year higher education costs increased from 24% to 36% between 2000 and 2008 in Oregon; and these percentages are even worse for the lowest income Oregonians (see chart below). While many of the OUS campuses are below their peers in terms of tuition and fee rates (see University of Oregon chart as an example), and all of the campuses have stepped up with increased fee remissions and foundation-funded scholarships, affordability remains a key policy concern and an

### **Resident Undergraduate Tuition and Fees at Peer Universities on University of Oregon List, 2008-09**

<b>Rank</b>	<b>Institution</b>	<b>State</b>	<b>Tuition/Fees</b>
1	University of Michigan-Ann Arbor	MI	\$11,037
2	University of Virginia	VA	9,300
3	University of California-Santa Barbara	CA	8,386
4	Indiana University Bloomington	IN	8,231
5	University of Colorado at Boulder	CO	7,278
6	University of Washington	WA	6,802
7	University of Iowa	IA	6,544
<b>8</b>	<b>University of Oregon</b>	<b>OR</b>	<b>6,435</b>
9	University of North Carolina at Chapel Hill	NC	5,397
	Average (without UO)		\$7,872
	University of Oregon % of average		81.7%

Source: IPEDS Institutional Characteristics Surveys and OUS Budget and Management Division, Academic Year Fee Book 2008-09. unreachable goal for many students as state support continues to decline for OUS and for state-supported aid programs.

It is no longer sufficient to ask or expect OUS institutions to readjust their fixed or declining budgets to accommodate greater financial aid. Competing demands, including

faculty salary improvements, long-deferred physical plant maintenance and other compelling priorities ask for the same scarce resources.

### **3. The Challenge of Economic Readiness**

Volumes have been written that plead convincingly for state and federal support for the enterprise of research universities. “Rising Above the Gathering Storm,” a 2007 report by the National Academies, argues powerfully for continued support of scientific education and research, with major emphasis on universities as the primary locus of this effort. A recent, widely publicized essay by Harvard University President Drew Gilpin Faust ably restates the multiple social, cultural, and economic roles of our universities but argues that economic realities and declining government support have forced institutions across the country to re-examine the best ways to meet institutional, state, and federal higher education priorities; and to ask what, indeed, can be delivered effectively as old models are replaced with new ones.<sup>19</sup>

It is bold, yet accurate, to claim that the underlying discoveries made by America’s research universities were instrumental in enabling this nation to become one of the most powerful economies in the world and even to prevail in the Cold War. University research advances in food safety, the health discoveries of the Human Genome Project, and developments in software and high technology, for example, all have propelled advancements in the quality of our daily lives and the maintenance of family incomes. It is impossible to conceive of and understand the challenges of sustainability and the

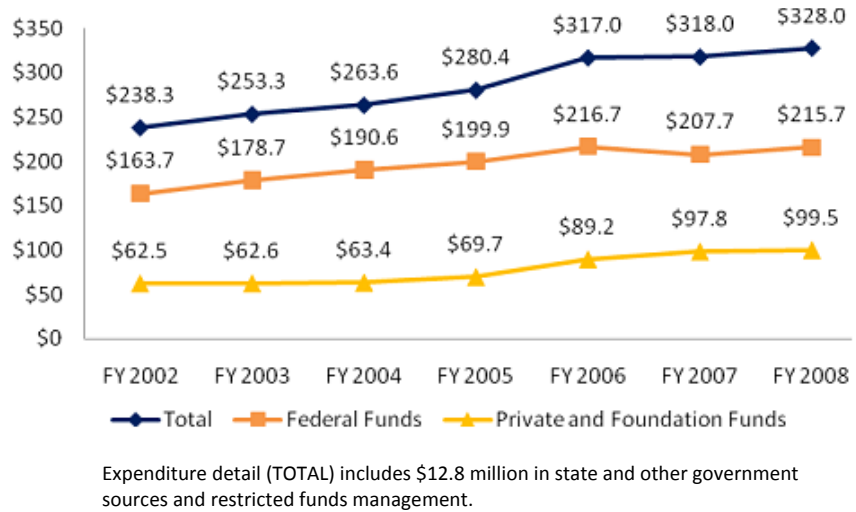
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<sup>19</sup> Drew Gilpin Faust, “The University’s Crisis of Purpose,” *The New York Times*, Book Review Essay, September 6, 2009

disruptions of global climate change—let alone to meet these challenges—without university research at basic and applied levels.

These developments are not abstractions here in Oregon. The evidence of new enterprises and jobs created by university research is robust and growing. By almost any standard, the

**OUS Sponsored Research and Sponsored Activity**  
**FY 2002-2008**  
 Dollars in Millions



research efforts of faculty in Oregon public universities (including OHSU) are stellar. In 2007, Federal R&D expenditures per faculty member in Oregon were \$71,842 compared to the United States average of \$48,248. Overall, Oregon ranked 5<sup>th</sup> in the nation in the success of its faculty in competing for federal research grants.<sup>20</sup> And, standing alone, Oregon’s four research universities provide \$5 billion to the regional economy annually in economic impact. Sadly, the state of Oregon provides almost none of the research dollars that fuel much of this robust activity.

In addition to university research activities, extension services in every Oregon county and community continue their support of hundreds of thousands of Oregon families,

<sup>20</sup> National Science Foundation, Survey of Research and Development Expenditures at Universities and Colleges; National Center for Education Statistics, IPEDS Employees by Assigned Position (EAP) Survey, FY2008.

while significant scholarship developed in urban affairs enriches and improves community-based social services. Arts and culture in countless Oregon communities thrive and generate associated economic and social benefits that are strengthened by their proximity and connection to Oregon's public universities. The Oregon Shakespeare Festival, the Oregon Bach Festival, the Benton County DaVinci Days, and countless Portland metropolitan area cultural events are nurtured and sustained by university community members.

### **3.a Aspirational Objectives: The 40-40-20 Plan**

I do not develop these thoughts in a policy vacuum. Earlier this year, Chancellor Pernsteiner developed a fact sheet (see Attachment A) which identifies the enrollment targets and goals for 2015 (six years hence) and by 2025 if the 40% bachelor's attainment goal set by the State is to be met. The Chancellor notes (footnote 31) that simply to maintain the current bachelor's attainment percentage of just under 28% would require an enrollment of 118,000 by 2025 (fall 2009 enrollment increased 5.8% over 2008 to 91,580 students, the largest percentage increase since 2001). The 40% goal would require a fall enrollment of 164,000 by 2025.

Let us put these numbers in stark and sobering perspective. ***Just to maintain existing college enrollment percentages would necessitate building 1½ new University of Oregon-sized campuses.*** To reach the 2025 40% goal would require ***constructing the capacity of three new Oregon State University campuses over the next 15 years!*** And

the Chancellor's projections also include assumptions of salary improvement, reduction of faculty-student ratios, reduction and ultimate elimination of a deferred maintenance backlog (currently estimated at \$670 million) and, from external funding sources, substantial increases in private philanthropy and research and development expenditures.<sup>21</sup> To put these matters in international context, during the May 2007 annual meeting of the Association of Pacific Rim Universities in Hangzhou, China, attendees visited the new campus of our host, Zhejiang University. We were told that this 20,000 student AAU-caliber research university campus was built and filled with students in ten months! While cross-cultural differences in government priorities, building and land use restrictions, and political systems are obvious, the contrast in the focus on priorities is stark.

It is, of course, possible that online education and other non-residential strategies could reduce facility needs in some respects. But note also that the Chancellor's strategic goals assume significant improvements in first-year student retention and a nearly 25% crucially important improvement in overall graduation rates. These rates probably cannot be attained without additional personnel-intensive student support expenditures—both before and in college—and other cost-intensive strategies.

We should not ignore other strategies to improve overall degree attainment rates that do not include large capital outlays. Encouraging community college transfers is touted as

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<sup>21</sup> The 40-40-20 objective is a policy tool at this point, not a funding model. See OUS Powerpoint document, "A Postsecondary Quality Education Model: Discussion with Provosts and Chief Academic Officers," November 6, 2008. Nonetheless, this present paper suggests in a preliminary way the truly monumental dimensions of our policy choice. The actual financial contours of the 40-40-20 policy were calculated by OUS Vice Chancellor for Finance & Administration, Jay Kenton, in an OUS presentation of May 2, 2008, "Oregon University System: Long Range Financial Planning."

one such path. The issues are quite complex, however, because national data reveals that students who begin college careers at two-year institutions have a thirty percent lower chance of obtaining a bachelor's degree than do students who begin at a four-year institution. Nonetheless, students who actually transfer have a stronger chance of graduation than other peers. Oregon's community colleges would need to graduate higher numbers of Associate of Arts degree holders to make a measureable difference.<sup>22</sup> But Oregon's investment in its community colleges has been almost as dismal as its investment in its public universities.

Given this daunting confluence of demographic realities, fiscal constraints, educational attainment needs, and the link to Oregon's economic health, it is well past time for the state to address the stresses on its higher education system. To do this will require changes in the current paradigm of university funding and operations, with the ultimate goal being able to improve access to and success in higher education for all Oregon's citizens.

### **3.b Point of Initial Departure: The Research Universities**

Nationally, more than two-thirds of all full-time students seeking bachelor's degrees are educated at four-year public colleges and universities. In Oregon, the vast majority of these students attend one of the three public research universities. The regional campuses in Oregon serve vital economic and educational needs, but their capacity to expand

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<sup>22</sup> For a probing discussion of this overall strategy, see Bowen, Chingos and McPherson, *Crossing the Finish Line: Completing College at America's Public Universities*, Chapter 7, "Transfer Students and the Path from Two-Year to Four-Year Colleges" (Princeton: 2009)



enrollments in a magnitude that meets overall state needs and OUS goals is more limited within their current financial, facility, and geographic means. I have been asked to confine my inquiry to the role of the three large universities in addressing this need.

The following three

degree production

charts show the

number of

undergraduate and

graduate degrees

awarded by

Oregon's research

universities, as well as each university's current first-year retention and overall

graduation rates. These rates have generally improved over the last several years,

notwithstanding state funding limits. But each of the three institutions shows capacity for

improvement, if focused

attention and funding

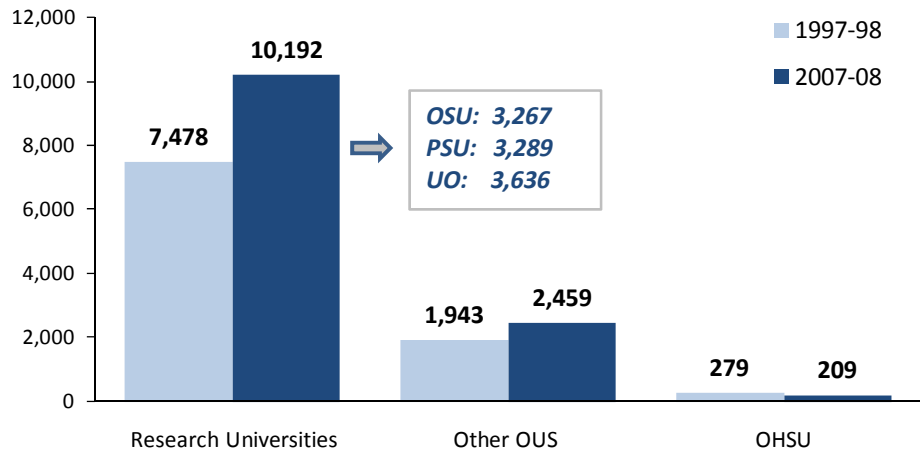
can be secured.<sup>23</sup> The

efforts of these

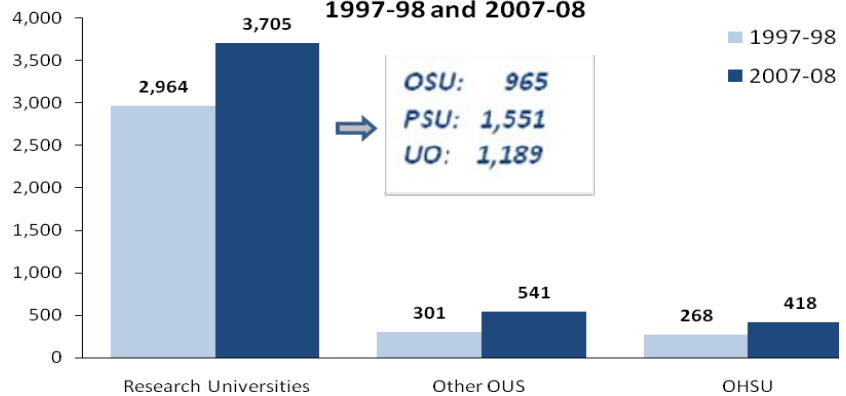
institutions, then, are the

building blocks on

**Bachelor's Degrees Awarded in Oregon Public Universities:  
1997-98 and 2007-08**



**Advanced Degrees Awarded in Oregon Public  
Universities:  
1997-98 and 2007-08**



<sup>23</sup> The colloquy between Portland State University President Wiewel and Director Francesconi at the Oregon State Board of Higher Education meeting in Klamath Falls, Oregon on October 2, 2009 is evidence that the university presidents and the Board are keenly aware of this priority.

which any immediate progress in improving educational attainment rates must be based. Of course, the raw number projections, as examined above, argue strikingly for the immediate development of dramatically increased capacity.

**Retention and Graduation Rates in OUS Research Universities, 2007-08**

	Retention <sup>1</sup>	Graduation <sup>2</sup>
Oregon State University	83.7	66.7
Portland State University	71.3	39.3
University of Oregon	84.8	69.6

<sup>1</sup> Percent of first-time full-time freshmen who return to any OUS institution for a second year.

<sup>2</sup> Percent of first-time full-time freshmen entering and graduating from any OUS institution within six years.

Source: OUS 2009 Performance Report, May 2009.

It is obvious that my conclusions are informed partially by experience with the institution that I know best—the University of Oregon. Hopefully any suspicions of favoritism will be overcome by knowledge of my long experience in Oregon generally and my deep respect for several generations of higher education leadership throughout the state’s postsecondary institutions, public and private, regional and international.

I can report with strong conviction that university leaders uniformly chafe at outdated and misguided state regulatory restrictions.<sup>24</sup> They are inhibited by inappropriate political barriers and roadblocks that the very structure of this process imposes. And these academic leaders yearn for expanded opportunities to unleash the full potential of their

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<sup>24</sup> This unanimity of view is not new; it is strongly consistent over time. In July, 2002, the seven OUS university presidents jointly proposed a Higher Education Reform Act that provided a new more efficient compact with the state. This proposal received the quick editorial endorsement of the state’s two largest newspapers; see: “Unchain Oregon’s universities, The schools should be freed from some state controls and allowed to help resolve their funding problems,” editorial in *The Oregonian*,” 7-18-02; “Give each campus control, Universities need freedom to fill gaps left by state,” editorial in *The Register Guard*, 7-16-02; and “Oregon universities seek more autonomy,” *The Oregonian*, by Bill Graves, 7-02. The legislative response to the Higher Education Reform Act was only modest.

respective faculties and students to transmit knowledge and the bounty of new discovery to our next generations.

The administration of Portland State University seeks to serve a growing metropolitan area and a diverse student population while pursuing a defined urban mission with funding appropriate to its accountability. The administration of Oregon State University worries deeply that the service mission of a land, sea, sun and space grant university is undersupported, not simply in its annual budgets but also in the possibility of accumulating the immediate investment capital to serve perhaps double the present need within less than a generation. The University of Oregon, in recognition of the state's current fiscal crisis and the historical trend of reduced state investment, needs to remain accountable for fulfilling critical state needs, but questions its ability to do so with only 9.5% of its budget provided by the state. The Board of Higher Education has endorsed the UO's mission as its "AAU flagship," but per-student appropriations have fallen below AAU peers and are near the bottom of American public universities generally.

For all the turbulence of higher education generally, a bright spot of growth and distinction in the last 15 years has been the Oregon Health & Science University. Its leaders strongly attribute a significant part of its growth in stature and achievement to its thoughtful leadership and independent political structure.<sup>25</sup> This independent public corporation structure, established in June 1995 under Senate Bill 2, deserves deference, improvement and emulation as a possibility for our other distinguished higher education

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<sup>25</sup> Let us remember (as I do from personal involvement at the time as the UO legal affairs officer) that when the University of Oregon Medical School became independent from the University of Oregon in 1975, legislative skeptics previously had argued that the medical school should be closed altogether and that the University of Washington would suffice as a regional medical professional training institution. History has proved the folly of that short-sighted view.

institutions as well. Without some type of governance and structural changes, the alternative is the threat of mediocrity, contrary to Oregon's historically honored expectations for higher education.

#### **4. Summary of Introduction and Problem Statement**

To summarize, notwithstanding bleak forecasts for revenues in the immediate future, the state of Oregon faces formidable challenges to just maintain let alone expand the quality and quantity of university graduates needed for economic and social well-being. Not only is our growing population more culturally diverse, this next generation will face ever-stronger global competition. Significantly increasing Oregon's educational attainment levels will be indispensable to the state's economic and cultural health. Existing institutions have room for improvement, although it is difficult to imagine success over time in increasing college degree attainment without a major increase in overall capacity and reinvestment sufficient to overcome the perils we otherwise face.

The principal conclusions of my inquiry should surprise no one. They strongly argue for substantial re-investment in the state's universities as an urgent priority. A reasonable, sustained appropriation, based on costs of comparator institutions in comparator states, would be \$1.55 billion per biennium compared to the current level of OUS funding of \$751.5 million. Comparing OUS to national averages of State General Fund per student FTE also signals significant underfunding of \$1.059 billion per biennium if funded at the U.S. average. This is a large, even shocking amount, but it also is a fair measure of the

neglect for most of the last two decades of this urgent social and educational priority.

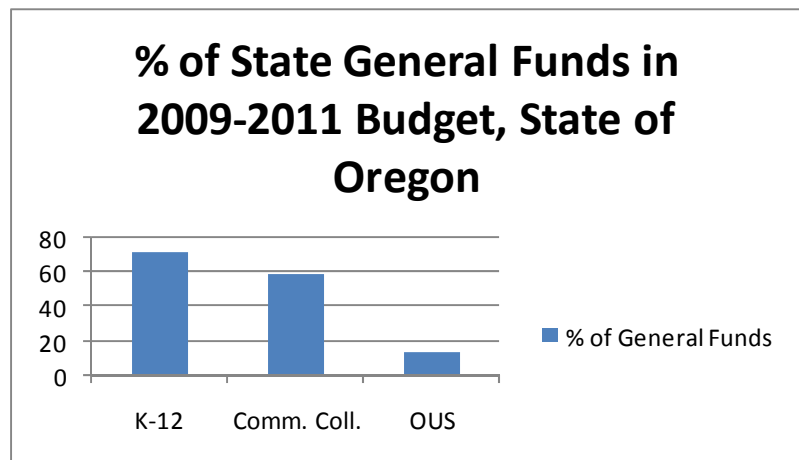
*While structural reform, as next discussed in this report, is essential, it must be accompanied by public reinvestment to make the dimension of difference in fulfilling the state's crucial need for public access to higher education for all Oregonians.*

#### 4.a Structural Change

Even barring re-appropriation on the scale described above, structural change is a necessary precondition to the continued effective use of limited public funds. And if appropriations are cut further, as is widely feared, the case for structural reform is more urgent, even imperative. Officials at OHSU, for example, readily observe that recent funding cutbacks would have been virtually impossible to manage without the flexibility and efficiencies afforded by their public corporation structure.

Common sense public policy arguments weigh even more strongly for a structural change in the relationship of the research institutions and state government. First, the K-12 sector and Oregon's community colleges receive a far greater percentage of their budgets

from the State General Fund (71.6% and 58.9%, respectively, in 2009-11) than does OUS, with a General Fund percent of 14.3% in 2009-11. These higher percentages of state funding



also come with far less budget fragmentation in the appropriations process, and K-12 and community college sectors receive far fewer directives and strictures regarding daily operations than does the OUS.

The present budgeting process for higher education misallocates executive and legislative time and focuses energies on time-consuming minutiae—leading both to micromanagement and to misplaced policy priorities. How else can one explain why the present state appropriations process, which provides about one-seventh of the total OUS budget, is substantially more complex than that of K-12, which receives almost three-fourths of its funds from the state? In the community college case, state appropriations never define tuition caps whereas tuition restrictions on OUS institutions often find their way into constrictive “budget notes.”

Second, in fairness to university students who at the research universities clearly pay educational costs higher than those in other sectors, maximum efficiency in deployment of these funds is an even greater ethical imperative. The same speaks for elimination of the hidden, non-deductible tax levied on the interest generated from tuition payments.

Tuition interest earnings are not retained at the universities to reinvest in the very students who paid the tuition but are presently taken back by the state. This 100% interest-earnings tax represents funds from students and families—many low- and moderate-income—paid for educational purposes, but which are diverted to general government operations instead.

Third, each of the universities rightly recognizes its skilled faculty as the indispensable centerpiece of its student-centered mission. These faculty are highly accomplished, are engaged in peak competitive performance, and are exceedingly mobile nationally—even worldwide. Long-standing salary disparities make retention of OUS quality faculty especially fragile. The greater flexibilities of a new structural model make addressing these salary problems, as well as the intricacy of benefits packages, potentially easier to manage.

Given the examples cited above, there is an evident incongruence in Oregon between the funding of and the governance of our state's public education sectors.

This last point deserves additional emphasis. The appropriations process for OUS is far more complex than that for K-12 and community colleges. OUS is budgeted by the Oregon Department of Administrative Services in more than 6,300 sub-categories, compared to the former two, each with a mere handful of line items. Funds for enrollment increases are automatically included in the K-12 formula. In higher education, enrollment increase funds must be budgeted as a separate line item. As a consequence, they are frequently—even usually—discarded as a “trade off” for other essential items, even when enrollment increases are substantial and participation of in-state freshman is up.

I could continue this list of state restrictions and inhibitions at length, but highlights must suffice. For example, the Department of Administrative Services Risk Management

Process can result in unpredictable increases in assessments and controls on OUS budgets. Legislative intervention can direct expenditure on certain service items, to the detriment of education and research, even when these actions directly contravene Oregon State Board of Higher Education (OSBHE) expenditure or budget reduction priorities. An urgent capital construction project may be delayed to await legislative Ways and Means or Emergency Board review and approval even if it is approved by the OSBHE and entirely funded by philanthropic dollars. Sensitive and important real estate transactions are hampered in major ways by delays that are built into the administrative and legislative approval process. Campus officials express continuing frustration with their inability to steward scarce public dollars effectively in markets where swiftness in timing is crucial to seizing value.

In this last calendar year, individual university plans for resources to serve students or to meet pre-existing salary agreements were disrupted by legislative fund balance “sweeps” and salary savings “sweeps” that further destabilized the fiscal status of OUS institutions. Other educational sectors were exempted from these types of actions, which effectively required the OUS institutions to make up for cuts to state appropriations elsewhere. It is impossible to overstate how disabling these actions are to effective long- or even mid-range planning.

These observations do not naively assume that one can remove “politics” from a political system. Our system of government assumes at its heart that representative institutions “represent.” But the political system must realign to produce more rational results in



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accordance with virtually indisputable priorities and the state's own articulated educational policy. This policy clearly includes prudent fiscal stewardship of state taxpayer dollars. Other states (and nations) are notably more successful in pursuit of these strategic objectives for higher education than is Oregon.

## **II. Proposal**

### **A. The Independent Public Corporation Enabling Act of 2010**

The strongest and most immediately available strategy to improve the capacity and responsiveness of Oregon's three research universities is to prepare, introduce, and enact the "Independent Public Corporation Enabling Act of 2010." A conceptual point of departure, not yet subject to formal review for legal sufficiency, is attached as Attachment B. With the assent of the Governor and favorable enactment in the February 2010 Special Session by the Legislative Assembly, the stage then could be set for a series of one or more subsequent actions by the State Board of Higher Education (OSBHE), exercising this broadly delegated authority. These actions would leave Oregon's public research universities better positioned to meet the formidable challenges of collegiate degree attainment and research discovery that are crucial to our future.

The advantage of this proposal is that it has proven a success when implemented elsewhere in Oregon's recent experience; it can be tailored to meet the circumstances of individual institutions; and it still retains a centrally placed body (OSBHE) that can insist on measurable goals for improved performance by the entities it would bring into existence.

Creating one or more independent university corporations is wholly consistent with a central coordinating role by the present Board. That role would specifically require the setting and enforcing of rigorous educational attainment performance standards. The

Board could continue to oversee consistency in academic standards and program coordination and allocate state funds to universities in recognition of achieving performance targets.

This model is an enabling act, and a delegation of authority; it does not automatically bring one or more entities into existence. This flexibility is an enormous advantage and a strong incentive for immediate legislative and executive action. The proposed act is brief, but has the following particularly important features:

1. It delegates to the State Board of Higher Education (OSBHE) the authority to create one or more independent public corporations, individually tailored to the readiness and circumstances of each public university;
2. Each entity so created would have its own governing board responsible for overseeing all university operations, setting institutional tuition rates, admissions standards, and managing its own costs and revenues;
3. The governing board would contain overlapping membership with the OSBHE to maintain portfolio consistency within the system and to ensure delivery of statewide goals. The OSBHE could be party to a formal compact that sets institutional performance standards in return for distribution of state dollars to achieve these outcome measures;
4. The role of the OSBHE and the Chancellor, with respect to the autonomously operating campuses, would be to establish the missions of the organizations, develop the performance agreements and outcomes with the campuses, and

- allocate state funding to achieve and reward achievement of the results called for in agreements—with all of this being in fulfillment of the OSBHE’s strategic goals and the state’s 40-40-20 goals;
5. The act could contain, or could be accompanied by, separate legislative authority to create bonding authority, a local or regional tax base, incentives for philanthropic support, or other supportive ways to build investment capacity. Under our governmental system some of these alternatives would, of course, require a subsequent public vote.
  6. The public corporation or corporations should be given authority to take full advantage of the state’s full faith and credit in order to secure maximum financial leverage and bond rating capacity. This area has been identified as one relative shortcoming in the present statutory framework of OHSU and should be easily remedied at the outset.
  7. This act would be an “opt in” statutory delegation, meaning that, beyond a baseline standard of existing statutory applicability, the OSBHE would designate which additional statutory restrictions on state agency management would continue to apply. (The problem with “opt out” statutes, such as that authorizing the operations of SAIF Corporation, is the cost of inadvertent legislative neglect to mention statutory applicability and the problem of conforming to each new legislative enactment.)
  8. The act should encompass a continuing vigorous role for university faculties. The existing historic “charters” which speak to the faculty role should be imported, unchanged, into any such model.

The Independent Public Corporation model was chosen thoughtfully. It has enjoyed success in Oregon, as mentioned above, in the context of OHSU, SAIF (workers compensation insurance) and other endeavors where fulfillment of a public purpose must be achieved in a competitive environment. Moreover, the Oregon Supreme Court has recently spoken authoritatively to the criteria of state “sovereignty” that a public corporation must possess to enjoy the advantages of important legal immunities.<sup>26</sup> Consequently there is greater legal clarity about this status than ever before.

Finally, the grant of public corporation status might be accompanied by other statutory authority (either in the enabling authority, or legislatively considered and granted elsewhere) that could be tailored specifically to the political and economic circumstances of each major university. For example, such authority might include the capacity to create a metropolitan area tax base that could be triggered at a later date by popular vote locally or it might include bonding capacity that could, according to one well-developed model, be leveraged efficiently by unrestricted matching philanthropic gifts. These latter possibilities are beyond the scope of this paper, but they have been developed in preliminary stages as possible specific strategies for Portland State University and the University of Oregon, respectively.

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<sup>26</sup> *Clarke v. Oregon Health Sciences University*, 343OR.581, 175 P.3d 418 (2007)

## **B. Alternative Models**

It is tempting, and is, indeed, hard to avoid exploring alternative models for reorganization other than the particular options advanced here. The brief descriptions that follow are not a dismissal of the alternatives, but a summary of the strongest, most applicable models currently working and supported by the extensive literature on higher education governance, the benefit of history, and the political realities faced in Oregon.

### **1. Centralized State Agency Control model**

The zenith of this model lies in the widely acclaimed California master plan for higher education. But the model, now aged more than a half century, presumes a university system's constitutional independence as a virtual "fourth branch" of state government.<sup>27</sup> It envisions three well-funded tiers (universities, state colleges, and community/junior colleges) and a defined growth and differentiation plan. It was based on post-WWII needs and "baby boomers" who eventually entered the postsecondary system at one of these three levels. Yet, population demographics have changed markedly since California's master plan was implemented, and it is currently experiencing the financial and operational stress of supporting this type of structure.

The "state agency control" concept sometimes is accompanied by a centralized funding model that, for example, melds tuition and general fund revenues and redistributes them through a central funding formula. This model prevailed in Oregon through 1997 with

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<sup>27</sup> Cal. Const. Art IX, Section 9

the use of the “Budget Allocation System” (BAS model) for funding. To many in the system at the time, this model destroyed student recruitment and enrollment incentives and inhibited campus-based revenue opportunities. It disguised major and politically volatile institutional cross-subsidies and bred deep cynicism and institutional resentments. It also invited legislative underfunding because of internal complexities. Ultimately failing because of inequity, it simply could not adapt well to meet the needs of a growing and diverse university system.

The centralized agency control model is in substantial political retreat, and its demise is more generally approved by the deeply thoughtful work of scholars and practitioners who chronicle its shortcomings in new development and “reinvention” of state government practices. Higher Education consultant Gerald Kissler has noted that declining state financial support for higher education and increasing competition from providers not subject to state oversight has weakened the power of statewide systems generally, arguing for decentralization of program and financial authority.<sup>28</sup>

## **2. Student-Centered Market Choice Model**

The “Resource Allocation Model” (RAM) that succeeded the OUS state agency central model in the late 1990s improved and expanded institutional flexibility to student needs. But it, too, has suffered from time, micromanagement and rampant underfunding. It is theoretically premised on the possibility that some universities may fail. Political

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<sup>28</sup> Among many authorities, Kissler notes particularly R. Berdahl & F. Schmidlein, “Restructuring and Its Aftermath: Maryland,” in *Restructuring Higher Education: What Works and What Doesn’t in Reorganizing Governing Systems*, T. MacTaggart, ed. (San Francisco: Jossey-Bass, 1996 at pp. 157-199; C. Kerr and M. Gade, *The Guardians: Boards of Trustees of American Colleges and Universities* (AGB: 1989)

realities almost invariably dictate, however, that institutions will not be allowed to fail.

The funding model presumes a continuous process of adjustment for the changing costs of needed program offerings at individual institutions, thereby providing inconsistent and shifting funding from one biennium to the next and from one campus to the next.

Adjustments to the model have never been made on a permanent basis, with the consequence that institutions, rather than the state, bear the burden of program cross-subsidies. Additionally, the model requires financial support for enrollment increases in institutions that demonstrate their market attractiveness to students. But there is serious political resistance if entire regions may seem at risk from a campus closure. And revenues do not seem politically available to reward institutions which are successful in the market, even when they attract larger enrollments.<sup>29</sup>

### **3. Centrally-Approved Institutional “Portfolios” Model**

A decade of disinvestment from 1990-99, initiated by the passage of Measure 5, led to the massive elimination of higher education programs in the Oregon University System. At one point in 1995, a net 88 programs, departments, and schools were eliminated or consolidated in the seven OUS institutions. The unjustified political charge of “excessive duplication” is less applicable by any measure to Oregon higher education than to any state system in the country. If anything, place-bound Oregon students are more limited in

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<sup>29</sup> One theoretical extension of the student market choice model would be a pure voucher system. The political obstacles to this variant are formidable, and it has failed so far to develop significant momentum. Another variant is Georgia’s widely touted “Hope Scholarship” program. This is a student financial assistance strategy which funds a generous resident-student merit award, and which itself is financed by dedicated state lottery proceeds. This latter avenue is essentially foreclosed in Oregon, barring a constitutional change, and major political realignments around lottery expenditures.



their academic major and even career choices than students in peer institutions and in similar state campuses.

The OSBHE has wisely explored the development of “portfolio” offerings as a way of confirming and defining the missions of each of the seven OUS institutions. Under the portfolio approach, individual institutions would contribute in varying ways and with different emphases to the achievement of the Board’s four broad goals—educational attainment and opportunity for Oregonians; high quality student learning; knowledge creation; and contributions to the economic, civic, and cultural life of Oregon communities—so that, collectively, the OUS goals could be met. The portfolio principle holds presidents and the Chancellor jointly responsible and accountable for the successful accomplishment of OUS goals and outcomes. It is evaluated through a comprehensive set of performance measures, which will help the system continue to progress toward attainment of the 40-40-20 goals.

### **C. Potential Objections to the Public Corporation Model**

At least four objections might be urged against the public corporation model. In my view, these objections are readily countered by more compelling considerations. First, it has been suggested that the independent public corporation proposal has languished since former Chancellor Thomas Bartlett proposed it 15 years ago upon the advice of the Higher Education 2010 Advisory Panel. But the Oregon legislature’s political caution is not a compelling reason to discount a new course of action that these times urgently

require. Rhetorical support for higher education has not generated expendable currency. In this same time frame, the OHSU public corporation has not merely saved quality academic medicine in Oregon, it has demonstrably improved the stature and effectiveness of that institution in the face of the turbulent economic competition within the health care industry more generally. This has enabled OHSU faculty to make the research discoveries that have improved the health of people in Oregon and around the world, and propelled OHSU into the first rank of the world's health-care research enterprises.

It might be claimed that the independent public corporation model would inhibit political accountability. It is therefore crucial to distinguish the political micromanagement which typifies the present system from accountability for results and broad consistent policy direction. In the public corporation model a robust accountability framework is found in an institutionally focused board of directors, a powerful audit system, real incentives for performance, and centrally monitored measures of required outcomes. These latter mechanisms of accountability are easily adapted and applied to monitor the performance of one or more public corporations. In fact, a board which focuses exclusively on the guidance and direction of a single university is far more likely to provide immediate and useful oversight than is the OSBHE, which must accomplish this task simultaneously for seven disparate and geographically dispersed institutions.

Others might fear that separate institutions competing for political attention in Salem will lead to fragmentation and divisive rivalries such as those that predated the creation of the state system in the 1920s and 30s. But these concerns can be abated by choosing

governing board members with overlapping membership on a common coordinating board and requiring a consolidated budget request such as characterizes the Chancellor's Office budget role in present OUS process.

Finally, there are those who argue that structural reform is no substitute for restoring funding to something remotely approaching national and international norms. I agree, of course, but the present structure clearly has reached the outer limits of its utility. It stifles creativity, prevents long-term thinking in budget and planning cycles, and acts as a disincentive to student recruitment and retention. It substitutes shopworn illusions of control for the necessity of responsiveness to changing environments. It fails adequately to assist the separate institutions in cultivating their unique strengths and fullest potential. And it fails to provide the framework and incentives to allow a central board to orchestrate the results gained by those institutions to achieve bold and necessary state objectives, such as the 40-40-20 attainment goals.

#### **D. Getting from Here to There....**

My professional archives from the past 15 years are replete with documents and notes of numerous state board strategic planning exercises (at least five); legislative concept developments; high hopes; and collections of false starts, restarts and good intentions. These efforts have been met by the usual last-resort and increasingly tiresome promises of "next time." More recently, public-spirited members of the OSBHE sardonically refer to these always-broken hopes as "waiting for arrival of the 'great pumpkin'" or "faith-

based budgeting.” In retrospect, the last 15 years of political inaction is a poor reflection on the state and not a history that should further hamper another generation with its burdensome and ineffective approach to securing a strong, competitive knowledge economy.

But there is continuity in a kind of macabre consistency: resource starvation within an environment of compelling need to serve Oregon’s new collegiate generations with the educational offerings they require to survive in an uncertain world of economic, environmental, and social turbulence. What is amazing is that Oregon’s universities are as good as they are amidst repeated dislocations in public finance. Other states, notably Virginia and Pennsylvania, have not hesitated to adopt structural reforms in this period, and their higher

educational institutions are notably better for the changes. Virginia, for example, in 2005 adopted landmark legislation that granted its public institutions greater autonomy

**Statewide Educational Outcomes:  
Oregon, Pennsylvania, and Virginia**

	Oregon	Pennsylvania	Virginia
<b>Percent of adults 25-34 years old with a bachelor’s degree or higher, 2008</b>	28.4%	33.4%	34.8%
<b>Percent of 18-to-24-year-olds enrolled in college, 2007</b>	32.5%	38.0%	35.0%
<b>First-year retention rates in public 4-year institutions, 2007<sup>1</sup></b>	77.7%	81.4%	85.8%
<b>Six-year graduation rates in public 4-year institutions, 2007<sup>2</sup></b>	54.2%	60.6%	67.2%

<sup>1</sup> Students entering public 4-year institutions as first-time, full-time students in fall 2006 and enrolled at the same institution in fall 2007.

<sup>2</sup> Students entering public 4-year institutions as first-time, full-time students in fall 2001 and graduating from the same institution within 6 years.

Sources: (1) National Center for Higher Education Management Systems, NCHEMS Information Center: [www.higheredinfo.org](http://www.higheredinfo.org). (2) OUS Fact Book 2008, p. 57.

in exchange for greater accountability to meet critical state needs. Virginia's focus on public higher education policy brought important reforms grounded in what the state needed from its public higher education system, and not on the historic debates of command and control. Oregon has not followed suit with the same inventiveness or urgency, despite having incurred the deepest higher education appropriations cuts of any state over the past two decades.

Is it realistic to expect more fundamental change now? Given our circumstances, the long-term price is too high for us not to try.

The economic and political climates are ripe for initiatives that go beyond pretending that "business as usual," or educational delivery at fire-sale discounted funding levels is a useful or productive coping strategy. The "maintenance of effort" provisions of federal economic stimulus legislation may prevent catastrophic budget cuts for higher education if the tax packages of the 2009 Legislative Assembly are rejected at the ballot box in January 2010, but any federally required reprieve will be short-lived. Higher education planning in Oregon must account for the budget future after federal stimulus infusions and requirements expire. We already know that the costs of maintaining retirement and benefit systems may rise significantly. This grim scenario of budget collapse may present itself as early as 2011. The imperative is to act now.

This paper proposes a broad grant of authority to the OSBHE to establish one or more public corporations, each tailored to institutional conditions. If the special session can be

persuaded to grant this enabling authority, the exercise of the authority then can be tailored more precisely to the optimal moment and circumstances, with broad public consultation, and undoubtedly well beyond the present biennium.

The barriers to change are formidable. Higher education expert Robert Zemsky identifies in another context four universal lessons of other reform efforts: (1) “Strong rhetoric changes nothing...;” (2) “Demand for reform must be internal...;” (3) “State agencies cannot prescribe change, but must create the conditions that make change possible...;” and (4) “It is best to focus on truly systemic change. The nature of the academy sucks the air out of piecemeal reforms.”<sup>30</sup>

The political preconditions for success in a short time window are numerous but not impossible to meet. They can be mobilized by an understanding that change is not an abandonment of the universities’ public mission but instead that ***a new public university model is the only way to sustain that public mission.*** The underlying reality is that most university resources now come from private or external sources, but university operations are bound by archaic, crippling, and expensive state restrictions. Those requirements are not serving the needs of today’s and tomorrow’s Oregonians.

Dr. Michael Redding of the University of Oregon and others have identified a number of factors required elsewhere for political success of fundamental structural change. These

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<sup>30</sup> R. Zemsky, “Will Higher Education Ever Change as It Should?” Commentary, *The Chronicle of Higher Education*, August 3, 2009.)

considerations are neither surprising nor secret, but it is prudent to be candid about them from the outset. They include:

- Gubernatorial leadership—a precondition for legislative success. (This also means obtaining a bipartisan approach from contenders for election in 2010 and bipartisan support from legislative leadership.)
- A united higher education coalition, which particularly includes university presidents.
- Bold institutional agendas which compel engagement of the state's leadership.
- A compact with the state which establishes real accountability for urgent objectives (increased access, retention, graduation rates, and degrees)<sup>31</sup> in direct exchange for increased autonomy to make progress on those agendas.
- A straightforward commitment and method to manage Oregon resident tuition and need-based financial aid within affordable limits for students and families.
- Securing business community, university foundation, alumni, and donor support.

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<sup>31</sup> Although the arguments are well beyond the contours of this assignment, universities might well consider, for example, the award of associate of arts degrees to students who do not complete baccalaureate degree credit hours, but have enough credits to qualify for an associate's credential.

- Ensuring faculty, staff and classified employee participation from the initial planning stages and throughout the process.

It is worth articulating specific considerations related to affordability and student participation. In the past, the Oregon Student Association has opposed various proposals for greater institutional self-determination. The opposition has not been uniform, nor have certain institutions' elected student leaders always agreed with the OSA positions. However, as the example of Penn State University proved earlier in this decade, proper engagement of a campus-based student inclusive tuition policy task force imbeds the student voice in tuition policy while preserving the principle of campus-based governance autonomy.

#### **E. Conclusions and Points of Departure**

This paper emphasizes the immediate structural reforms and the on-going resource needs (and gaps) that address our imminent crisis in degree attainment in Oregon. Addressing these priorities must command our urgent attention.

Of course, the OSBHE, the Joint Boards and the State (by virtue of the 40-40-20 commitment) have many programs and policy priorities in place already. In addition to structure and funding, I mention the following by way of conclusions and points of emphasis for reaffirmation and “next steps.”



1. The K-12 sector must devote continuing attention to its on-going roles in student preparation for higher education, especially in key areas such as underrepresented students and growing cohorts of ethnic populations, and through increased use of college credits in high school through AP courses and other methods.
  
2. Our community colleges serve a multiplicity of vital needs but are underfunded for purposes of assuring high numbers of associates' degree holders. While the Oregon Transfer Module, the ATLAS credit alignment project, memorandums of understanding, and other strategies have significantly reduced transfer of credit issues between community colleges and OUS institutions, the OSBHE must continue to monitor performance here and enhance the success of transfer students.
  
3. New experiments (such as the agreement of last year between Southern Oregon University and the University of Oregon, and the common admissions process to be implemented in 2010) which effectively expand the system's capacity to serve students by dual admission and enrollment/admissions strategies should be monitored and assessed for their effectiveness in facilitating the most efficient use of limited OUS resources.
  
4. The OUS institutions should explore means by which some levels of course completion below baccalaureate degree attainment might nonetheless properly qualify for associate of arts degree standing. Such a strategy would more properly recognize credits

earned and eliminate the perception that a student's time and expense short of degree attainment has been "wasted."

5. Online education experiments in the public sector have not met with major success to date, although the early success of Eastern Oregon University in this field still stands as a particularly notable national example. The technological, student aggregation, and student support barriers associated with online education are substantial. At the same time, private sector proprietary institutions report initial successes here, albeit with national rather than state-specific student enrollees. More needs to be learned about the viability and costs of these strategies as one possible response to Oregon's resource shortfall.

6. The structural change opportunities proposed here should be set in motion immediately. Rigorous performance standards and greater flexibility to respond will, even in the short run, result in greater economies and achievement in the face of our state's immediate and daunting challenges in higher education.

Delay is the enemy of innovation, even of stability. If action is not taken in the planned Special Session of 2010, institutions would have to await implementing legislation in 2011. A realistic date for structural change could not occur even under optimal circumstances until 2012, nearly three years hence.

The State Board of Higher Education does not lack leadership, but purposeful leadership here must originate outside the system and with legislative action. As my former colleague, University of Minnesota President Robert Bruinincks, observed recently in another context, “In an organization, disorder, friction, and malperformance are the only things that evolve by themselves.” Let that not be said of our political system in response to this time of opportunity.

*Dave Frohnmayer*  
*November 2009*

# # #



Attachment A

Oregon  
University  
System

## What would success look like in six years? By 2025?

<u>Indicator</u>	<u>Current</u>	<u>2015 Target</u>	<u>2025 Goal</u>
1. Fall enrollment <sup>32</sup> (2008)	86,546	97,024	164,000
2. Bachelor's degrees awarded (2007-08)	12,651	15,000	24,000
3. Advanced degrees awarded (2007-08)	4,246	5,500	9,000
4. Freshman participation <sup>33</sup> (Fall 2007)	20.7%	24.0%	30.0%
5. First-year retention (2008)	79.8%	82.8%	86.0%
6. Graduation rate (2008)	59.4%	61.5%	75.0%
7. Graduates employed/pursuing further education <sup>34</sup> (2007)	92%	93%	95%
8. Graduates employed in Oregon (2007)	76%	80%	82%
9. R&D expenditures (FY 2008)	\$328 M	\$383 M	\$550 M
10. Inventions (FY 2008)	120	150	300
11. Philanthropy (gifts from philanthropic sources) (FY 2008)	\$137.4 M	\$150 M	\$300 M
12. Faculty salaries – percent of peer averages (FY 2009)	Range of 80.8% to 86.2%	90%	100%
13. Fund balance as percent of revenue (FY 2009)	Range of 4.6% to 13.0%	5% – 15%	5% – 15%
14. General Fund percent of total E&G budget (2007-2009) <sup>35</sup>	35%	41%	50%
15. Deferred maintenance backlog	\$670 M	\$400 M	\$0 M
16. Student/full-time faculty ratio (Fall 2008)	25.6	23.5	20.0
17. Administrative expenses (institutional and academic support) as percent of revenue: percent of peer averages (FY 2008)	Range of 83% to 124%	90%	90%
18. Student services expense per FTE as percent of peer averages (FY 2008)	Range of 40% to 118%	90%	100%

<sup>32</sup> The enrollment goal for 2025 is the level needed to produce 24,000 bachelor's degrees in 2025 as OUS' contribution to achieving the 40% bachelor's attainment goal currently targeted by the State, with current degree production and in-migration patterns. Simply to maintain the current bachelor's attainment percentage (28%) would require an OUS enrollment of 118,000 in 2025.

<sup>33</sup> Targeted increases in OUS freshman participation are expected to come from significant improvements in participation of underserved students, particularly Latino students, to bring rates in line with others. Target for 2015 also assumes that the difference between rural and urban participation will be reduced by half.

<sup>34</sup> Percentages shown include graduates who are employed and/or pursuing further education. The remaining proportion includes those unemployed and seeking work (3% in the 2007 survey), as well as those taking time off to travel, retired, disabled or unable to work, or engaged in some other activity of their choice.

<sup>35</sup> Does not include Federal Stimulus funding (ARRA).

**Attachment B**

**CONCEPTUAL FRAMEWORK FOR THE  
“INDEPENDENT PUBLIC CORPORATION ACT OF 2010”**

**§1: Authorization To Form Public Corporations For Higher Education**

- The Oregon State Board of Higher Education (Board) may create, through Administrative Procedure Act (APA) rulemaking, public corporations for higher education (PCHE).

The framing of this delegation should be broad enough to ensure that the Board’s decision-making is subject to the most deferential standard of judicial review – the frame should be “delegative” in the lexicon of *J.R. Simplot Co. v. Dept. of Ag*, 340 Or 188, 199, 131 P3d 162 (2006).

- Every PCHE shall have the attributes described in Section 2.

The PCHE acquires Section 2 attributes upon creation. As to these attributes, the Legislative Assembly has made a final and complete policy choice: Once the Board exercises its discretion to create a PCHE, the resulting organization is subject to all of the statutes specified in Section 2.

- The Board, through APA rulemaking, may assign additional attributes from those enumerated in Section 3.

The Board determines which of the enumerated statutes will apply, and under what conditions, to the PCHE.

- The Board may transfer, sell, lease, exchange, or give assets of any description to the PCHE.

Authorizes the PCHE to acquire the assets it needs to operate.

**§2: Attributes of Every PCHE**

**Every PCHE:**

- Is a “public corporation.”

This designation is indicative but not conclusive as to the Legislature’s intent to make the entity exempt from taxation. *See, Pacific States Marien Fisheries Com’n v. DOR*, 346 Or 117, 206 P.3d 1037 (2009)(Interpreting ORS 307.090,

which provides tax exemption generally applicable to “public corporations”)

- Is formed for the public purpose of promoting the public welfare of the people of the State of Oregon through the enhancement of excellent, efficient, accountable, and accessible public higher education in Oregon. The PCHE shall be a governmental entity performing governmental functions and exercising governmental powers.

This proviso touches two of the three factors found to be determinative of OHSU’s status as an instrumentality of the state that would have been entitled to immunity at common law. *Clarke v. OHSU*, 343 Or 581, 597 – 601 (2007).

- Is governed by a Board of Directors, at least two of whom shall also serve concurrently as members of the Board of Higher Education, appointed by the Governor, subject to Senate confirmation, removable “for cause” by the Governor. On the OHSU model, the Board of a PCHE could include a student. ORS 353.040. The Chancellor could sit as an ex officio member, or could have a vote in the event of a tie.

The third factor from *Clarke*.

- Is an instrumentality of the state, immune from suit under Article IV, Section 24 as to all of its functions except to the extent allowed by the Oregon Tort Claims Act.

Helps provide “context” per *PGE v. BOLI*. Also makes clear that the Legislative Assembly has waived sovereign immunity, to the extent of the OTCA, as permitted by the constitution.

- Board of Directors of the PCHE to be the trustees of the PCHE’s assets. They shall hold the assets in trust for the People acting through the Governor and Legislative Assembly. The trust is created for the public purposes of the PCHE.

In the Assembly’s biennial/annual search for revenues, trust funds enjoy both political and legal protection. Specifying that the Board of Directors would be trustees administering the assets for the public purposes of the PCHE would help reassure observers that they will be accountable for those resources. Specifying that the assets are held for public purposes reinforces the conclusion that a PCHE is immune.

- Has all the powers necessary or desirable to carry out its public purposes, including the power to issue revenue bonds to the extent of the PCHE’s assets/income.

The PCHE should have an overarching grant of authority to cover the million-and-one unanticipated opportunities and challenges that it would face.

- Notwithstanding any other provision of law, including Chapter 291 (which includes allotment, state budgeting process) all revenues, income, and earnings on revenues or

income shall become assets of the trust. To the extent permissible under the authority of other governmental and non-governmental bodies, this includes grants, appropriations, student tuition, rents, income, profits from investments, proceeds from the sale of revenue bonds, etc.

This provision is where the PCHE's control over tuition is demarcated. Tuition would become part of a larger discussion, not a separate item.

Placing all of the "income" in a trust with expressly public purposes might also help ensure that it continues to be exempt from federal income tax. It might also help with federal "state action" exemption antitrust analysis. Both of these issues might become pointed if the PCHE entered into joint ventures or other business alliances or partnerships with private enterprise.

Specifying that the only beneficiaries of the trust are the Governor and Legislative Assembly would help avoid lawsuits challenging the trustee's decisions by anyone else claiming to be a beneficiary of the trust.

- Is subject to the Secretary of State's constitutional authority as "Auditor of public Accounts." Oregon Constitution Article VI §2.

States the obvious but reinforces the proposition that the PCHE will be held accountable by external controls for the stewardship of the public resources for which it is responsible.

- The following apply to any PCHE. No other statute of general applicability governmental entities applies to a PCHE unless made specifically applicable to PCHEs by the Assembly or it is made applicable a PCHE by the Board of Higher Education under Section 3. Upon creation by the Board of Higher Education, the PCHE has all of the powers and responsibilities assigned a public body under the following provisions of law:

One could start the proposal with as short or as long a list as the political traffic permits. To maximize flexibility, the starting list would be short.

The initial list would establish a political dynamic. Thereafter the debate would determine how many of the "optional" powers and duties of the PCHE described in Section 3 should be added to the mandatory list and how many should be left for the Board of Higher Education to include as to any specific PCHE that the Board might create.

For reference, the following are statutes to which OHSU is affirmatively subjected by ORS 353.100(2):

- 35 – Eminent Domain/Acquisition of property

- 190 – Intergovernmental agreements
- 192 – Public meetings/records
- 244 – Government Ethics
- 295 – Depositories of public funds and accounts
- OTCA
- 200.005 to .025 – Aspects of state support of Disadvantaged Bus. Enterprises
- 200.045 to .090 – Same as above
- 236.605 to .640 – Transfer of public employees
- 243.650 to .782 – Collective bargaining
- 297.040 – Payment for SOS audits
- 307.090 – Public property exempt from taxation
- 307.112 – Conditions under which otherwise taxable property is exempt because it is leased to a tax-exempt public entity.

### **§3: Optional Attributes of A PCHE**

- The Board may, by APA rulemaking, require that a PCHE it creates will have the same powers, duties, and responsibilities of a public entity under any of the following statutes.

This would be a list of various statutes that one might want the Board to be authorized to apply to a PCHE. For example, Chapter 180, with reference to the authority of the Oregon Department of Justice could be listed here.