

OUS, Governance Proposal

INTRODUCTION

The Board has grasped the critical importance of the universities to the economic and civic success of Oregon and its citizens. In 2007, the Board adopted its strategic vision and committed itself and its universities to raising the education level of Oregonians, offering high quality education, advancing knowledge in support of economic vitality, and supporting vibrant communities in every part of the state. The Board set its sights on making sure that Oregon and Oregonians could succeed in a complex and competitive world that placed a high and increasing value on education. For the past several months, the Governance and Policy Committee has considered the financial condition of the University System, the legal framework within which it operates, the advantages and impediments offered by that framework, and a wide variety of public policy objectives necessary if the Board's goals are to be achieved in an equitable manner across all the geographic and demographic distinctions within the state. The Committee essentially considered a public policy framework within which to consider any changes. **The attached document, "Considerations for Change," details the Governance and Policy Committee's recommendations, and this document summarizes the legislative changes needed to implement these recommendations.**

Oregon's state support per student ranks among the lowest in the United States. For the past two decades, the state has gradually reduced its support for its public universities and increased their reliance on student tuition and other non-state revenue sources in order to survive. Despite the lack of state funding, Oregon's universities now are more successful in moving students to their degrees than at any other time in recent history. And the level of external funding to support university research has never been higher. **But continuing erosion of state support has not been accompanied by concomitant reductions in state controls over university operations.** The same legal structure has been in place for the Oregon University System since it was established prior to the Great Depression when the state paid virtually all costs of university operations and fully funded all construction efforts.

The costs and inefficiencies inherent in the current legal status of the University System as a state agency are legion and have been chronicled repeatedly. "Considerations for Change" provides more detail about the impediments that a structure created early in 1929 (months before the stock market crash) places in the way of success for Oregonians in 2010. Simply put, Oregonians and Oregon will not be positioned to succeed in the 21st century if OUS remains a state agency. The state agency status restrictions for OUS are the product of a bygone era during which state support warranted greater controls. Repeatedly, over the past twenty years, the state government has not afforded to pay to educate its citizens. But it also has failed to permit its universities the flexibility to use other resources to do so. That is purely and simply the result of state agency status for the OUS. The flexibility to operate more effectively will not substitute for the lack of funding, but it will enable the universities to be more successful at educating Oregonians and bringing discoveries into the Oregon economy than would be

possible with the same level of state financial support under the strictures of state agency status.

In contrast to OUS, Oregon operates its public community colleges as special districts established by the legislature that do not suffer the restrictions of a state agency. Oregon's community colleges are not products of the "roaring twenties," but of the seventies, when Oregon recognized the limits of its finances and established postsecondary education institutions with the status to meet contemporary needs and the flexibility that success in the modern world demands. Ballot Measure 5 swept them more fully into the state budget but the state chose not to alter its relationship with community colleges at that time. Thus, although Oregon's community colleges receive from state appropriations almost half the funds they use to educate students (in comparison with the 30 percent OUS receives from the state), they preserve the necessary flexibility to succeed on behalf of Oregonians that their original legal status conferred.

Education has become ever more critical for the success of an individual and of a society in every part of the world. Yet Oregon's younger adults are less likely to hold a college degree of any kind (associates, bachelors or advanced) than are their elders who are likely to retire in the next few years. In the late 1960s, young Oregonians (25-34 years of age) were among the best educated people in the world. Now, Oregon lags the nation and many countries of the world in terms of the education level of Oregonians in that age category.

Further, innovation has become the keystone for the economic success of the United States and perhaps its greatest competitive advantage in a rapidly changing world economy. Innovation often comes from the research conducted at universities—research whose value to society frequently derives from the introduction into the economy by business of the discoveries and ideas of university faculty and students. Oregon's public university faculty members are among the most successful in the country at receiving federal support for their research and discoveries. But Oregon lags in seizing the commercial advantages of the work of its faculty.

The quality of Oregon's faculty is unquestioned. Oregon has been one of the leading states in confronting the issue of what students learn, assessing that learning, and linking that learning to the needs of success in society and the economy. Although much remains to be done, Oregon's public universities and their faculty are in the forefront of figuring out and delivering learning that matters.

Oregon needs its citizens to be educated to world competitive levels. Oregon needs innovative research to spur its economy and create jobs. Oregon needs all its citizens to have access to high quality education at prices they can afford. Oregon, in short, needs its public universities to be successful.

That success demands that the state and the universities, through the Board of Higher Education, establish a new compact: an agreement that provides the state with the educated

population and innovative research it needs for a prosperous future and the University System with the flexibility and funding it needs to effectively and affordably educate Oregonians and conduct the research that will lead to economic vitality and jobs.

SUMMARY: GOVERNANCE PROPOSAL LEGISLATIVE CONCEPT

The Governance and Policy Committee recommendations describe **a new compact between the University System and the state that commits the universities to provide the state with measurable education, and research outcomes (enrollment of Oregonians, degrees, employable graduates, externally funded research, affordable education for Oregon students, workforce enhancement, and achievement of specified state education goals) in exchange for funding and flexibility.** The level of appropriations and the specific targets would be developed each biennium but the framework for success would be the same: affordability for Oregonians, graduates, and research for the state, and flexible operations for the University System. The Board will be asked later this year to establish the performance measures and the targets that will be the subject of the 2011-2013 agreement between the Board and the state government.

The result of the Committee's deliberations is the conclusion that the public nature of the Oregon University System must be maintained but that the legal status of the System be changed from that of a state agency to one that more closely resembles a statewide community college district. That System would continue to be governed by the State Board of Higher Education but the Board would have authority, should it elect to exercise it, to establish local governing boards for some or all of its institutions, delegating such power to local boards as seemed appropriate, in order to better meet the four main goals the Board set for the System in 2007 (raising the education level of Oregonians, offering high quality instruction, conducting innovative research to improve the Oregon economy, and supporting vital communities in all parts of the state).

All the current powers and responsibilities of the State Board of Higher Education would be retained. The State Board would retain tuition-setting authority and require a participative tuition recommendation process at each campus that emphasized the financial needs of the campuses in order to provide quality education and affordability for Oregon students. The Board also would establish standards for need-based financial aid and include the use of fee remissions based on total undergraduate tuition income as a means to help achieve affordability for Oregon undergraduate students.

However, specific changes would be sought in **legislation needed to implement the recommendations** of the Governance Committee including:

1. Change of legal status to that of public University System with the powers now resident in community college districts except for the imposition of property taxes;
2. Authority to enter into performance agreements with the state and to undertake strategic planning to help establish measures related to state and student success;

3. Authority to seek state appropriations and investments for both capital improvements and operations;
4. Authority to establish tuition (currently in statute but suggested for reaffirmation);
5. Authority to require a participative tuition recommendation process at each institution;
6. Authority to require affordable access for qualified Oregon students at each university;
7. Recognition of fee remissions as a means of providing need-based financial aid;
8. Authority to provide risk management services and purchase insurance;
9. Ability to receive the earnings associated with the investment of student tuition and all other revenues other than state appropriations;
10. Authority to establish optional retirement plans for new employees;
11. Authority to issue revenue bonds and other debt instruments whose repayment would be from non-state sources;
12. Authority to delegate such powers as it would choose to delegate to governing boards for specific institutions, as deemed desirable by the State Board;
13. Exemption from requirement for legislature to establish other funds limitations;
14. State budget process and requirements to be same as for community colleges;
15. Authority to acquire all property and to undertake all capital projects without prior authorization from legislature except for projects requiring the use of state appropriations or state general obligation debt;
16. Authority to allocate appropriations and other funds among institutions and programs;
17. Authority to approve the missions of and allocate academic programs among institutions and responsibility to determine allocation of programs to meet state requirements/needs;
18. Authority to offer employee benefit plans and programs;
19. Authority to establish and fund collaborative ventures involving universities (both public and private), community colleges, the common schools, other government entities and agencies, and business and community partners in furtherance of the achievement of the Board's goals and the agreement between the Board and the state;
20. Authority to delegate powers and responsibilities to committees of the board, to the chancellor, and to institution presidents in order to enhance the achievement of Board goals and state objectives; and
21. Retention of all current authority and responsibility.

The result of this change would be a more vital and flexible University System better suited to the times than our current 80-year-old state agency governance structure and better able to increase the number of Oregonians educated to meet the standards for success in the

competitive world economy and to provide the research needed to spark the innovations that will improve the vitality of Oregon's economy and provide the sustainable prosperity Oregon so desperately needs.

Staff Recommendation to the Board:

Staff recommends that the Board approve a legislative concept that changes the legal status of the Oregon University System from that of a state agency to that of a public university and provides the Board the authority noted above. Staff further recommends that staff, working with the Governance and Policy Committee, develop and negotiate a compact with state government with measurable outcomes for the level of appropriations that constitute state investment in 2011. Staff recommends finally that the Board authorize an ongoing, highly participative public process, with citizens, state officials, and groups from throughout Oregon regarding the education, research, and service activities and programs of the Oregon University System and its institutions in order to ensure that OUS is meeting state needs as best it can and to help ensure that Oregonians understand the value of its public University System.

(Board action required.)

CONSIDERATIONS FOR CHANGE
OREGON STATE BOARD OF HIGHER EDUCATION
GOVERNANCE AND POLICY COMMITTEE
DRAFT AS OF JUNE 26, 2010

I. BACKGROUND

The recent history of state support for its universities and their students has been chronicled at length. Over the past twenty years, state funding per student has declined from about the average of all states to very near the bottom (44th in the most recent compilation and likely to fall further due to recent cuts of about \$32 million). Adjusted for inflation, state funding per student is little more than half what it was in 1991. Although it is easy to lay the blame for this disinvestment at the feet of a variety of ballot measures that reduced taxes, shifted responsibilities from local jurisdictions to the state, and mandated expenditures for prisons and parks, the real impact comes not in the spending of the universities but in the education levels of the Oregon's young adults.

In the 1990s, in response to the first major round of state budget cuts, the universities eliminated more than 70 academic programs, raised tuition quickly and substantially, laid off faculty and staff, and saw enrollment plummet by 6,000 students. For at least a decade, enrollment lagged expectations (based on the number of high school graduates), with the result that younger Oregon adults are less well educated than are their elders—an unusual occurrence in modern world history. This has occurred at a time when the global economy has placed an ever higher premium on an educated population as the means of advancing prosperity. Like only a few other states and unlike almost every country in the world, Oregon has for years systematically reduced the education level of its adults. Oregon's best educated—and, arguably, most competitive—workers are about to retire. The strategy of importing educated young people from other states and countries worked for a time in the 1990s, but no longer is sufficient to advance Oregon's prosperity and disadvantages those who grow up in the state.

As a reaction to the rapid tuition increases that characterized the early 1990s in Oregon, the state's legislature in recent years has restricted the tuition that Oregon's public universities can charge their students. This has meant that the universities must cope simultaneously with both low state support and restricted tuition. In 2007, the combination of Oregon's state support per-student and the posted undergraduate tuition for Oregon students suggested that total support could rank as low as 49th among the states—ahead of only Colorado.

The universities survived and were able to offer quality education (and actually improve on every measure of student success) because they were able to attract students from other states and countries who pay at least three times as much as the state allows its universities to charge Oregonians. Further, the faculty of Oregon's universities competed successfully for more grant dollars per-faculty member than those in all but four other states as they strove to advance knowledge and provide more funding for their universities to fulfill their missions. By 2010,

nearly 70 percent of the cost to educate a student came from tuition and federal grant cost recovery, with only about 30 percent coming from state appropriations. (Although state funds pay for about 30 percent of support for instruction costs, they represent just 15 percent of total revenue available to the universities which also receive money from other resources; for example, federal government funds that are restricted to research and from students for housing and dining costs.) The dedication of the OUS faculty and staff has led not only to an increase in acquiring highly-competitive federal research funding but also to an increase in enrollment and student success (as measured by improved retention and graduation), despite having some of the lowest total costs per student in the country.

For the past several years, Oregon's universities have served record numbers of students. Enrollment, which remained in the range of 80,000 students from 2002 to 2007, has risen rapidly in the past two years and stood at more than 93,000 students at the end of Fall term 2009. If this can be sustained (and recent projections actually suggest enrollment of more than 100,000 students by 2013), the state finally will be on target to raise the education level of the next cohort of Oregon's young adults to levels at or above those of older Oregonians.

II. ISSUES OF STATE AGENCY STATUS

However, the state could reverse this positive trend at any time by not permitting the universities to spend the tuition income paid by students to provide the instruction and services required for those students to succeed. This is a result of the fact that the Oregon University System is a state agency, a status that means the legislature sets the maximum amount the universities can spend to educate students and conduct business, regardless of how many students enroll and regardless of who is paying for the costs of the universities' operations. Disapproval of OUS requests to spend student tuition funds to educate students could force enrollment restrictions as universities scramble to limit costs by limiting enrollment, offering fewer classes to the students already admitted to the institutions, possibly capping admissions, and compromising the quality of education that the universities can offer. A possible and much-feared result could be a return to the enrollment declines of the 1990s and a continuation of the trend of younger adults less well educated than their elders, limiting the potential for Oregonians' income in the future.

The state could take such action in order to divert university resources and reserves to help balance the state's general fund budget. This occurred in 2009 when \$33 million of university reserves was used to make up for state revenue shortfalls. There is a risk of a similar action later this year and in 2011 to help meet other state budget needs (although legislative leaders now are pledging not to take that step). The approval of a recent OUS request for the ability to spend tuition funds to educate the growing number of students may signal that a renewed conversation between legislative leaders and OUS can lead to a plan that addresses some of the issues that have confronted the universities in the past. One element of such a plan could be a changed relationship between OUS and the state. Legislative leaders recently appointed a bi-cameral and bi-partisan new Higher Education Working Group to consider how to achieve greater student success and more research activity even with fewer state funds to invest in the

University System. It is expected that the Working Group will consider many of the issues raised in the Board's governance discussions and will look at whatever proposal the Board develops as a part of the evolving relationship between the University System and state government.

Oregon's 17 public community colleges receive almost half the funds they need to educate students from state appropriations (in comparison with the 30 percent OUS receives from the state) and have seen similar reductions in state support in the past few years. They, too, have seen rapid increases in enrollment in the past two years. However, unlike the universities, their tuition is not limited by the legislature, the monies they earn from student tuition cannot be taken by the legislature for other purposes, and the colleges can spend the money they earn to educate students without special approval by the legislature (an advantage not enjoyed by the universities). The result is that Oregon's community colleges can serve their students without fear of fund diversion. Although the community colleges in Oregon face many challenges, they are able to serve students to meet the state's educational goals without having to clear the innumerable hurdles that face the universities, which are state agencies.

The reason for the difference lies in just one key distinction: the community colleges are not agencies of state government. Oregon operates its public community colleges as special districts established by the legislature that do not suffer the restrictions of being tightly controlled by state government but are granted in statute significant authority not enjoyed by OUS or its universities. They are free to succeed.

Some will argue that the universities should continue to be state agencies since they have been established and supported by the state for many years. This might be said, too, of community colleges and of a number of other Oregon public entities (e.g., OHSU, OPB, SAIF) which share the fact that they were established in statute to carry out a governmental service or public benefit and often have been supported by state funds. Furthermore, higher education provides services to society (education, research, etc.), but this is distinguished from the regulatory functions provided by some other agencies. In addition, higher education receives only a minority of its funding from state taxpayers (about 15 percent of the entire enterprise is paid for with state appropriations, with the balance coming from students, the federal government for research, and a variety of private sources via contract or philanthropy). Since higher education does not fulfill a regulatory function and receives most of its resources from non-state sources, it need not be a state agency. In fact, being a state agency creates the risk that funds paid for education services by students and others could be used by the state for other purposes or even that the universities will be denied the right to use the funds paid by students to educate them.

The costs to OUS and its students of state agency status go beyond the risks and inefficiencies noted above. OUS also is required to participate in the state's employee benefit plans which are more costly to OUS than is the case at other public university systems in the United States. This has led to abnormally low (and noncompetitive) faculty salaries as universities have tried to find ways to pay for those mandated benefits. A few years ago, a study determined that OUS employees should be less expensive to insure for healthcare than those of other state agencies

yet, at the time, OUS paid the highest premiums of any state agency. The net impact was estimated by this outside consultant (hired by the state) to result in OUS transferring \$12 million per year to insure the employees of other state agencies. Essentially, university students are paying a hidden tax to support the expenses of other state agencies. Community colleges are not required (but are allowed) to participate in the health care plan (but are required to be part of the state's also expensive retirement plan). OUS efforts to establish separate pools of coverage within the state's healthcare plan have been rebuffed but could be renewed if OUS were not a state agency.

OUS may not buy its own property and liability insurance even though alternatives that are less expensive than the state's plan are readily available for colleges and universities. This is estimated to add \$2 million per year to OUS costs while adding a layer of bureaucracy in the state capitol that further adds cost and time. Community colleges do not face these requirements or hurdles.

As a state agency, OUS faces a budget development effort that involves separate consideration of literally thousands of line items—each for specific programs or expenses, each having different restrictions, and each subject to complex and varying funding divisions between state appropriations and a variety of other funding sources generated by the universities. This complexity is masked by the fact that the actual legislative appropriation for OUS contains relatively few specific allocations. However, the complexity is compounded by the superimposition of legislative intent statements (known as budget notes) over the appropriations (themselves built on the complexity of the thousands of line items).

OUS is required to use the services of the state's elected attorney general, secretary of state (audit), and treasurer. In the case of legal advice, this has added confusion, complexity, and cost on many occasions. Community colleges do not face that requirement. National benchmarks for how much universities pay for auditing services suggest that OUS pays more than would normally be expected.

OUS pays millions of dollars each biennium toward the operation of state government—from the landscaping on the capitol mall to the budget office. Community colleges do not pay these assessments.

OUS cannot retain the earnings on investing the tuition, room, board, and other fees paid by students but must turn them over to the state government. This means that the state benefits by more than \$2 million per year from the payments made by the students to the universities. The community colleges are not subject to such provisions.

The savings in direct costs paid to the state for assessments and related charges and the income from receiving interest on tuition dollars are estimated at \$10 million per year—even after paying for the services now received through the state. This does not include any estimate of savings from changes in employee benefit packages or eliminating the subsidy OUS students provide to other state agencies through healthcare premium payments. (Such savings are

difficult to quantify. In light of rapid cost increases in healthcare and the uncertainty created by recent federal legislation, one approach might be for the state as an entity to find ways of saving costs in healthcare for all participants in its plan.) Nor does it include any savings that might be associated with changes in auditing, treasury, or legal services since these are provided by separately elected officials in Oregon.

Unlike the community colleges, the universities must seek specific legislative approval for all capital projects—even those which are entirely funded by donations and do not involve either state appropriations or state-authorized bonds. This has led to project delays, difficulties with donor relations, and the consideration by state budget regulators or legislators of the loss of state support in exchange for accepting such donor-funded projects.

In 2008-09, the state provided about 18 percent of the funding used by the universities but, through its controls on salaries and benefits and its charges for “state assessments,” dictated well over half their expenses. In the category called “Education and General Services,” which covers all expenses related to educating students and operating the core functions of the universities, the state provided 37 percent of the support but dictated 80 percent of the costs.

All these issues—low education attainment levels of Oregon’s young adults, growing enrollment, low and falling state support, unstable and unpredictable state funding, lack of university control over major cost-drivers, and micromanagement by the state—have been noted or recognized in the various papers advanced by President Emeritus Frohnmayer, President Wiewel, President Lariviere, and President Minahan. However, a public policy framework has not yet been advanced within which to consider these or others perspectives and proposals.

III. PUBLIC POLICY FRAMEWORK

Late in 2006, the State Board of Higher Education adopted four key goals that animate Oregon’s public universities:

1. Increase the education level of Oregon’s adults;
2. Provide high quality education;
3. Provide research for an innovative and successful Oregon; and
4. Contribute to the civic and economic success of communities throughout Oregon.

Striving to achieve these goals by 2025 guided the discussions of the Board’s Governance and Policy Committee as it considered the challenges faced by the state and OUS and what alterations in the relationship between OUS and the state and OUS and its institutions might be suggested in 2011.

The Committee established the public policy framework within which it would consider and advance suggested changes. Various policy documents were developed and are attached. They focused on affordable access to and success in high quality education for Oregonians regardless

of their income, ethnicity, and location. The Committee emphasized the importance of diversity at each university and called for effective transfer among OUS institutions and Oregon community colleges in order to facilitate student success.

The policy and values statements also addressed research that focuses on Oregon jobs and Oregon economic development; educating Oregonians to become members of an internationally competitive workforce aligned with state workforce needs; collaboration for student success among all the public education entities in Oregon; and collaboration among universities (in both education and research) to meet the needs of the state and its citizens.

Within that policy framework, the Committee developed outcomes that could form the core of a performance compact with the state: degrees awarded, enrollment of Oregonians, employment of graduates, externally-funded research, workforce enhancement, affordability for Oregon students, and investment made per-degree and enrollment-level related to the level necessary to meet state needs for an educated citizenry. Also of importance is a code of ethical conduct that will help ensure that universities comport to high standards of behavior and transparency.

In short, the Board would enter into a performance agreement with the state each biennium in which, for a given appropriation, the Board would commit to providing a certain level of enrollment, a certain number of degrees, etc., and would provide funding to the campuses to achieve these results with the targets and funding for each campus being established based on campus mission and programs, size, location, etc. Campus efforts to meet the targets would be made while fulfilling the public policy purposes noted in the policy and values statements and in the more specific guidelines considered by the committee regarding those statements. Each campus would have different targets and may have different performance measures to indicate progress. The Board and chancellor would be responsible for determining those targets (in consultation with the campus leadership), for allocating funds, and for monitoring and evaluating performance.

It was within that framework that governance changes were developed and are being considered. They have been guided, in part, by the papers advanced by President Emeritus Frohnmayr, Presidents Wiewel and Lariviere, ideas suggested by President Minahan, and the policy statements prepared by all seven presidents and the guidance proposed by the Interinstitutional Faculty Senate. The joint presidential policy statements and the IFS guidance are attached. The papers by President Emeritus Frohnmayr and Presidents Wiewel and Lariviere are available on the OUS website.

IV. GOVERNANCE RECOMMENDATIONS

In order to continue progress toward the Board's goal of raising the education attainment level of Oregon's adults, it seems essential that the relationship between the Oregon University System and state government be changed to permit Oregon's public universities a similar level of flexibility and insulation from political and bureaucratic intrusion as is enjoyed by Oregon's public community colleges. But the achievement of the Board's long-term and statewide goals and the essence of the statewide performance compact it may negotiate each biennium with the state demands that the efforts of the universities be orchestrated.

The legal relationship between the University System and the state can take any of several forms. However, each of those forms is a variation on a theme that provides greater self-governance for OUS and its universities and greater distance from the state central government for their operations. Oregon already has several successful models for such relationships ranging from the community colleges to SAIF to OHSU and even the Oregon State Bar. All these are state-created entities that serve public purposes. None are state agencies subject to the vagaries that are routinely visited upon the universities and keep the universities from making and fulfilling long-term plans in an enterprise built on long-term efforts and long-term results. None also runs the risk of the monies paid by their clients being used to fulfill other state obligations at the peril of their own success.

Perhaps the simplest way to express this point is to propose that the Oregon University System be granted the same status as would be enjoyed by a current community college district if that district were statewide. Legal counsel may suggest a more apt comparator and may suggest slightly different legal status and powers. However, the public nature of community colleges is not challenged and, therefore, makes a reasonable beginning point for a governance discussion for the public University System and its institutions. Granting such status, by itself, would make the most fundamental change needed to allow progress toward the goals of educating Oregonians and fostering an innovation economy in a diverse and inclusive manner for residents of all parts of the state and of all groups within the state. Obviously, such a change would require amendments to the Oregon Revised Statutes, particularly ORS Chapter 351.

In such a System, the State Board of Higher Education remains a public body and would continue to be appointed by the Governor and confirmed by the state senate. An alternative is to have a statewide-elected Board (as is the case in Nevada). This step does not seem necessary at this time but would make the status of the Board more akin politically to that of the locally elected boards of the community colleges.

The Board might have to be expanded slightly because of workload demands on its members and to help ensure geographic, demographic, and skill diversity. A board of fifteen members is suggested.

This proposal continues to operate the seven universities and their programs and branches as a single System. This is done to enhance the value of the changed status and to ensure that

resources can be allocated and programs allotted with an eye toward meeting statewide goals rather than only to meet the needs of individual institutions. In this model, the institutions are means to achieve the statewide public goals of the Board within the public policy framework that the Board establishes and in fulfillment of the Board's agreements with the state, and not as stand-alone entities with their own independent agendas.

However, operations would be the province of the individual institutions whose performance would be judged and whose state-related funding would be allocated based on achievement of targets specifically designed for each university in recognition of its mission and of the nature of the students and communities it serves. Those targets would be met within the context of the Board's values, principles, and policy directions and would be different for each university. The overarching principles the Board might use in allocating both responsibilities and funding to campuses could be:

1. The achievement of the four goals of the OUS strategic plan (attached), which include increasing the educational attainment of Oregon's adult population, offering high quality instruction, providing innovative research that drives Oregon economic development, and providing services that improve the vitality of communities throughout the state;
2. The Board will enter into an agreement with the state government each biennium that details state funding and performance expectations for the System;
3. The Board will enter into agreements with each institution/campus for the fulfillment of its compact with the state and will include appropriate accountability measures in such agreements along with the provision of state appropriations;
4. Oregon's public universities have public responsibilities to educate all qualified Oregonians;
5. Functions and responsibilities should be performed in order to achieve Board goals with as low an expenditure of resources (funds, facilities, and time) as possible, consistent with achieving the quality goals of the Board;
6. Each entity and employee within Oregon's public universities is responsible for contributing to the achievement of the Board's goals;
7. The Oregon University System and its institutions will honor and respect the value and contributions of its employees, both faculty and staff;
8. Activities in support of Board goals should be carried out by those most qualified to do so and closest to the delivery of the fundamental undertakings of education, knowledge advancement and creation, and service to Oregon and its citizens and the accountability mechanisms adopted and maintained by the Board will be appropriate to ensure that goals are achieved by those responsible for activities at each level of the organization;
9. The Board will establish and maintain accountability and performance frameworks and agreements with entities and senior employees to ensure achievement of goals;

10. The Board will develop a compact regarding achievement and resources with the state and will encourage, monitor and enforce institution progress toward achievement through its accountability and performance frameworks and through the allocation of state funds;
11. Every Oregon public university will be responsible to the Board for the achievement of Board goals and must be sustainable financially in order to fulfill its responsibilities and commitments;
12. Every Oregon public university will ensure that all qualified Oregonians can afford to attend and succeed;
13. All Oregon public universities and related entities will be responsible for adherence to the policies and values of the Board and to high ethical standards;
14. All Oregon public universities will protect and enhance the academic enterprise of their institutions, will embrace the precepts of shared governance, and will honor the freedoms of expression and inquiry essential to a university;
15. The Board will ensure that the portfolio of programs offered by Oregon's public universities has sufficient scope and quality to meet the Board's goals and state needs; and
16. The Board will ensure that its strategic plan takes into account the needs of Oregon, its citizens and business community and that the achievement of that plan informs the allocation of missions, programs, capital improvements, and appropriations to Oregon's public universities.

Bearing in mind these overarching principles, the following outline of a new compact with the state describes the proposed Oregon University System in general terms.

1. The State Board of Higher Education oversees a *Public University System* (rather than a state agency), which would lead to effects such as:
 - a. Protection of fund balances/reserves and dedication of their use to education of OUS students and support of OUS programs and operations
 - b. No tuition caps by legislature
 - c. Same automatic inflation adjustment as used for community colleges
 - d. Control of risk management and insurance
 - e. Retention of investment earnings on funds other than state appropriations
 - f. No limitations on operating expenditures other than appropriations
 - g. No limitations on capital expenditures except where appropriations or state general obligation debt is used
 - h. New salary and benefit plans (at least for new unclassified employees) might be considered and could be phased in, subject to collective bargaining, where appropriate

- i. This could mean co-pays on health insurance premiums or other changes to health care charges
 - ii. This could allow for a cafeteria benefit plan
 - iii. This could mean a new defined contribution pension plan for new unclassified employees who choose not to participate in PERS
 - iv. Savings from current benefit costs (if any) should be directed to increase salaries (if financially possible)
 - v. This would permit universities to have greater control over their principal cost drivers
 - i. Greater flexibility for some legal services
 - j. Board approves missions and programs of campuses
 - k. Board, through chancellor, hires, evaluates and fires presidents of campuses
 - l. Board develops and approves strategic plan for OUS
 - m. Board is responsible, through the Chancellor, for developing and monitoring performance relating to a compact with state
 - n. Board is responsible for establishing policies regarding conduct of business by campuses
 - o. Board is responsible for establishing common standards such as residency requirements, student records, employment conditions, and other standards applicable to all campuses
 - p. Board is responsible for minimum admissions requirements applicable to all campuses
2. The Board would establish a tuition process:
- a. Board guidelines take into account affordability (related to Oregonians' income) and level of state support
 - b. Board sets affordability targets (need-based aid, fee remission requirements, etc.)
 - c. An open tuition-setting process on each campus involving students, faculty, and others would be used to develop annual or longer tuition proposals
 - d. President proposes a plan for tuition
 - e. Presentation of a university's tuition proposal to the Board with comments to the Board by the university's student government representative
 - f. Board adopts tuition for each campus
3. The state would provide funding to the Board for (and performance targets would be set for):
- a. Enrollment of Oregonians
 - b. Affordability for student enrollment (need-based aid to OSAC, remission targets [e.g., 15 percent of undergraduate tuition revenue])
 - c. Degrees awarded

- d. Employment of graduates
 - e. Level of funded research
 - f. Workforce enhancement or other economic development measure
 - g. Achievement of specific state goals and initiatives (e.g., special workforce category or innovation effort)
4. The Board would provide appropriation funding to campuses based on Board-approved mission and programs and based upon assuring that the sum of the efforts of the campuses can meet state targets. Areas that might be funded include:
- a. Degrees
 - b. Oregon enrollment
 - c. Research/economic development
 - d. Graduate and/or employer satisfaction/professional licensure
 - e. Retention/graduation rate/time to degree/first generation student success/transfer student graduation rate/diversity, etc.
 - f. Collaboration among OUS institutions and collaboration with OHSU, Oregon community colleges, and Oregon K-12
 - g. Cost control, quality improvement, new programs to meet state needs
 - h. Affordability for lower income students
5. OUS campuses would be responsible for education, research, service, and for operations and oversight of all construction, for private fundraising, and for establishing partnerships and collaborations
6. The Chancellor would be responsible for supporting the Board, all connections with state government (funding, advocacy, and capital and operating budgets, etc.), auditing, developing and monitoring performance agreements with the state and with campuses, monitoring financial sustainability standards, monitoring success of implementing Board policies regarding diversity and equity, monitoring the affordability for Oregonians of attendance at each university, evaluating presidential performance, developing and sustaining collaborations with other education entities (e.g., K-12 schools, Oregon Department of Education, community colleges, Oregon Health and Science University, and independent colleges and universities), strategic planning support for the Board, supporting the Board in mission and program allocation and approval, federal advocacy in policy areas, allocating state appropriations, developing incentives and a framework for collaborative education and research, and such central functions and services as are appropriate to carry out other responsibilities.

The entirety of the System would be used to achieve the overall performance needed to fulfill agreements with the state. The agreement with the state would involve the provision of a block grant to the University System along with the performance agreement.

As a public entity with powers similar to those of a community college district, OUS would no longer be subject to control and oversight by the Department of Administrative Services (e.g.,

for risk management and insurance), would have a budget process with the state similar to that now used by the community colleges and K-12, and would not have its funds subject to expenditure limitation except for state appropriations. The universities, like their community college colleagues, would retain eligibility for state funding for operations and capital. The Board, like its community college counterparts, would have an open and public process for budget development and the allocation of appropriations. Universities also would be expected to have similar processes for their individual operating budgets.

This proposal does not require the establishment of local governing boards, retaining governance as the province of the Oregon State Board of Higher Education. However, the proposal does call for the State Board of Higher Education to have the authority to establish boards for any or all of its individual institutions. The desirability, nature, and authority of these local boards require further discussion and investigation and may vary by institution. Local boards have value in permitting citizens appointed for that purpose to advise the leadership of a university and to provide oversight to its programs and operations. Further, based upon experience in higher education's independent not-for-profit sector, members of local boards can be a source of philanthropy for the institutions they oversee. On the other hand, local boards can exacerbate the resource and influence differences among universities in ways that may be antithetical to the principles and values of the Board and the best interests of the state or of regions of the state. Finally, the roles of the State Board and of any local boards need to be delineated carefully so that the needs of the state are met and the lines of authority and accountability are clear. Based on these conflicting considerations, it seems reasonable to have a separate reflection about the role of local boards and of the State Board and to permit the State Board to choose if, when, and how to delegate portions of its authority over the operations of the universities to local boards associated with those campuses. Such decisions could be made at any time and could require state review or approval prior to execution. Local boards need not be established for every university even if they are created for one or more universities. The guiding principle for the State Board's decisions on the matter should be whether the establishment of a local board furthers the achievement of the Board's four main goals. The framework and responsibilities for each local board could be somewhat different from those of other local boards as long as clarity is maintained and as long as each local board reasonably can be expected to assist the State Board to achieve its overall goals and to fulfill its commitments to the state. Local boards, if established, should be agents of the State Board and must be public agents of the State of Oregon. Their public nature, their public purpose, and their public responsibilities and those of the campuses for which they bear some responsibility cannot be compromised.

Models for local boards from other states do not offer a consistent picture of their responsibilities or of their relationship to the state or system board. In some cases, local boards have considerable authority (e.g., in Ohio) while in others (such as North Carolina) the system board retains most authority and the roles of the local boards are limited. As is currently the case in Oregon, most western states (California, Montana, Idaho, Arizona, Hawaii, Alaska, and Nevada) do not have local boards for their universities. Washington, Colorado, and New Mexico have local boards for their institutions but do not have state systems of higher education.

Wyoming has just a single university. Utah, which has a statewide board, also has local boards for its universities. Most authority is vested in the statewide board (e.g., hiring and firing the institution presidents, setting tuition) but local boards do have some operational authority over the universities.

There are three basic models for local boards. In the first, the state board has no governing authority but has some planning, policy, and program review roles. It also may provide some coordination of multi-institution programs. All responsibility and authority for all aspects of the universities (operations, capital, admissions, tuition, aid, personnel, contracts, property, state relations, etc.) is vested in the local boards. Washington uses such an approach.

The second basic model is one in which the state board has all the legal authority and delegates some of it to the local boards, usually within guidelines established by the state board. North Carolina is an example of a state that uses this alternative. Its local boards have some authority (delegated from the state board) in the areas of admissions, conferral of degrees, hiring and firing (except for the campus chancellor, which is done by the state board), budget development, tuition collection, recommendations regarding some aspects of tuition setting, purchase and sale of property, and auxiliary enterprises. Members of the local boards may be elected by the state legislature.

The third model is one in which the state board and local boards share authority that has been granted to them by statute. Ohio seems to use this model and may do so because its local boards predated the governing power of its state board (which until recently was a coordinating board). The boards might oversee different aspects of universities or have different powers limited by thresholds. Discussions with Ohio leaders did not suggest that clarity has yet been achieved in what is essentially a new approach to governance. Utah has had this structure for a longer period of time. Most authority in Utah (e.g., tuition-setting, program approval) lies with the state board but local boards have some powers and, like the state board, are appointed by the governor and confirmed by the legislature. Tensions seem to have arisen between the boards from time to time and have been resolved, according to one observer, by convincing the president of the campus who was diverging from statewide policy to “collaboratively” reach agreement with the system.

The underlying premises of the proposal for a new compact between the Oregon University System and the state involve conveying to the Oregon State Board of Higher Education all the authority it now enjoys (as well as some authority now vested in other state agencies), but as a new public entity. The Oregon State Board of Higher Education also would have the authority to determine whether, when, and under what conditions and circumstances it would delegate some of its authority to local boards. The composition of those local boards and their respective authority can be determined by the State Board of Higher Education. Clear authority is essential if accountability is to be achieved.

A more complete (but not exhaustive) listing of possible responsibilities in a construct that does not involve local boards follows. Obviously, the State Board, if authorized to do so in the

enabling legislation, could delegate some of its responsibilities or the responsibilities of campuses to local boards.

SELECTED BOARD RESPONSIBILITIES

1. Mission approval
2. Academic program approval
3. Strategic planning for higher education in Oregon
4. General and overall policies and principles for higher education in Oregon
5. Tuition framework, principles, policies, and guidelines and tuition approval
6. Financial aid framework, principles, policies, guidelines, and requirements
7. Framework and incentives for collaborative research and education
8. Framework and incentives for collaboration with K-12, OHSU, and community colleges
9. Approval of requests for state funds for operations and capital
10. Approval of distribution of state funds to universities
11. Authorization of university debt and approval of requests to use state debt
12. Performance compacts with state and with individual universities
13. Performance monitoring
14. Allocation of state funds to individual universities, collaboratives, and programs
15. Hire and fire Chancellor and, upon advice of Chancellor, presidents
16. Framework for presidential contracts and evaluations
17. Financial policies
18. Property acquisition and disposition
19. Minimum admissions standards
20. Residency requirements and other standards
21. Guidelines for conduct and ethics
22. Public standards for operations of public universities

SELECTED CHANCELLOR'S OFFICE RESPONSIBILITIES

1. State relations and advocacy (legislation, operating and capital budgets, performance compact, and related reporting)
2. Federal relations regarding policies and executive initiatives (as opposed to earmark appropriations)
3. Develop budget/state appropriation request
4. Performance compacts with state and with universities
5. Performance measurement and monitoring
6. Evaluate presidents' performance
7. Distribute state funds (base, performance, incentive, and [as appropriate] capital)

8. Central financial requirements and reporting
9. Financial policy development and financial sustainability guidelines monitoring
10. Staff Board strategic planning efforts and mission/academic program review and approval
11. Develop and administer (if appropriate) innovation, collaboration, and other incentives
12. Develop incentives for research and community enhancement
13. Develop Systemwide student success and other initiatives and provide support to universities
14. Participate in Joint Boards and other activities to promote student success and achievement of state goals throughout the education enterprise (including PK-12, community colleges, and independent universities)
15. Statewide partnerships
16. Monitor compliance with public standards, law, and rules
17. Internal audit

SELECTED CAMPUS RESPONSIBILITIES

1. Education
2. Research
3. Public Service
4. Statewide public services (for OSU)
5. Campus admissions standards
6. Consultative tuition setting
7. Tuition recommendations
8. Financial aid administration
9. Human resources administration
10. Conferral of degrees (including honorary degrees)
11. Collaboration with other education entities in Oregon
12. Campus operations
13. Campus plans and programs
14. Private fundraising
15. Federal relations related to institutional mission and to funding
16. Design, construction, operation, and maintenance of campuses and facilities

SELECTED SERVICE CENTER RESPONSIBILITIES (IF ANY)

These are cost reimbursable, separate entities with voluntary participation, except for aspects associated with required reporting and compacts or as required by the Board for efficient

management/cost savings, policy implementation, system management, etc. This list is by no means exhaustive and is illustrative only.

1. Information technology for 5th site
2. Purchasing and contracting services
3. Labor relations coordination
4. Employee benefits plans and negotiations
5. Risk management and insurance services
6. Treasury/cash management and investment services
7. Other (e.g., payroll processing/reporting)

Services such as those provided by the state's separately elected officials (State Treasurer, Secretary of State, and Attorney General) should be considered in terms of their efficacy and cost. No specific proposal is made in this paper regarding them.

If local boards are established in the future, careful consideration must be given to the clear division of responsibilities between the State Board and the local boards—a division that cannot attenuate the public purpose of the university, a division that improves the achievement of overall Board goals and Board performance commitments to the state, and a division that does not pit the State Board against the local board or the various local boards and their universities against one another.

Although steps would be taken and policies and procedures adopted to ensure that the universities fulfill their public missions and meet the outcomes required by the state, the aim of this governance change away from state agency status for OUS is intended to change the University System's culture from one of compliance to one of creativity. Regulation will not educate the workforce of the 21st century or generate the innovation necessary for Oregon's economic success.

The purpose of the change is to better achieve the Board's goals of raising the education level of Oregonians, providing high quality instruction, providing research that leads to innovations for Oregon economic development, and providing services to ensure the vitality of communities throughout Oregon.

V. FUNDING

Although changing the status of the Oregon University System from that of a state agency to a legal entity more akin to an Oregon community college will go a long way to ensuring that progress can be made toward the goals of educating more Oregonians and improving an innovation economy, such a change cannot substitute for stable and adequate public funding for higher education. Given recent and historic trends, Oregon is not likely to have additional General Fund resources in the upcoming biennia to support higher education adequately and, if the past is a guide, the universities face large reductions in state support in the near future.

However, a lack of state funding in the near-term cannot be allowed to doom Oregon and Oregonians to a second class future.

The presidents, in their joint letter on governance principles, stressed the need for stable and adequate state funding. This need cannot be ignored. In addition, the predictability of funding may be as important as its adequacy. The roller coaster of state appropriations over the past 20 years has given rise on at least a couple of occasions to false hope of improved state investment—hope that evaporated within months in both cases, but hope that led to faculty hiring and enrollment expansion before giving way to draconian cuts and resource constraints. Because higher education is a long-term enterprise whose “products” (educated graduates and research innovations) take years to develop, greater resource predictability is essential. Recent moves by legislative leaders to enter into a discussion with OUS regarding enrollment, tuition, financial aid, programs, reserves, and state investments over the next five years suggest a dawning recognition in the capitol of the long-term nature of the higher education enterprise.

Although efforts can be made to moderate the impact of tuition increases through the use of need-based financial aid, there are limits to the utility of this strategy to raise money for university operations to serve students. Oregon’s per capita personal income lags the national average by about 9 percent—a situation that has been slowly worsening since the state budget reductions of the early 1990s. Coming as this has at a time characterized by tax reductions (Measure 5, for example), this shows that Oregon cannot simply cut taxes and public spending and find prosperity for its citizens as a consequence. It also suggests that there is an upper limit to the tuition that middle income Oregon residents can pay—a limit that is lower than that which might prevail in many other states.

Therefore, a high-tuition/high-aid model may not be successful for Oregon and Oregonians if the state and its citizens are to see education attainment levels rise. At least, it does not seem likely to permit the state to educate enough of its citizens to reach its 40-40-20 educational attainment goals.

Different universities may have more upward price elasticity in their resident undergraduate tuition rates than do others. The OUS presidents all have stressed that they would oppose any attempt to “level the playing field” by moving either state or tuition monies among campuses to take account of the relative ability of the students at one institution to pay higher tuition than those at another institution. That will ensure that some universities have more resources than others. Even within that context, it will be necessary for all universities to increase the amount and proportion of fee remissions dedicated to needy Oregon undergraduate students.

In 2004-05, the Oregon State Board of Higher Education, through its Access and Affordability Working Group, developed the Shared Responsibility Model for Oregon resident undergraduate students attending Oregon community colleges, the Oregon Health and Science University, Oregon’s independent not-for-profit colleges and universities, and the universities of the Oregon University System. This model defined affordability and called for a sharing of responsibility for the costs of attending Oregon colleges and universities among students,

families, the federal government's grant and tax credit programs, and the state's Oregon Opportunity Grant. This proposal formed the basis for a large increase in funding for the Oregon Opportunity Grant in 2007. However, that funding was curtailed below expectations in 2009 and has not kept pace either with student growth or student need. Both the state and its universities must find ways to increase need-based financial aid for Oregon resident undergraduate students. Promising programs at the University of Oregon and Oregon State University, relying in part on donations by philanthropists, have made a positive difference in the past two years. However, it may not be possible for all universities to find sufficient donor and other resources to replicate these programs. The use of fee remissions to provide need-based financial aid will be essential. Those fee remissions must be taken from the entire undergraduate tuition pool (including payments made by both resident and nonresident students) and used to provide need-based financial aid to Oregon undergraduates in low-and moderate-income situations.

In order to meet the state's needs for higher education, means of stabilizing or increasing public funding must be found. President Lariviere has proposed that the state issue general obligation bonds and pay the debt service using the state's current appropriation for the University of Oregon. The University would match the principal amount of the bonds (about \$800 million) with private donations and use the investment earnings from the bonds and the donations to pay for University operations. Although there have been legal, financial, and political issues raised in opposition to this proposal, it remains one alternative that could increase the resources available to one Oregon public university. Under current state debt policies, there is not sufficient bonding capacity to extend this approach to other universities in Oregon. Further, the ability of other universities in the System to find sufficient donations to match the state bonds is doubtful and may never eventuate.

Numerous other revenue proposals have been made. However, it is not within the scope of a governance discussion to consider them all or to determine which might lead to increased financial support for the universities as they seek to fulfill their public missions and achieve the Board's goals. Nothing in this proposal would preclude subsequent consideration of any funding approach. However, it does seem important for the Board to emphasize that sufficient, stable, and predictable public funding is essential to achieve the public purposes of providing Oregonians a high-quality education that will enable them and their state to be successful in a highly competitive world. Establishing a mechanism (such as a percentage of the state General Fund that would be devoted to higher education or tying the OUS and community college appropriations to that of the K-12 schools as a means of adequately funding the entire education enterprise is essential for the future success of Oregon and Oregonians).

A credible proposal dealing with the future prosperity of Oregon must find a way to provide the Oregon University System and all of Oregon's public universities with the flexibility to operate effectively and with the adequacy and predictability of funding that allows them to plan for and offer high quality education programs for Oregonians and could be a part of any compact between the Oregon University System and the state.

VI. CONCLUSION

A new compact between the Oregon University System and the State of Oregon is being proposed—an agreement that focuses on outcomes for the state and on flexibility and predictability for the universities. The results will be greater student success and greater prosperity for Oregon while maintaining affordable access to quality education programs for all Oregonians.

The state would be able to count on its universities to provide quality education, innovative research, and community services at a price that would be affordable for Oregonians—both students and the state. The universities would be able to count on the ability to operate more flexibly and to expect predictability in state and student funding.

The only way to approach this compact is through a partnership: a partnership between the University System and state leaders; a partnership between university leaders and their faculty, students, and staff; a partnership between the universities and businesses and community organizations throughout the state; a partnership between the universities and Oregon's K-12 schools and community colleges; and a partnership between the Board of Higher Education and each university in the System.

To succeed, there must be value for each member of these diverse partnerships. The value to the state can be measured in terms of enrollment, degrees, economic vitality, and community vibrancy. The value to the universities can be measured in terms of flexible efforts directed on outcomes rather than on compliance with restrictive rules and on the financial sustainability of the higher education enterprise in Oregon; the value to the faculty and staff can be measured in terms of job security and of competitive salaries and reasonably priced benefits, as well as in the opportunity for creativity that comes when the enterprise focuses on results instead of compliance; the value for the students can be measured in overall enrollment, enrollment of currently underserved populations, student success/degrees attained, learning, and affordable access; the value to businesses and communities can be measured in terms of an educated workforce/citizenry, research-driven innovations that translate into new economic activity, new and expanded companies, jobs, and community vitality; the value to Oregon and Oregonians can be seen in a brighter future, higher average incomes, more jobs, and better communities.

These outcomes are a lot to expect and the universities cannot achieve them alone. Hence, there is need for the commitment of all the partners to make Oregon and Oregonians successful. That is the real promise of the new compact: that in exchange for greater flexibility and more stable (albeit, in the immediate future, probably lower) state investment and the active participation of business and government partners, the universities will provide more access for Oregonians to high-quality education, more affordable access, and more success for Oregon as measured by degrees attained and research-inspired innovation that drives economic growth and job creation.

