IN CONSIDERATION OF LOCAL GOVERNANCE FOR OREGON PUBLIC UNIVERSITIES

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Discussions regarding the governance of public universities in Oregon should focus on the higher education needs of the people of Oregon, as reflected through their elected officials. One expression of those needs is the recently adopted 40-40-20 goal. This means that the Governor and the legislature will seek to manage all elements of the education continuum so that by 2025, 40% of the adult workforce in Oregon will have at least a college degree as their highest level of educational attainment, 40% will have the equivalent of a post-secondary certificate or associates degree and the remaining 20% will achieve a high school degree.

The current effort to define a new seamless governance structure for the education continuum, P-20, is driven largely by this objective. It also reflects the understanding that Oregonians who progress through the Oregon education system should represent the dominant majority share of the more highly educated adult workforce in the state. We should not be satisfied by merely importing, rather than creating, college graduates.

This educational attainment initiative in no way diminishes the importance of public higher education in pursuing basic and applied research, advanced educational training at the professional and doctoral levels, and the need to create new businesses and jobs in Oregon. It also means that the service role provided by the public universities to the general public through such efforts as those of 4-H and the statewide public service programs must continue to be fulfilled.

The organization of public higher education in Oregon should be configured to efficiently educate Oregonians, create new businesses and jobs, and serve individual and community needs throughout the state. In achieving the goals described above, as in most instances, form should follow substance. The strengths and weaknesses and the details of proposed governance structures for higher education should be measured by the extent to which they advance or deter the state from achieving these objectives relative to the current governance structure.

The two most important factors for greater success in achieving 40-40-20 and the other goals of public higher education in Oregon are:

1. **Flexibility in management** at the individual university level coordinated to achieve common goals by a single statewide board that is responsible for ensuring that universities are working together for the benefit of the state. Flexible management at the university level will benefit all of the roles that universities play in Oregon's economy – teaching, research and outreach and service.
2. **Greater financial support from the state and private sources** to foster these efforts. This includes targeted financial support for the research and outreach services that universities

provide to state citizens. Investments in the teaching, research, and outreach services that all of the state's universities provide will position Oregon as a leader nationally and internationally in economic competitiveness. Research and service activities would also benefit both from increased operating flexibility at the university level and continued collaborative strategic efforts at the system level.

Although the argument for additional investment in all three aspects of public higher education is compelling, I will not dwell on that issue here. Instead, I focus on how the governance structure we choose can optimally advance the effectiveness of our efforts in higher education for the benefit of the people of Oregon. I particularly address the role of local boards in that optimal structure.

In seeking the passage of SB 242 last legislative session, we contended that the universities will be able to graduate more Oregonians from undergraduate and graduate programs under any given level of resources. The bill provided relief from some of the dysfunctional regulations of state agency status. Additional operating flexibility for the universities to manage their own business activities will improve their operating efficiency and result in more "bang-per-buck" for the people of Oregon for their tax, tuition, partnership, and philanthropic dollars.

Examples include greater flexibility in setting salaries, health benefits and pensions, purchasing and selling real property, and capital projects that are not financed by – and do not increase the need for - state resources. I do not advocate for complete flexibility in any of these areas. After a transition period to establish procedures and trust at the university level, resident undergraduate tuition could be set locally within limits and procedures established at the system level. I believe efficiencies can be gained by added flexibility in each area. It is instructive that some years ago the then president of OHSU, Peter Kohler, attributed the remarkable success of OHSU during its first decade of greater autonomy to its focus on expanding its research capabilities and its ability to use its own borrowing capacity to make strategic investments in facilities.

The case for changing governance at the local level

Colleagues at the University of Oregon and Portland State University want to have local governing boards, while I have expressed a preference for a system level board. The smaller public universities seem to prefer governance through a system board also, though they may ultimately choose otherwise. The current discussion of governance should take the perspective of the presidents into account, but I believe it would be a mistake to have presidential preferences, including mine, settle the issue of whether all or some of the universities should have local governing boards.

The appropriate question is: what are the needs of the overall governing authority for public higher education in order to ensure alignment of objectives at the university and state level to achieve our common goals such as 40-40-20? The answer surely depends on the structure of governance at the state level. But, this is not simply a matter of whether all of higher education is overseen by the Oregon Education Investment Board, (OEIB), The Higher Education Coordinating Commission, (HECC), or by independent community college boards and the Oregon University System, (OUS), board, as is currently the case. The state governing authority should determine whether or not the effective discharge of its

governing responsibilities requires – or will be aided by - the establishment of local governing boards at all or some of the public universities.

It is not clear to me that the question above has been adequately addressed over the last two years. I do not oppose the creation of local boards at other universities but I do not prefer a local board at Oregon State University. I recognize the importance of oversight and coordination of public university activities at the state level. HB 4061 B creates a special committee that may produce enabling legislation for the 2013 session to create local boards. I believe the appropriate question is: if they are to exist, how should local boards be configured and charged to capture the best features of a system board and still meet the needs of the statewide governing authority?

In the worst instances, universities with local boards meander toward excellence, if they are lucky. They often must accommodate the tastes of local board members while trying to execute longer term plans. My experience with a local board and with the NCAA leads me to conclude that many of the problems universities in Division I have with NCAA violations are related to boards or board members who tell the president when and how to hire and fire coaches and when to look the other way in the face of possible infractions because "things" are going well.

What might be called the care and feeding of local boards can be very expensive. Usually there is a board secretary with staff to arrange visits to programs, individuals, and groups for board members. General Counsel is almost always needed at board meetings to ensure that public open record laws and other regulations are adhered to by the local board. Also, the more frequently the local board meets, the more resources are needed to arrange meetings, prepare content and follow up on requests from board members. In addition, sometimes individuals or groups within the university will try to make an end run around the university administration to gain support from the local board- or, board members may reach down into university operations to champion an individual or program. This kind of mischief is less likely with a system board, which must oversee several universities and maintain a broader and statewide perspective.

Local boards represent a local power base with an expressed purpose of seeking local interests that may not align with those of a statewide governing agency. If the local board hires and fires the president and has direct access to the legislature and/or the Governor for support for capital projects, general funding or other forms of special consideration, the state governing body will quickly lose relevance. The state as a whole will lose the benefits of a focused, coordinated effort in attaining common goals. Alignment among all of the institutions is crucial if Oregon is to achieve goals such as 40-40-20 as effectively as possible.

As suggested already, local boards will naturally advocate for the success and benefit of the universities they lead. Unfortunately, that can create tension between the university and the executive and legislative branches of state government. The people of Oregon created the public universities and bear the credit for their substantial property holdings and reputational capital. While the state continues to struggle to provide operating fund support for the public universities, the universities cannot realize their potential for service to Oregonians and the nation without a strong positive partnership with

government leaders. A strong state governing authority is an important factor in holding fast to that important partnership.

Based on my experience operating under a local board elsewhere, I prefer a state governing authority to a local board for two additional reasons. First, I believe adding one more layer of bureaucracy will detract from accountability in our business and public sector management by blurring the lines of responsibility. Presidents have been known to tell governing authorities that they cannot control their local governing board which is not supporting system policy. The state authority is then forced to decide whom to believe. I prefer to be held directly accountable for what we do -and do not- accomplish at Oregon State University; and I think that clarity of accountability is in the interests of the people of Oregon.

Second, I do not feel at a loss for excellent advice. The OSU Foundation is perhaps among the best managed and overseen foundations in America. I have used that board to discuss every major challenge that we have faced at OSU, and the advice has been of the highest possible quality. Incidentally, I know that some would argue that local boards can help raise money. We are in our first university-wide campaign and rapidly gaining on our twice upward revised goal of $1 billion for the Campaign for OSU without a local governing board.

The advice I receive is not solely from the Foundation. We believe in -and practice- shared governance at Oregon State. Currently, we are assessing proposals that would literally transform the university from 63 colleges, schools and departments to as few as 32 under the direction of the faculty. We do not need a local board to tell us how to innovate and change. Also, I receive excellent advice from colleagues, the faculty senate, special commissions on campus, our alumni association board and from my board of visitors. This last group is helping us to create an inclusive community on campus and to recruit the best and brightest and most diverse faculty, staff, and students.

Most of these points are not novel observations. In order to design and instruct local boards in ways that will minimize the adverse and costly behavior that I have identified, I encourage those charged with designing local boards to consult with representatives from the Association of Governing Boards, (AGB), the consultants previously engaged by the Joint Interim Legislative Committee on Higher Education following the 2009 session which led to the passage of SB 242, as well as those who advised the OUS board.

My preference for a system board is simply based on the observation that a board at the system level is less prone to micro-manage, is less likely to contribute to athletics violations, is less expensive to work with from a financial, time, and staffing perspective, and is better able to maintain alignment in operating objectives of individual institutions and the state. I am sure that consultants, including those from the AGB, could provide advice on best practices for operating local boards to somewhat mitigate the negatives I have mentioned and others that I have missed.

HB 4061 B calls for a Special Committee on University Governance to make recommendations regarding local governing boards for the 2013 legislative session. Therefore, I am making a number of suggestions on the operation of local boards.

- All members of the local board should be appointed by the Governor, including the board chair, for a once renewable, six year term, with advice from university, foundation, and other leaders, including the members of the board themselves.
- Once the board is established, the president could be appointed and removed by the local board with the advice and approval of the state governing board.
- Students, faculty, and staff should be represented on a local board with perhaps two year terms.
- The board should consist of no more than 12-15 members.
- Local boards should be organized to conduct quarterly meetings except in emergencies.

The operating flexibility I mentioned earlier could be constrained by system guidelines with oversight and implementation managed by a local board. For example:

- The local board might be authorized to approve salary increases up to a fixed percentage without requiring the approval of the system board.
- Health benefits and retirement benefit packages might be developed at each university providing that system packages are not more cost effective.
- Resident undergraduate tuition levels should continue to be set at the state authority level until local procedures and trust are built for limited tuition flexibility at the university level.
- Universities should set non-resident tuition.
- Universities could be authorized to use their own borrowing capacity up to a defined limit of debt service on capital projects as a percentage of operating revenue.
- Universities could be authorized to purchase and sell real property up to a defined dollar limit in value.
- Universities should be authorized to address personnel policies for faculty and staff.
- Universities should manage legal affairs coordinated through the state governing authority.
- The state governing authority should retain control over the allocation of state general funds among universities and establish state priorities for capital projects that rely on state matching funds.
- The state governing authority should also ensure compliance by each university with established performance or achievement compacts, and submit a unified budget to the legislature for which the state board coordinates lobbying and advocacy activity for the public universities.
- University mission statements and programs should be determined by the state governing authority.

Since I arrived in Oregon in 2003, I have called for the public universities to collaborate as a "virtual mega-university" to provide the impetus for economic development and social progress for the people of Oregon. Unless we work together, we will never attain the economic and social impact that large, comprehensive public universities in states like Florida, Texas, Minnesota, and Illinois have done. The need for collaboration is felt nowhere as strongly as in the area of strategic statewide investment in research. The effectiveness and efficiency of our system-wide research capabilities can benefit from oversight and strategic investments by the state governing agency in areas such as nanotechnology,

sustainable building practices, energy alternatives, manufacturing, and natural resource protection and management.

Decisions about whether or how to create local boards should be based on the degree to which local boards will effectively manage Oregon's universities on behalf of the people of the state. I understand that some believe the degrees of freedom for operating efficiently at the university level that I have mentioned may not be possible if there are no local boards. It is not clear to me that local boards create greater accountability and better decisions –or if they actually create the need for a stronger statewide board in order to control and oversee them. I remain particularly concerned about the considerable cost burden that local boards would impose on the four smaller universities in the state.

I hope these observations contribute to the ongoing conversation regarding the best governance structure for public higher education in Oregon. The structure we adopt must ultimately be judged by its effectiveness in enabling us to achieve the 40-40-20 goal, to advance research and to provide services that meet the needs of the people of Oregon.

Finally, if there is local discretion regarding the creation of a local board at Oregon State University, I hope that time will be allowed for me to fully engage my faculty, staff, students, alumni, foundation colleagues and donors, in a conversation regarding the best governance structure to manage our affairs going forward. We are deeply committed to -and invested in- shared governance at Oregon State; and I believe deeply that colleagues can help all of us determine whether or not a local governing board can position Oregon State University to best serve the people of Oregon as their land grant university.