May 7, 2012

To: Oregon Education Investment Board

From: Dorothy Waller, Executive Assistant to Ben Cannon

RE: Notes from April 26th meeting of Special Committee on University Governance

The following are notes from the April 26th meeting of the Special Committee on University Governance. Created by House Bill 4061 in the 2012 legislative session, this was the second meeting of the committee. The majority of the time was spent reviewing a draft proposal regarding institutional governing boards prepared by the Governance and Policy Committee of the State Board of Higher Education. The proposal is still under discussion with the goal of be finalized by the governance and policy committee to submit to the full Board of Higher Education at their June meeting.

In addition to the proposal, the committee received a presentation on tuition setting from Chancellor Pernsteiner and testimony from representatives of the Oregon Student Association. Although the discussion was dominated by the review of the draft proposal, there were several common themes throughout the meeting:

- Access & Affordability: The need to balance the mission of affordability and access for all Oregonians with the need to keep institutions solvent. Members recognized the current system of funding higher education is broken but whether local governing boards will help or hurt access and affordability is still in question.
- The role of philanthropy: The committee discussed the connection between philanthropy and local boards. There was recognition that Oregon has an advantage of having a large donor base with potential to infuse money into the higher education system through local governing boards. However, members were cautious about the undue influence this money could have if safeguards are not put in place. Members also discussed the need to establish what is expected from philanthropy before embarking on a major reform.
- State authority: The committee acknowledged the importance for the state to maintain some level of authority and have a method of recourse if a local board or university president is inconsistent with statewide policies and goals.

Presentation on draft proposal from Governance & Policy Committee of the State Board of Higher Education (Testimony from Paul Kelly, Chair of Governance & Policy Committee)

- The state board of higher ed is in a process of seeking structural changes. As part of this process, their committee on governance and policy has researched governance structures around the country, with particular focus on those states that have a form of local institutional boards. ***Through their research they could not find conclusive evidence that institutional boards lead to more funding or more degrees.***
- So why move forward with local institutional boards?

1. Devolve powers of state higher ed board down to local institutions and do so in context of maintaining statewide system
    - This is already happening as the state board devolves some power to the Presidents of the different institutions
2. Allow individual institutions to focus close up on day to day functions & operations of the individual institution, while the state board focuses on statewide & collective goals (40/40/20) & collaboration of 7 institutions.
3. Opportunity to verify the assertions that institutional boards will cause an increase in philanthropy.
4. As the whole higher education system faces uncertainty, this creates an opportunity that justifies boldness in order to ensure the system does survive & thrive.

- There are still important implementation details that need to be worked out.
    1. What are the criteria for establishing an institutional board? Who makes the call, the university president, legislature, broader body of constituents, etc?
    2. What is the recourse of the state if a university governed by a local board fails to meet its commitments?
    3. What are the impacts on the university system and its institutions, students, and process of funding?
- Achievement compacts become very important and a real driver in a governance structure that devolves power to institutional boards. Achievement compacts with the different institutions ensure accountability.
- Presented governance proposal summary (see separate proposal, 3rd page is summary)
    - 1, 2, 3, 6a, 6b have been discussed and agreed upon by governance and policy committee.
    - The others have not yet been fully discussed and still need to be vetted before sending a proposal to full board of higher education.
    - Any power not on this list is presumed to reside with the institutional board or university president.
- Other notes about proposal
    - 2a – Standards are driven by institution but approved by the state board
    - 3a – The process of hiring and reappointing a president would be similar to the senate confirmation process for governor appointments. The institutional board would come to the state board of higher ed with nominees that need to be confirmed.
    - 3c – The board of higher ed needs to be informed in advance and be a part of the dialogue before an institutional board makes a final decision regarding the termination of a president.
    - 6a&b – In terms of how an institutional board is created, the basic authority should rest with Governor to create the board.

Questions & reactions by committee members *(*answers provided by Paul Kelly)

- **Sen Morse** – What is the recourse, or what authority exists to deal with problems that may arise with a local board or university president? Such as when they are inconsistent with the higher ed board policies or not achieving the goals in an achievement compact?
    - **Paul Kelly:** Authority to terminate a president would ultimately be in the hands of the local board. During the re-appointment process the board of higher ed has some authority to not consent to a re-appointment, thus opening the door for a conversation.
    - **Paul Kelly:** As this relates to a local board that may be pursuing inconsistent policies, the only authority that exists is with the Governor. The Governor would have final authority to fire an entire board, disband a board, or choose another method to address a rogue board.
- **Matt Donegan** – Despite the lack of conclusive evidence, in terms of the reasons to move forward:
    - Agree with 1st reason Paul gave that there is a devolution of function & powers that doesn't require local board. This is already underway & they are trying to empower the institutions.
    - With the 4th reason Paul gave that there is a vulnerability of the higher ed, seems to be that there is a bias towards action rather than inaction.
    - Main drivers:
        1. Improve degrees, quality & delivery through local boards by having local knowledge.
            - Question was posed to university president asking what are they doing now that could be done better if they had local board. Not a lot of examples were given.
            - Possible that a local board is able to provide richer set of advice to a university president. Local board knowledge can be an asset. The counter could also be envisioned where a local board is counterproductive.
        2. Increase fundraising: Although data is inconclusive, the experience in Oregon could be different because we have a large concentrated donor base. There could be a correlation between amount of governance given to local board and amount of philanthropy you would expect in return. Evokes an image of a sliding scale where the degree of flexibility that the state would exhibit would be in response to the amount of philanthropy it expects in return. So what are the major, must haves for the state? How to prioritize the list of powers?
            - **Paul Kelly:** Only able to answer for himself rather than governance committee but, **(1)** Structure around hiring & re-appointment the president of an institution. **(2)** Method of creating institutional boards & its structure. **(3)** Ultimate approval of in-state tuition.
            - **Paul Kelly:** The first two are critical if you trying to maintain some state entity, you need to have some hooks that give the state control. Cutting state funding is not a good way to sanction a local board or President under this structure, particularly because they may just go out and find additional private dollars.
- **Rep Dembrow** – We need to maintain safeguards/side boards on authority of the local governing boards to make sure there is not inappropriate influence put on decision making due

to size of donations. The nature of who appoints the board members and the governor's role in makes sense.

- **Sen Hass** – That is the question here, if philanthropy is what's driving this, what will Oregon get in return? What will the philanthropy look like, endowment fund, restricted dollars, endowed shares, you can do this but you can't do this? That expectation should be known before we make a decision about major restructuring of higher ed system. Not sure how to get there.
    - **Paul Kelly** – agrees and these questions remain to be worked out. What criterion triggers the creation of a board for a particular institution? Who decides if an institution wants a board, the current president, broader group of constituents, legislature? The expectations need to be known from the outset but still grappling with the question.
- **Matt Donegan** – endorsing Sen Hass comments and thinks that it would be folly to go through reform and restructure without clear expectation and find ourselves without clear increase in philanthropy to show for all this effort. But also is not sure how to get there. Need to do all we can do what we can to understand those expectations for philanthropy.
- **Rep Dembrow** – Both UO & PSU have submitted proposals for local boards. Very different universities. Have you talked about how local boards may look different at different institutions, entities that are statewide versus entities that are more regionally focused (i.e. Eastern Oregon or PSU)?
    - **Paul Kelly**: No they (governance & policy committee of state board of higher ed) have not looked at the issue this way. They have only examined how an institution may or may not benefit from an institutional board. In case of smaller universities, they all are more strongly resistant to local boards. They benefit from the coordinated aspect of a state system.
- **Kay Toran** - Have you thought about the role of foundations at the institutions? They play a key role as advisor to the University President and in fundraising. This should be addressed as the special committee (legislative committee) moves forward.
    - **Paul Kelly:** Yes, the governance & policy committee asked the Presidents and their foundation leadership to address this question. There were several points discussed; the importance to maintain existence of foundations; the importance to maintain separation of some sort between the foundation & the governance structure, that local boards should not be the same as the foundation board.
- **Rep Johnson** - As we (state) focus on outcomes and a tight-loose framework, and begin to talk about local boards, could you envision the approval of institutional mission as something the state board of higher ed would advice & consent rather than approve? (moving 1a to 3)
    - **Paul Kelly:** Yes, they can envision this level of flexibility and that's the lens (tight-loose) through which this issue should be viewed. There are several items in the proposal that could be advocated for moving to just advice & consent vs. approval, thus giving local boards more control. This returns to the idea of prioritization that Matt (Donegan) brought up and what are the must haves for the state.
- **Rep Hoyle** – Need to incent philanthropy and get more money for higher education but we also need to keep our focus on the mission to provide an affordable, public education. We cannot allow philanthropy to detract from this mission.

- **Sen Morse** – You mentioned in the priority of things that tuition setting is something where the board of higher ed should be final adjudicator in that balancing. There is a relationship between entrance requirements, in-state tuition, and out-of-state tuition. Expand on role of board in this relationship. It's possible to raise the entrance requirements to the point where an institution would deny Oregon residents access and chooses to use out-of-state tuition to make the institution prosperous, losing that public mission by.
    - **Paul Kelly:** Within the proposal, 2a, refers to state board approval of institutional boards standards for student residency and overall admissions. Part of what's intended by 2a is that the state board would have a role in balancing the ratio of admission of Oregonians versus out-of-state. Part of the analysis is whether we are doing everything we can do to enable each of our 7 universities to be the best they can possibly be, which the answer is probably yes, but what is more important is whether we are doing everything we can do to make each of those 7 universities the best universities they can possibly be for Oregonians first and foremost.
- **Sen Morse** – Recently read an article about higher ed being the next bubble to burst. The cost of higher education has exceeded the cost of health care. The bottom line is about access & affordability for students. Will the local governing boards really improve efficiency and lower the cost? What is the impact on students?

Tuition Setting (Testimony from OUS Chancellor Pernsteiner & OSA)

- **Rep Dembrow** – We want to have a very clear understanding of how it's being done today and what questions do we need to answer as we decide how the ultimate plan deals with these issues.*(This comment applies to this presentation on tuition setting but also in regards to future issues the committee will delve into)*
- **Chancellor Pernsteiner** -
    - State board of higher ed has full authority for setting tuition rates for all categories of students & campuses.
    - Individual institutions submit proposals to the board in each category
        - Incidental fees (student govt, etc) This is drive by a student committee that recommends to the university president
        - Health fee for health services
        - Building fee, set by statute
        - Instructional fee (what most people think of when they think of tuition) – what does it cost to provide quality classes to students. Ask to forecast over 4 years
    - This year there was a change that required each institution to involve students at half or more of the members for the committee that advises the president on the proposals sent to the board.
    - Traditionally individual institutions have a lot of discretion to set grad school tuition rate and non-resident rates. The conservation has primarily focused on in-state, under-grad rates but that is starting to shift.
- **Tiffany Dollar, PSU student & Board Chair of OSA** & **Emma Kallaway. OSA Legislative Director**

  - Does not want tuition setting or hire/fire authority to be delegated down to local board. Would like state board to maintain power to keep statewide goals in mind regarding access & affordability for students.
  - A statewide system plays an instrumental part in mediating when there are concerns from students about proposals to increase tuition beyond affordability. A current example is at Southern Oregon University where they had a high quality student review for tuition increase proposal but administration had a different plan. OUS has stepped in to help mediate this discussion.
- **Rep Dembrow** – One idea offered would give individual universities authority up to a certain point and then if universities needed to exceed that amount they would need to go to a higher group for approval. What do you think of that?
  - **Emma:** OSA was opposed to the 5% tuition option in SB 559 and concerned if there is not a statewide system looking at under-grad tuition you would just be maximizing up to that cap again and again. A good dialogue about affordable tuition would not happen.
- **Sen Hass** – Agrees with last point however the way we do tuition now does not seem like an optimal situation. Budget notes are obscure part of ways and mean process and do not carry the weight of law. Do you see a better system? Rather than set a cap why not limit how much an institution can raise tuition with overall goal of reaching as many Oregon grads as we can?
  - **Emma**: Maybe there should be a cap for entire system; that would be great. But the decision making body should not be an individual campus.
- **Sen Hass** – This whole decision is about keeping cost down for students. What we need more than institutional boards is more money in the system? If these boards lead to more money through philanthropy then you won't have to stand in line at ways & means.
- **Sen Beyer** – OSA and students have traditionally sided with faculty regarding faculty salaries and raises, even at the expense of students. We are at a point where we either increase money to the institutions or reduce costs. The legislature has been unable to get more money into the institutions and universities have increased tuition. The local board model has the potential to increase money in the system.
- **Rep Hoyle** – OSA's testimony today does not take into account the proposal brought forth by state board of higher ed committee on governance and policy. We don't want to get back to the place from session where everyone is in their own corners, with their positions. Understood OSAs testimony today to mean they are against any move to local boards. We need to keep our focus on outcomes and how we get there and not get backed into our old positions from session.
- **Sen Morse** – What statutory requirements are there to implement what the higher ed board's governance committee is proposing, or will be proposing?
  - **Chancellor**: State Board of Higher Education will be providing recommendations to this committee. However many authorities embedded in statute or embedded in intuitional requests, the board is in the process of devolving to individual campuses. The creation of local boards requires legislative action.