This second draft includes actions taken by the Committee on Governance and Policy on April 20, 2012.

The state and people of Oregon have invested their funds and their trust in their public universities for more than a century. For many years, the only real sources of income for universities came from state appropriations and the tuition and fees paid by Oregon students. All of the campuses and most of their infrastructure and facilities were acquired and built using funds provided by the state or through the use of bonds backed by the state’s full faith and credit. Over the decades, this investment by Oregon—through its state government and through payments by its citizens—has built a high quality set of universities that have contributed to the educational attainment and general well-being of the state and its people.

In recent years, large increases in student enrollment have coexisted with declining or stagnant state investment. One result has been a rapid increase in the amount of tuition and fees paid by Oregon students, essentially shifting Oregon’s investment from its public sources (state appropriations) to its private sources (its students and their families). In addition, some universities have actively recruited and enrolled nonresident students—students from other states and countries who have been willing to pay several times the tuition level that Oregonians have been asked to pay. Further, universities have been successful (to varying degrees) in attracting private donations to support portions of their operations and of their capital needs. All of them have increased auxiliary enterprises income by providing housing, food services, parking, athletics, health services, students unions, and student activities to growing numbers of students. And all of them have increased the value of their externally funded research to new high levels.

Despite all these successful efforts to diversify their revenue streams away from Oregon sources (state appropriations and resident tuition), all seven of the universities still rely more heavily on Oregonians to support their capital and operating requirements than they do on sources external to the state. In fact, six of Oregon’s public universities still rely on Oregonians for the vast majority of funding needed to educate students and build and maintain classroom buildings. (This includes Educational and General costs plus debt service on facilities used to support Educational and General efforts.) At the University of Oregon, the share paid by Oregonians of the cost to educate students and construct and maintain educational facilities has been reduced over time to little more than half.
Although this might raise the question of the focus of those universities beginning to stray from Oregon and Oregonians, it more appropriately raises two issues: the appropriate balance of resident and nonresident students enrolled in OUS universities now and in the future as the state strives to reach its educational attainment goals (a matter not addressed in this paper) and the degree of influence and control that the state should exert in the future. Obviously, the people of Oregon have invested in the faculty, facilities, and reputation of all seven of the state’s public universities for many years. That investment has paid dividends for both the state and for the universities. It cannot and should not be downplayed or ignored. The seven universities are, and must remain, public creatures of the state of Oregon.

The shift of funding from Oregon sources to those outside the state (and to donors within the state) suggests that a reframing of governance may be appropriate. This was one of the bases for the passage of Senate Bill 242 in the 2011 Legislative Session. SB 242 changed the legal status of the University System and, by extension, all seven of its universities from that of a state agency to that of a public University System. The full implementation of that legislation will not occur until next fiscal year and all of the changes it permits have not yet been begun or their effects assessed.

However, some of the universities already are seeking even more distance from the governance system that Oregon has used for some time and the system used most commonly throughout the United States. They are seeking autonomous status that they believe could aid them in achieving their institutional goals more effectively, although national research has not shown clearly that such status would help the state achieve its educational goals more effectively or that such status is associated with greater success on measures of either student performance or increased philanthropy.

The Governance and Policy Committee has responded to the requests by these universities by agreeing in both November 2011 and March 2012 that it would consider advancing a proposal to confer greater autonomy on some or all of its seven universities under certain circumstances and with certain designated authority. The Committee asked that a draft proposal be prepared for its consideration in advance of a meeting of the soon-to-be-established special legislative committee charged with considering university governance and institutional boards.

In addition to the “how” that has occupied the Committee in its most recent discussions, it will be incumbent on either the Committee or on the legislative committee to consider the “why” and the “what if” of any such autonomy proposal. What should be the criteria upon which the state makes a decision to establish a separate governing board for a university? What is the recourse for the state if the university governed by such a board fails to meet its commitments or jeopardizes its status? What is the impact on the University System and its other institutions, the students at other Oregon universities, and the nature and process of funding for higher education if institutional boards are established?

This draft will focus on the “how” in order to fulfill the request made at the last Committee meeting. The other matters also should be addressed in the future.
If the State Board of Higher Education recommends the establishment of a governing board for one or more of the universities currently within the Oregon University System, it might consider the following draft proposal. The proposal is premised on the presumption that all seven Oregon universities are and must remain devoted to the achievement of public purposes and the goals of the State Board and the state. That is the presumption upon which the entire discussion of governance change has been conducted since the development of the concept that led to SB 242. The Board’s goals are to increase the education level in Oregon, to ensure that high-quality educational programs are offered, to provide high quality research that advances the frontiers of knowledge and contributes to economic vitality in Oregon, and to support vibrant communities throughout Oregon. The State’s goals, as codified in SB 253, include that 40 percent of its adults will have at least a baccalaureate degree by 2025 (hereafter called the 40% goal). The State’s goals will be further amplified in compacts between the Oregon Education Investment Board and the State Board of Higher Education and the presidents of the universities. Any governance change must be assessed in terms of how it contributes to better achievement of these public purposes.

A guiding principle of earlier Committee discussions on the subject of intuitional boards was that establishing such boards would not harm the University System and its universities. The impact of any governance change on both the achievement of Board and state goals and on the quality, efficiency, and effectiveness of the System and the campuses must be assessed. In this draft proposal, it is assumed that any detailed development of a proposal for a separate university governing board would adhere to this principle. No attempt is made here to spell out how the “no harm” effect might be achieved.

Committee discussions undertaken between November and March spoke of authorities that would be within the province of institutional boards and those that would be the responsibility of the State Board. Most of this proposal will deal with those distinctions. In the main, all operating decisions and policies would be within the purview of an institutional board except as noted below. In addition, except for matters pertaining to the issuance of debt, issues related to the employment of the president and the setting of resident tuition, most powers of institutional boards would also be the responsibilities of the presidents of those universities that do not have institutional governing boards.

At its April 20, 2012 meeting, the Committee on Governance and Policy discussed and approved several items and refined others.

A. Items Discussed and Approved by the Committee:

POWERS RESERVED TO THE STATE BOARD OF HIGHER EDUCATION

As the principal agent of the state in achieving the 40% goal, the State Board of Higher Education must maintain some levers to help ensure success. Ownership of property (buildings and land and including the power of eminent domain), interactions with state government (except for certain elements of achievement compacts), seeking and allocating state
appropriations, data definitions and requirements for financial and student data, achievement compacts with the Oregon Education Investment Board for Systemwide targets and elements, approval of institutional missions and degree programs, ensuring institutional fulfillment of applicable state rules and policies, and delineation of financial statement requirements are proposed to be exclusive functions of the State Board of Higher Education.

POWERS OF INSTITUTIONAL BOARDS THAT REQUIRE STATE BOARD APPROVAL
Some responsibilities of an institutional governing board might properly be subject to approval by the State Board of Higher Education prior to their exercise in any specific instance. This is due to the overriding public interest involved in these matters. They include setting admissions and residency standards and tuition rates for Oregon students, seeking and issuing bonds backed by the state (Article XI-G and XI-F bonds), mortgaging property, and suing public entities.

POWERS OF INSTITUTIONAL BOARDS THAT REQUIRE THE ADVICE AND CONSENT OF THE STATE BOARD
An institutional board would hire and reappoint its president with the advice and consent of the State Board with respect to the appointment and its length and would evaluate the president in collaboration with the Chancellor (whose involvement is intended to ensure that statewide and Systemwide issues are adequately considered). The State Board’s role in appointment and reappointment is intended to bring both a statewide perspective and accountability of achieving state goals into the decisions about reappointing a president. Termination of the president would be the responsibility of the institutional board after consultation with the State Board. (Termination would be the role of the institutional board and the role of the State Board would be limited in this case.)

B. Items Not Yet Approved by the Committee

The Committee has not yet fully discussed the following matters. However, the Committee did agree that the majority of the members of an institutional board would be appointed by the Governor and confirmed by the state senate.

POWERS THAT WILL BE EXERCISED IN PARALLEL BY BOTH THE STATE BOARD AND INSTITUTIONAL BOARDS
Certain powers can be exercised by both boards and normally will be coordinated between them. These include internal audit, the development of achievement compacts for elements and targets with the OEIB that are specific to the single institution, capacity planning to achieve the 40% goal (physical, faculty, staff, fiscal, and technological), financial aid policies to ensure affordability for Oregon resident students, risk management, and the provision of consistent legal advice.

SHARED SERVICES
Among the possible shared services that could be considered for mutual participation by all or multiple campuses are risk management, investment of funds, debt management, financial
statement preparation, payroll reporting, volume purchasing agreements, retainer agreements for architects/engineers and contractors, personnel services, information technology/data System operations, labor agreements, employee benefit plans, etc. Decisions about sharing services should be made by the State Board based primarily on minimizing the aggregate costs of activities, goods and services to the Oregon University System and on maximizing the aggregate revenues to the System. In other words, this is primarily a business decision and not one based on philosophy. The purpose of minimizing such costs and maximizing such revenue is to provide greater resources for direct instruction, to keep tuition affordable, and to provide other services that support student success or the effectiveness of the research enterprise.

INSTITUTIONAL BOARD COMPOSITION AND APPOINTMENT
The independent governing board is a creature of the state of Oregon, is part of the legal entity that is the public University System, is subject to the laws and rules of Oregon, and is established to fulfill a public purpose for Oregon and Oregonians. A majority of the members would be appointed by the Governor and confirmed by the state senate and should include both public members and members from the university community (faculty, staff, students, and representatives of the recognized alumni and foundation organizations). A member of the State Board of Higher Education would be designated to serve as a full member of an institutional governing board. An example of the composition of such a board follows: 12 members appointed by the Governor and confirmed by the state senate and including nine public members (serving a maximum of two 6-year terms each) and one member each from the institution’s faculty, student body, and staff (serving a maximum of two 2-year terms each); and one member each appointed by the State Board of Higher Education from among its members (who themselves already have been appointed by the Governor and confirmed by the state senate), the board of the university foundation from among its members, and the board of the university alumni association from among its members (all serving a maximum of two 6-year terms).