MEMORANDUM

TO     File
FROM  Angus Duncan, Chair
SUBJECT  Taking Oregon’s Climate Policymaking to the Next Level\footnote{1}
DATE  June 15, 2016

\textbf{Statement of the Problem:} While HB 3543 (2007 Session) gives the Oregon Global Warming Commission (OGWC) broad responsibilities\footnote{2}, it is not so generous in providing the Commission with the tools to perform these. Thus the Commission has neither authority nor budget. It must request staff support from State agencies that usually are short-handed already and have other priorities, however much they may be supportive in the abstract. Generally we have found ways to partly compensate for these legislative omissions.

\textbf{Discussion:} The Commission is given extensive responsibilities for evaluating State responses to climate challenges but no authority to ask the agencies for information on which to base such evaluation. It can theoretically set tasks for agencies (and others) but it cannot expect or require progress reports, let alone negotiate benchmarks to mark progress or its absence. It has minimal and uncertain staff support for evaluating data, devising policy recommendations, tracking progress and reporting to the Governor and Legislature, all as directed by statute.

The result is that while the Commission is the apparent institutional home for State climate policy, the reality is that it is a credible nexus for tracking emissions and making

\footnote{1}{While these issues have been discussed with Commission Members, the OGWC has not formally taken a position on the recommendations, which are advanced only on my authority as Chair.}

\footnote{2}{“The Oregon Global Warming Commission shall recommend ways to coordinate state and local efforts to reduce greenhouse gas emissions in Oregon consistent with the greenhouse gas emissions reduction goals established by section 2 of this 2007 Act and shall recommend efforts to help Oregon prepare for the effects of global warming. In furtherance of the greenhouse gas emissions reduction goals established by section 2 of this 2007 Act, the Oregon Global Warming Commission may recommend statutory and administrative changes, policy measures and other recommendations to be carried out by state and local governments, businesses, nonprofit organizations or residents. In developing its recommendations, the commission shall consider economic, environmental, health and social costs, and the risks and benefits of alternative strategies, including least-cost options. The commission shall solicit and consider public comment relating to statutory, administrative or policy recommendations.”}
recommendations but one that can hold no party or agency accountable. If the State is serious about delivering on its climate commitments, it requires a functioning focal point for climate policy where performance is tracked and aligned, where success or failure to make progress are marked and measured, and where informed course corrections can be devised and recommended.

I don’t propose to take on all these issues at once. And I need to note that several State agencies and many other parties – communities, businesses, institutions – are making meaningful if siloed progress that contributes to reaching State goals. Organizing State government to leverage these successes systematically is the least notice they merit.

**Accountability by Executive Order:** After consultation with the leaders of the State agencies most directly involved in the climate agenda³, I’ve proposed to the Governor’s Office a modest step forward: an Executive Order that would empower the Commission to:

1. consult with the State agencies in assigning primary responsibility for specific Roadmap⁴ recommendations (and climate change adaptation/preparation recommendations, when completed); jointly with agencies, develop benchmarks where appropriate, and assign;

2. receive annual or biennial reports from the responsible agencies on progress on recommendations, or failure to make progress, and reasons for each.

The Commission could request (but not require) similar reports from other parties (e.g., cities; Metropolitan Planning Organizations), following where recommendations lead.

*The Commission would have no authority to direct State agencies, intervene between the agency and its governing board or commission, or compel any action.* The authority would only be to assign responsibilities and receive annual progress reports, which would then be collected into the Commission’s Biennial Report along with the Commission’s independent evaluation. Since agency reasons for failure to make progress are often lack of resources or authority, this process is as likely to provide support for an agency as to be critical of its progress.

**Staff support for the Commission:** The Commission’s ability to evaluate the work of the agencies, and to consolidate the information into a form usable by the Legislature and Governor, is nearly zero today. The Commission is supported by ODOE at a 1/3 FTE level when there is not a pre-empting demand for that person’s time and expertise⁵. The Commission has no independent funding to contract for technical expertise, and no budget for communications⁶ or citizen involvement. The 2017 Legislature could elect to provide a small budget for minimal staff support (an Executive Director and a staff support position) and for a level of technical analytic support sufficient to review agency reports and perform independent evaluations.

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³ ODOE, ODOT, ODEQ, OPUC, DLCD
⁵ As, for example, there is as this memorandum is being written – OGWC’s staff support has been seconded to ODEQ for a summer, 2016 project.
⁶ The OGWC website was designed and constructed with private foundation funding solicited by the Commission. It has no funds to maintain even site security, and still less to use the site to actively engage Oregonians in State climate policymaking or planning, or provide access to means for Oregonians to reduce their carbon footprint or prepare for the effects of climate change.
analysis (e.g., of the economic feasibility and cost-efficiency of alternative approaches to GHG abatement).

**Another Option: Joining OCWC and elements of ODOE together:** In 2015, the House Speaker and Senate President called for a top-to-bottom review of the Oregon Department of Energy. Its role, its functions and its place in the structure of State agencies have been all put on the table. In that context, the Governor and Legislature should consider a proposition that can address, collectively, three issues: (1) oversight of ODOE’s performance, (2) the Global Warming Commission’s structural weakness, and, (3) the persistent absence of focus and integration, across State agency lines, in Oregon’s climate strategies, so tasks could be set and performance accountability could be obtained. A major step in this direction would to reposition the OGWC as the State Climate and Energy Commission (“OCEC”) and giving it responsibility for at least the policy and analysis assets at ODOE.

ODOE is the only major State agency and function without a governing board or commission to set policy, approve program design, and oversee program implementation. The Department would be advantaged, as most State agencies are, by institutionalizing this kind of policy direction and citizen/Commission Member oversight. This would be so whether ODOE remains a free-standing Department or is reformed and its functions reassigned. In the latter instance, the policy office, and perhaps siting, might find their new homes with the OGWC.

At the same time, the OGWC would find a base and staff support that it now lacks, a condition that seriously handicaps its ability to develop the analysis on which to ground its recommendations for climate action. While “energy” and “climate” are not synonymous, greater than 80% of the state’s emissions are driven by its utility, industry and transportation energy choices. Positioning the OGWC to require reporting accountability from other agencies and their governing bodies for their piece of the State’s climate policy implementation (but not intruding on the line authority of agency governing bodies) would create the center, and the accountability, that are lacking. The State pays a daily price for its absence.

I’ve discussed this OGWC+ODOE transition proposition with the Governor’s Office as an option for both ODOE and my Commission. While some of it could be accomplished by Executive Order, legislated reorganization would afford a more complete remedy.

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7 The Legislature directs State agencies to support the Commission’s work, and gives particular direction to ODOE to provide staff support. In practice this consists of a 1/3 FTE whose support work for the Commission can – and is – interrupted by other tasks that take priority. The Commission has no budget of its own and no FTE directly accountable to it.

8 The OPUC has sometimes been suggested as an alternative climate policy orchestrator. But the OPUC is not, by design and inclination, a policy-making body; it is an economic regulatory entity. That’s not a clean division by any means, but it’s an important distinction to bear in mind; as is the limited OPUC reach to investor-owned utilities that are a significant but still a minority greenhouse gas contributor. Transportation, industrial emissions, agriculture and forestry are wholly outside its purview.