

February 26, 2025

Dear Chair Hudson and members of the Higher Education and Workforce Development Committee,

I write to express our concerns regarding HB 3213. As you know, the proposed bill will apply existing public records law to a targeted segment of Oregon's private, non-profit corporations. Like nearly all other non-profits in Oregon, the Southern Oregon University Foundation (Foundation) is its own legal enterprise, incorporated in 1958 to enable private individuals to support public higher education in Oregon.

The Foundation exists to secure **private** philanthropic support to advance Southern Oregon University and to invest and manage gifts responsibly to honor donors' wishes. As a professional with thirty-plus years in higher education philanthropy, it is a privilege to support donors from varied backgrounds with varied interests as they find a philanthropic passion and then to work together to sync their passion with the needs of the university. It can, at times, be thrilling.

Philanthropic giving is a deeply personal act of love, kindness, and personal fulfillment. It is exceptionally rewarding to be part of a sector that believes in the future of higher education and is willing to put in their own financial resources to ensure its success.

The SOU Foundation has concerns about this bill on four major grounds:

1. The SOU Foundation itself has no employees. It is operated by 35 wonderful volunteers whose collective passion is to help SOU achieve its mission. The Foundation has a legal agreement with the university to ensure transparency of funds raised, the purpose of those dollars, and distributions of funds to the institution. If signed into law, HB 3213 would mandate that the Foundation divert precious donor resources away from student scholarships, academic programs, faculty support, and other initiatives that ensure student success—at a time when state funding has not kept pace with the real and often mandated costs of operation, which are beyond the university's full control. If Oregon were to fully fund public universities to fulfill their statutory missions, the need for Foundation resources would be far less.
2. The proponents of this bill claim that this is about "transparency." The SOU Foundation already publishes comprehensive information about funds raised, the purposes of those funds, and the amount available, based upon the foundation's fiduciary responsibility to manage those funds its in care. The Foundation Board of Trustees follows to the letter the legal gift agreements it has with donors. Be assured that while the SOU Foundation's endowment is nearing \$50 million, more than 65% of funds under management are restricted to student scholarships. I invite members of the committee to review our annual report at [giving.sou.edu](http://giving.sou.edu). In addition to our financial data, members will learn the stories of our donors and why they believe in our students and Southern Oregon University.
3. The reasons donors choose to be anonymous are varied by the person; however, I can assure you that neither the SOU Foundation or our university are hiding money or hiding donor

identities. Some donors simply do not want other non-profit organizations knocking on their door soliciting for donations. Others wish to remain on the sideline to watch their philanthropy work and do not wish to have public recognition. And still others, simply view philanthropy as a very private decision—one that they do not wish to enter public discourse. I have little doubt that future giving by individuals will be impacted if HB 3213 becomes law.

4. Although proponents claim there is evidence that greater disclosure is a common practice in most states other than Oregon, I have questions about the legal ground for the bill. In 2021, the U.S. Supreme Court ruled 6-3 in *Americans for Prosperity Foundation v. [California Attorney General Rob] Bonta* that California could not force non-profits to submit lists of their major donors to the state. At least part of the Court's decision was based upon the rigorous information already provided to the federal government through the 990 tax form. The form requires non-profits to disclose to the IRS the identities of large donors; however, this information can be withheld at the state level. I invite members of this committee to review an analysis of the Court's decision and how it may provide legal guidance on HB 3213. Additionally, the Court's decision closely aligns with the Donor Bill of Rights, a professional North Star for those working in our industry. The analysis was written by the leading international law firm of Proskauer and is available here:  
<https://nonprofitlaw.proskauer.com/2021/07/30/the-impact-of-americans-for-prosperity-foundation-v-bonta-on-donor-disclosure-laws/>

Thank you for the opportunity to provide this written testimony. I appreciate your service to our state and your individual and collective effort to propose and implement important public policy. In this particular case, I believe HB 3213 would do more harm than good in your efforts to ensure a quality higher education for Oregon students who want to pursue one.

Sincerely,



Janet Fratella  
Vice President of University Advancement  
and Executive Director, SOU Foundation

Cc: Jim Teece, President, SOU Foundation Board of Trustees  
Gene Pelham, Vice President, SOU Foundation Board of Trustees  
David Wright, Treasurer, SOU Foundation Board of Trustees  
Sue Collins, Secretary, SOU Foundation Board of Trustees