Minutes
Business and Finance Committee
Board of Regents of the University of Wisconsin System
February 13, 2004

The Business and Finance Committee met at 10:06 a.m. in room 1511 of Van Hise Hall, UW-Madison. Present were Regents Bradley, Connolly-Keesler, Gottschalk and Rosenzweig.

Regent Bradley stated that the Business and Finance Committee was asked to make a recommendation at the March Board of Regents meeting regarding the Taxpayer Bill of Rights, 2003 Assembly Joint Resolution 55 (TABOR), and its impact on higher education. The TABOR initiative holds spending limits in place and requires a referendum vote to exceed those limits. Spending limits are set using the prior year as the base adjusted for growth in the population and Consumer Price Index (CPI).

President Lyall noted that if the TABOR plan had been in effect over the prior ten years, statewide General Purpose Revenue (GPR) expenditures would have decreased by $1-2 billion per year in most years. Typically the UW System receives one-quarter to one-third of State cuts. Therefore, within a few years of the TABOR plan, GPR support could have easily fallen to zero, and essentially privatized the UW System. An analysis of increases in GPR expenditures showed that assuming spending on School Aids, Medical Assistance, Corrections and Shared Revenue and Property Tax Credits remained the same, the amount available for increases to funding for all other agencies would have been zero or less in most years.

Associate Vice President Freda Harris commented that the figures that President Lyall cited assumed that the spending caps applied only to GPR. In Colorado, the TABOR plan applied to both GPR and Program Revenue (PR) including tuition. If PR including tuition were taken into account, the actual versus TABOR expenditures would have been even greater. GPR figures were used in this analysis because the draft of TABOR could be changed to exclude PR from the spending caps.

Lance Burri, Assistant to Representative Frank Lasee, 2nd Assembly District, who is co-sponsoring the TABOR initiative, stated the GPR figures referred to in this analysis are based on many assumptions. Had TABOR been in effect, it would have affected State spending, and decisions to create and fund new agencies and departments would have been different. Also, spending would have grown at a slower rate; therefore, it is difficult to predict the rate of actual versus TABOR expenditures over the prior ten years.

Associate Vice President Harris remarked that the spending caps would have reduced the available funds for agencies and prevented other areas from exceeding the spending caps. The State could reprioritize GPR expenditures; however, the State has spending commitments to other programs that would make flexibility difficult. For example, the State is committed to two-thirds funding for K-12. Also, State support for Medical Assistance must maintain a certain level or risk losing Federal funding.

Regent Rosenzweig asked whether it is possible to analyze how the spending cap would affect other areas. Associate Vice President Harris noted that the TABOR plan is not a cap on agencies spending, rather it is a cap on State spending. The situation under TABOR would be better if the UW System were first in line for State expenditures. Regent Bradley noted that this would rely on the assumption that the State shifts its priorities more in favor of the UW System. President Lyall noted that this assumption would be a dramatic shift in State priorities.

Regent Gottschalk noted that if TABOR had been in place over the prior ten years and effectively privatized the UW System, it would have forced the UW System to drastically downsize. There is limited endowment income and limited tuition growth available. Under this plan, the UW System could not have maintained its commitment to access and quality.

Provost Spear stated that he worked for the University of Colorado-Boulder from 1996-2001. He commented that the Colorado model relies on population growth and changes in the CPI to determine spending caps. The spending caps apply to GPR, tuition, fees and other PR; however, it does not apply to gifts, grants and contracts and federal funds. He commented that a study done by the University of Colorado entitled, "Surviving Financial Challenges in Colorado Public Higher Education," shows that during the booming economic period of the 1990's, State support for the university was relatively flat. This occurred while institutions around the country were receiving increases. When the economy slowed at the start of the decade, State expenditures plummeted. The study projected that if current expenditure patterns continue, by fiscal year 2009, General Fund appropriations to the university would be reduced to virtually zero. Tuition is included in the caps; therefore, the option to raise tuition to make up for this shortfall is not available.

Provost Spear remarked that at the University of Colorado has a much larger percentage of non-resident students than the UW System, and 65-70% of tuition revenue comes from non-residents. Tuition revenue paid by students from other states in no way reflects upon on the taxes paid by Colorado residents; however, non-resident tuition is included in the TABOR spending cap.

Provost Spear noted that the demographics of the State do not reflect the demographics of college students. Also, higher education costs are varied (instructional technology, health care benefits), and these costs do not necessarily follow the typical CPI indicators. Enrollments at institutions of higher learning tend to be counter-cyclical, and people tend to return to school during economic downturns. As mentioned earlier, when the economy slowed, State expenditures for the university plummeted.

Provost Spear highlighted an analogy to illustrate the so-called "ratchet effect" of the TABOR plan through the economic cycles. The way Colorado's TABOR works, if a reservoir of water is emptied during a drought year, that new low water point becomes the new permanent water base that can be stored there. So, even after the rain and snow melt returns to normal levels, the State is not allowed to refill the reservoir to historical levels – it can only fill it to the lowest level plus inflation and population growth.

Regent Rosenzweig asked for examples of how the TABOR plan affected CU-Boulder. Provost Spear stated that faculty salaries dropped below their peers and faculty began leaving. Another example occurred when the Dean of the Law School attempted to raise funds to replace the antiquated Law School building. The State continued to increase the percentage of the project that needed to be funded by private gifts. The Dean continued to raise funds to meet the State requirement; however, after the economic downturn in 2001, the State and university froze capital construction, and angry donors wanted their money back.

Regent Gottschalk pointed out several statistics from Colorado showing State performance in areas other than higher education, such as K-12 education, public health care services, on-time immunization rates, high school graduation rates, investment in the arts and unfunded highway projects. For all of these programs, Colorado ranks near the bottom of the country.

Provost Spear remarked that many Colorado municipalities exempted themselves from TABOR. It would be difficult politically for the UW System to exempt itself from TABOR because the UW System does not want to appear as though it is not complying with State spending limits.

Mr. Burri noted that Representative Lasee traveled to Colorado and visited with policy analysts from the Bell Policy Center, financial managers from the University of Colorado System, State budget officers, Legislators and members of private organizations regarding the TABOR plan. During these visits, Representative Lasee learned from Colorado's experience and TABOR's impact on higher education. Also, differing tax structures between the two States would make Colorado's TABOR different from Wisconsin's TABOR.

Representative Frank Lasee joined the meeting via teleconference at this time.

Regent Rosenzweig asked about the status of the TABOR plan, and whether this is the final draft. Regent Bradley expressed concern about developing a report for the full Board of Regents by the March 5 meeting. Representative Lasee noted that the Committee could hold preliminary discussions concerning TABOR, although there may be changes in the final draft. Working groups within the Legislature are currently amending the initiative. The core principal of TABOR is to hold spending limits in place and referendum votes to exceed those limits. Representative Lasee commented that he would be amenable to two options regarding TABOR and the UW System to improve upon the Colorado model: 1) Define the UW System as its own separate school district; or, 2) exclude the UW System from the plan for non-GPR funds. These options arise due to the UW System's lack of taxing authority. Under either option GPR dollars would still fall under the spending cap. Representative Lasee also mentioned the possibility of exempting UW bonding in order to mitigate the effect of TABOR on the UW System.

Regent Connolly-Keesler asked Representative Lasee to address the fact that Colorado currently ranks near the bottom of the country in State school spending. Representative Lasee noted that Colorado's starting point for statistical comparison was lower in most every area, and Colorado's growth rate for per pupil spending has been about the same as Wisconsin.

Representative Lasee commented that Wisconsin has created a system of inter-locking revenue sharing. TABOR encourages limited but predictable growth in State spending with an option to exceed spending caps through a referendum vote. Representative Lasee noted that Colorado and Wisconsin have a strong history of passing local school referendums. Colorado does not have a strong history of passing State referendums; however, there are many examples in other states of a referendum process to approve taxing, spending and bonding.

Regent Bradley asked why TABOR is needed, and what is wrong with the current system of authorizing Wisconsin's Legislature to limit growth in spending. Representative Lasee noted that many good programs come forth to the Legislature, and TABOR would force the Legislature to prioritize. Once a spending cap is in place, it would help to put funding decisions back into the hands of voters.

Mr. Burri noted that Wisconsin is different from Colorado in that Wisconsin has a budget stabilization reserve (rainy day fund) that can help alleviate the ratchet effect. This draft of the TABOR plan requires a budget stabilization fund that allows increases in base year spending to smooth out dips in previous year spending due to economic downturns.

Regent Gottschalk noted language in the initiative that mandates agencies to fund the budget stabilization reserve up to a certain percent of their base budget. However, the initiative also calls for budget stabilization reserves to be returned to taxpayers. Regent Gottschalk asked how a government organization could create a meaningful rainy day fund if the reserves were refunded. Mr. Burri added that reserves would only be returned to taxpayers in amounts above the cap. Representative Lasee noted that the initiative's language is open to change as to whether spending from the rainy day fund for a true emergency as opposed to a revenue shortfall would count towards the cap.

Regent Gottschalk, noting TABOR's language, asked whether the UW System would need a two-thirds Legislative approval to spend from the budget stabilization reserve. Regent Gottschalk commented that this would put the UW System in the position of creating a rainy day fund that could only be tapped with Legislative approval. Representative Lasee responded that the purpose of the language is that a two-thirds majority would be needed for a true emergency, and a simple majority would be needed for a revenue shortfall. Representative Lasee stated that he is amenable to changing the language of the draft, although he would need to work with Legislative colleagues to make it happen. Mr. Burri noted that as the draft is currently written, the State would raise the budget stabilization fund. If the UW System were defined as its own school district, it would be required to establish its own budget stabilization fund.

Regent Bradley remarked that the creation of a rainy day fund would amount to another cut to the UW System. Mr. Burri stated that the UW System has the option of raising funds through tuition, fees and private gifts, grants and contracts which would be exempt from TABOR limits. Regent Bradley noted that most of gifts, grants and contracts are restricted for a certain purpose. Representative Lasee noted that since the UW System has no taxing authority, he would be open to working with the UW System on this issue. Also, it would be beneficial to provide the Committee with a list of possible changes concerning the current TABOR draft.

Mr. Burri commented on the need for the State to have a budget stabilization fund, and TABOR would require it to be funded. Regent Gottschalk affirmed that the current budget stabilization fund does not have a balance. Regent Connolly-Keesler remarked that the budget stabilization fund does not have a balance because taxpayers generally do not want rainy day funds. Representative Lasee noted that special interest groups do not want stabilization funds and taxpayers generally want their money refunded; however, a majority of people would like to see a cushion for rainy days as long as it is not too large.

Regent Gottschalk asked Representative Lasee to give careful consideration to TABOR's unintended consequences. Among these consequences is that private donors are pushing back against a lack of State support for higher education. Gift donations provide a margin of excellence over and above State funding; however, donors are aware that cutbacks in State support shift the burden to private contributors. This has led to a chilling effect on a source of revenue that becomes more important to the UW System as GPR support declines. Representative Lasee commented that he is trying to mitigate the unintended consequences of TABOR.

Regent Bradley asked about UW System bonding. Regent Gottschalk noted that some UW System bonding projects may not require GPR. Mr. Burri noted that TABOR attempts to prevent the loophole of using bonding to supplement other spending. Representative Lasee commented that if the UW System were defined as its own school district, and the bonding fell within the spending caps, then the UW System could bond without voter approval. This has not been finalized within the draft, and he looks forward to working with UW System staff about this issue.

Regent Bradley reiterated that demand for the UW System moves countercyclical to the economy. The UW System would be put in a difficult position if capped during an economic downturn and time of high demand.

Representative Lasee thanked the Committee for inviting him to participate in the discussion. Regent Bradley commented that the Committee and UW System would like to stay in close contact with Representative Lasee and the ongoing work regarding TABOR.

Representative Lasee left the meeting at this time.

Mr. Burri gave further details on how the UW System could be defined as its own separate school district with its own spending cap under the TABOR plan. An advantage of this model is that the spending cap would move with the UW student head count rather the State of Wisconsin population. This would benefit the UW System in periods of economic decline when student populations grow due to the countercyclical nature of student enrollments.

Regent Bradley asked whether the Legislature would give the UW System its own spending cap under this model. Mr. Burri responded that the Legislature would give the UW System its own cap.

Regent Bradley noted that if GPR support shrinks, the UW System would shrink. Other sources of revenue such as gifts, grants and contracts are largely restricted for specific purposes, and UW System generally breaks even with fees. The only mechanism the UW System has is to raise tuition, and this would price low income students out of the system.

Regent Gottschalk, noting that State supported student financial aid would probably also be subject to the cap, remarked that this would be another unintended consequence of TABOR. Pricing low income students out of the public UW System is unacceptable to the Board of Regents. The Committee highlighted the UW System Accountability Report, and directed UW System staff to provide Mr. Burri with a copy of the report. Brian Tanner, Shared Governance Director, United Council, stated that many students feel that they are already at the point of being priced out of the UW System.

Regent Gottschalk asked whether TABOR could be finalized in March in light of it being a work in progress. Mr. Burri noted that Representative Lasee has been working on TABOR for 6 years, and the core principals of TABOR are spending caps and a referendum vote to exceed those caps. The details should be finished by the end of this Legislative session in March. TABOR would need to pass in this Legislature, the next Legislature, and finally a referendum vote. The earliest it could possibly pass is 2005, but more likely could pass in 2006. The earliest it would take effect for the UW System would be July 1, 2007.

Regent Bradley thanked Mr. Burri for attending the discussion. Mr. Burri welcomed a continuing discussion with the Committee and UW System as TABOR moves forward.

The Business and Finance Committee adjourned at 12:05 p.m.

Eric Engbloom

Eric Engbloom, Recording Secretary