Minutes

Senate Committee on Finance and Planning
Tuesday, February 3, 2004
2:30 - 4:15
238A Morrill Hall

Present:

Charles Campbell (chair), Brittny McCarthy Barnes, David Chapman, Daniel Feeney, Steve Fitzgerald, Joseph Konstan, Michael Korth, Timothy Nantell, Terry Roe, Charles Speaks, Thomas Stinson, Alfred Sullivan, Kate VandenBosch, Susan Van Voorhis, Warren Warwick, Susan Carlson Weinberg

Absent:

Calvin Alexander, Stanley Bonnema, Thomas Klein, Yi Li, Cleon Melsa, Richard Pfutzenreuter, Rose Samuel, Michael Volna

Guests:

Carole Fleck (Director of Debt Management, Office of Budget and Finance)

[In these minutes: (1) update on University debt; (2) policy on use of royalty income to support technology commercialization]

1. Update on University Debt

Professor Campbell convened the meeting at 2:30 and welcomed Ms. Carole Fleck to the meeting to provide an update on the University's debt.

Ms. Fleck explained that she is the Director of Debt Management and has been in the Office of Budget and Finance since 1992; she reports to Associate Vice President Pfutzenreuter in his capacity as Treasurer of the University. She distributed copies of a handout containing a series of tables and explanation of the various kinds of debt the University incurs. The University's total outstanding debt on June 30, 2003 was $775,580,000, primarily in bonds that have been issued. Most of the bonds are "demand bonds," which means the bondholders can demand repayment at any time. But in actual practice that rarely occurs and the University's debt is long-term. Professor Roe inquired whether an increase in interest rates might lead bondholders to request repayment; Ms. Fleck said that depends on why the individuals hold the bonds but she thought it unlikely.

Ms. Fleck then explained the allocation of the University's debt between fixed and variable interest; the combined rate of the total is 4.26%. The State has also issued bonds on behalf of the University (the University's one-third share of capital debt service) at 5.07%; this debt accounts for about 9% of the University's total debt. The total outstanding debt does not include the obligations of affiliated organizations (e.g., Gateway, Foundation, etc.) but rating agencies do look at the debt of those groups when rating the University's debt.

The University's projected outstanding debt at the end of the current fiscal year (June 30, 2004) will be $692.2 million. Some debt will have been paid off during the year; a small amount will also be added because of additional State obligations and funding for the Data Network improvements. The Regents have also authorized an additional $33.4 million in debt, but there are no plans at present to actually borrow that money.

The Committee next looked at the amortization schedule of the University's current debt. The histogram depicted a debt level declining from its current level to zero in about FY31. That chart is tied to the assumption that there will be no additional debt, Professor Speaks observed; what would the chart look like if predicted new debt were included? There would still be a line that slopes down, Ms. Fleck said. The prediction is for $692 million in debt as of June 30, 2004; will that number decrease a few years from now, Professor Speaks asked? Ms. Fleck said it probably would not but that the line would still slope down because the University pays off debt as it goes along. Professor Speaks asked what the amount of debt was for the past 10 years at the end of the fiscal year; Ms. Fleck said she did not have those numbers but agreed to provide them to the Committee.

The question, Professor Roe said, is whether the approximately $700 million is a steady state for debt. In addition, he asked, where does the money come to pay off the bonds? The debt increased quite a bit during the years that Mark Yudof was president, Ms. Fleck said, but it is within the University's debt capacity. That capacity depends on a number of factors and it could rise. She said she did not believe the University's debt level would decline drastically in the near future. The source of the funds is about 50% from central funds (state money, University fee, etc.) and 50% from auxiliary services (parking, housing, etc.)

When debt is issued, is there a statement on how it will be paid, Professor Campbell asked? That is built into the plan, Ms. Fleck said. In the case of the Data Network, the Office of Information Technology (OIT) will pay one-third and the central administration will pay two-thirds. Whence the one-third from OIT, Professor Campbell asked? The funding is built into their base, in anticipation of the need for equipment replacement; it is somewhat parallel to equipment depreciation. Since OIT funding is central money, all of the funding for the Data Network is from central funds, is it not, Professor Speaks asked? It is, Ms. Fleck said, but the point is that NEW central funds are not needed for the OIT portion of the debt payment.

Are there long-term guidelines on University debt, Professor Stinson asked? The State has a limit on how much debt it will issue; does the University? The question is not debt capacity, not how much it CAN borrow, but what the University thinks is reasonable. They are working on that right now, Ms. Fleck said; there are three Board of Regents' policies that are to be revised by May that deal with this issue. When the University talks to rating agencies, it never says that the debt will not exceed X, as the state does, Professor Stinson asked? It does not, Ms. Fleck affirmed; it talks about the financial situation, enrollment, and so on.

What effect does the debt have on the rising cost of tuition, Professor Warwick asked? Since 50% of the debt is paid from central funds, Ms. Fleck said, it is part of the overall costs of the institution. It is a "must do" but it is only part of a much larger set of costs. If tuition in part pays for the debt, would the tuition increases stop if the debt were eliminated, Professor Warwick then inquired? Ms. Fleck said one cannot isolate it that way; debt is only one component of the "budget challenge," and only a small part.

Professor Speaks said he had a more general question: It seems as if the University focuses on capital budgeting every other year, and the biennial request the other years, rather than looking at them in tandem because of the tails that each have. At what point, when the capital request is prepared, does the

University say it wants a facility but fail to ask if it can afford it? That is an important point that needs to be discussed in future meetings, Professor Campbell responded.

Dr. Sullivan said that every project he reviews has an estimate of operating costs. That is a significant improvement, Professor Speaks agreed, but his question was about the implications of the biennial request. Professor Roe said that part of the decision about a facility (debt) is the revenue stream to pay it off. Some units (e.g., Parking) have a revenue stream that can be identified; others do not. In the case of the latter, it would be helpful to know how the decisions are made. What process do they go through when they are told an amount is needed, Professor Speaks added; does it depend on the interest rate? They look at what impact borrowing funds for a new building would have on the rates the University must pay, Ms. Fleck said, but she said she could not lay out a step-by-step process.

It was agreed that Ms. Fleck would provide the Committee with the proposed debt guidelines and the proposed revisions to Regents' policies. Professor Campbell thanked her for joining the meeting.

2. Policy on Use of Royalty Income to Support Technology Commercialization

Professor Campbell turned now to the draft Regents' policy on the Use of Royalty Income to Support Technology Commercialization. He noted that the Committee had discussed this issue twice at previous meetings, it had held an informal discussion, and that it has been discussed twice at the Senate Research Committee and twice at the Faculty Consultative Committee. These several discussions have raised many questions. It was only at the last meeting of the Senate Research Committee that any body took action; the Research Committee voted to endorse the concept embodied in the policy but not the specific wording of the policy.

There was a good discussion at the last meeting of the Faculty Consultative Committee; it is looking to this Committee and the Senate Research Committee to promulgate language or a resolution on the issue, Professor Campbell reported. The action could be a motion for the Senate or simply a statement from this Committee. He said, however, he hoped that the Committee could make headway on delivering a motion.

Ms. McCarthy Barnes asked about the role of students in the creation of patents and copyrights; she said she assumed students could obtain them and asked if there is a reason to include them in any policy. Professor Konstan said that students who create intellectual property as employees are treated like faculty, entitled to a share of the income. In courses or on their own, students own their intellectual property and the University has nothing to do with it. A tricky question arises with something like independent study which includes University funding; his department treats those students as though they are covered by the University policy that applies to faculty. One can see reasons why students would be interested in this because the funds could go to things like fellowships. Ms. McCarthy Barnes agreed that the word "other" covered students but suggested they should be included; Professor Konstan pointed out, however, that one must be careful because no one wants to create the idea that the University has an interest in what students create.

That gets to the question of when there should be a general policy statement and when identification of mechanisms to make decisions, Professor Roe said. There is nothing about a budget guideline in the policy; a lot of resources are involved and there is need to look at the opportunity costs of the money; that should be part of the policy statement. This is a new initiative and it is hard to see what might come in the future; should there be a long-term policy or a short-term policy that is later revised? The Research Committee asked if there could be a sunset clause, Professor Campbell recalled, and was told that it was unlikely the Board would agree to such a clause. Regents' policies are generally very trim and very broad; the next step is like adding bylaws to a constitution, and it is in that part of the process that the governance system can play an important role.

Professor Konstan said he had a difficult time with the policy. He believes in the concept, he said, and wants to support it, but the policy is not well-drafted. If technology commercialization is consistent with the University's mission, the policy is unnecessary and should not be bothered with; if it is not, the policy will not make it so. This is a very defensive policy and so narrowly tailored that it is apologetic. What he would like from the Committee, he said, is to know whether it believes commercialization and technology transfer is an important mission of the University and supports the ideas behind the policy but also believes the policy is flawed, and it would volunteer to work with Vice President Hamilton to improve it. The administrative policies and procedures will be critical, and the Committee should express strong views about the need for the President and Vice President to work with governance system in developing them--because a poorly-implemented policy is worse than no policy.

Professors Roe and Speaks agreed with Professor Konstan. Professor Campbell reported that Professor Martin will make comments about this policy to the Board of Regents next week when she makes her quarterly report, and she hopes to hear from this Committee before she does so. He said he did not know if the Committee would have any opportunity to modify what the Regents will vote on in March; it is a pity there is not more time, he said.

Professor Feeney noted that he is on the committee that is dealing with institutional conflict of interest, and there will be a parallel mechanism for implementation. The faculty have to face the fact that there is a need for money and there is the Bayh-Dole Act, both of which are playing into how this is playing out. This is a mechanism for technology, which he said he believed FCC supported; the question is the process of implementation. Board of Regents' policies do not specify how they are to be implemented. His question, he said, is whether this Committee is concerned about the concept or about the details. If the concept, it should say so. It was his sense that the Vice President for Research thought it would be acceptable to put money into an incubator that would become self-propagating so that it did not bleed more central funds from the University. That is clearly the hope, Professor Campbell said, although there is certainly no guarantee, and there is committee skepticism about the likelihood.

That is already a bad compromise, Professor Konstan said. If this is the right thing to do, it should not have handcuffs on it. The policy says that royalty money will be used--but those are University funds that could be used for other things at the University. He said he believed it is the right thing to do and it can be said that technology transfer is appropriate for the University, so it can spend its money on the activity. It must be sure that its policies and procedures ensure that the money is not spent improvidently. But there are handcuffs on the policy by limiting it to royalty income; what if there is a year with low royalty income but some great idea that needs funding? The Committee would quickly be consulting on a change to the policy.

Professor Konstan proposed a motion to be adopted by the Committee, which it was agreed would be amended and edited by email the day after the meeting and then sent to the Faculty Consultative Committee. The statement adopted unanimously by the Committee read as follows:

> The Senate Committee on Finance and Planning supports technology transfer and the commercialization of University intellectual property as an integral and appropriate part of the University's mission. The Committee also supports the idea behind the proposed Board of Regents' policy allowing the expenditure of University funds in furtherance of that part of the mission.

> The Committee believes, however, that the current draft of the proposed policy requires careful revision, in part because it is focused too narrowly on only one model of supporting technology transfer, and offers to work with the administration to revise the policy and to promote this part of the University's mission.
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> Moreover, the Committee recognizes that the way in which the policy is implemented is critically important. A transparent process is needed to legitimize such expenditures and to ensure that University resources are allocated most effectively to further the University's mission, balancing technology transfer objectives with competing uses for the funds. The Committee asks the President and the Vice President for Research to work with this Committee and the Senate to develop appropriate administrative policies and procedures for implementation of the Regents' policy.

The implication, Professor Roe said, is that this is not necessarily a program run out of the Office of the Vice President for Research; it is an office within the broader University mission. The mechanism for implementing the policy will be important because it will determine how the University evaluates opportunity costs.

Why is the policy tied to royalty income, Professor Van den Bosch asked? Professor Campbell said he believed the thought was that since University intellectual property generates royalty income, it makes sense to use that income stream to promote the commercialization of intellectual property. That limitation avoids concerns that tuition money, for example, might be used to help start a company.

Professor Campbell said the draft motion would be forwarded to Professor Martin and the Faculty Consultative Committee.

Professor Warwick returned to the issue of conflict of interest that had been raised by Professor Feeney. He said he was bothered when the concept is applied only to financial matters; it also applies to getting grants, promotions, honorary awards, and so on, and sometimes the conflicts in non-financial areas can be greater than in financial areas. He said he did not know where this subject would fit into the discussion

Professor Campbell said that Vice President Hamilton will be presenting a conflict-of-interest policy to the Board of Regents; he has not seen it. It would come through the Senate Research Committee. This was raised at the Federal Demonstration Partnership meeting, Professor Konstan reported; in response to federal mandates, only NIH and NSF look closely at them, and then only at financial conflicts. A big conflict of interest is when an assistant professor gets students to publish something that helps the assistant professor get tenure--but no one cares about that. Some disciplines, such as Psychology, do care, but most do not. There are a number of academic misconduct policies that deal with conflict of interest, Professor Campbell said. But there are no elaborate procedures to review the conflicts as there are with financial conflicts, Professor Konstan pointed out. That is because the potential conflicts are so varied, Professor Roe maintained; it would be difficult to have a policy.

Professor Feeney clarified that the committee he is serving on is dealing with INSTITUTIONAL conflict of interest--the University owning stock in a company that it is doing business with, and so on. This has nothing to do with individual conflicts of interest. There is nothing available for discussion yet; the Board of Regents will discuss it this month and they needed something to discuss. The Board wanted to weigh in early because there is a high level of expertise on the Board on this subject. What was the instigation, Professor Roe asked? National events, Professor Feeney said.

Professor Campbell thanked the Committee for sending him flowers while in the hospital and then adjourned the meeting at 3:35.

-- Gary Engstrand

University of Minnesota