



April 1, 2011

Senator Alberta Darling
Co-Chair, Joint Committee on Finance
Room 317 East
State Capitol
P.O. Box 7882
Madison, WI 53707

Representative Robin Vos
Co-Chair, Joint Committee on Finance
Room 309 East
State Capitol
P.O. Box 8953
Madison, WI 53707

Dear Senator Darling and Representative Vos,

I wanted to thank you for permitting me to meet with you at Thursday's meeting of the Joint Committee on Finance. I deeply appreciate the opportunity to serve as chancellor of this great institution and am always delighted to share my passion about its potential to serve the state in these difficult times. It was an honor to sit before you.

During yesterday's discussion, Senator Luther Olsen asked UW System and UW-Madison to find a solution to the conflict that exists between the Governor's proposal for UW-Madison and the UW System's new proposal for flexibility.

I want you and the rest of the committee to know that I have reached out to President Reilly and to my fellow chancellors and have invited them to meet next Wednesday. I hope that through constructive dialogue and discussion, we can achieve positive results.

Once again, thank you for the opportunity to participate in the hearing yesterday. In the meantime, if you need any additional information from me, please do not hesitate to contact me at your convenience.

Sincerely,

Biddy Martin
Chancellor

Enclosure

cc: Members of the Joint Committee on Finance

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Proposed Flexibilities for UW System Institutions

Flexibilities for other UW System Institutions:

UW-Madison seeks to maintain its treatment in the current budget bill to become a public authority. It also supports the provision of flexibilities for all other institutions within the UW System. Without altering the provisions for UW-Madison in the budget bill, this document identifies which flexibilities can be granted within the current UW System framework, either directly to the other UW System institutions or to UW System Administration in the areas of Budgeting, Tuition/Pricing, Human Resources, Capital Planning and Construction, Financial Management, and Purchasing and Procurement. It also highlights specific statutory changes required to provide those flexibilities.

1. BUDGETING

A. Summary

- a. What is the flexibility sought for the UW System Institutions?
The flexibility to utilize “institution specific block grants” provided to UW System institutions “for any appropriate university purpose.” This approach is in contrast to the current system under which appropriations are earmarked for certain system-wide purposes.
- b. Can this be provided directly to the UW System Institutions?
Yes.
- c. How is it accomplished?
In order to provide block grants to UW System institutions, the various appropriation lines found in Wisconsin Statute section 20.285 would be removed and replaced with institution-specific appropriation lines similar to Section 20.280(1), proposed in the current budget bill.
- d. What flexibility is ultimately obtained?
If each UW System institution was directly given its state support in the form of a “block grant,” the institutions would have the flexibility to spend the unencumbered funds as they deemed fit.

B. Statutory Changes

Statute	Change Needed
§20.285	Remove specific system-wide appropriations and replace with a main appropriation line for each UW System institution similar to proposed Section 20.280(1)(a) (“ <i>General program operations.</i> The amounts in the schedule for general program operations.”)

2. TUITION/PRICING

A. Summary

- a. What is the flexibility sought for the UW System Institutions?
The flexibility to remove current statutory limitations in order to provide the UW System institutions with increased tuition-setting authority.
- b. Can this be provided directly to the UW System Institutions?
No. Currently, the Board of Regents is authorized to set tuition, but that authority is subject to statutory restrictions. If the state eliminates those restrictions, the Board of Regents will obtain increased flexibility to set tuition, but that flexibility cannot be directly delegated to the campuses.
- c. How is it accomplished?
Deleting statutory provisions that restrict the Board of Regents' authority over tuition-setting. A provision could be added that statutorily requires the Board of Regents take into consideration each institution's specific needs in establishing tuition rates that are tailored to individual institutions.
- d. What flexibility is ultimately obtained?
None directly for the UW System institutions. UW System will retain authority to set tuition, but with fewer statutory limitations.

B. Statutory Changes

Statute	Change Needed
36.27(1)(a)	(Board of Regents to establish tuition) Delete reference to par. (am) and (c). Add provision requiring Board of Regents to take into consideration the unique needs of the campuses as demonstrated by the chancellors.
36.27(1)(am)	(Limitations on academic fee increases) Delete this provision.
36.27(1)(bm)	(Reporting requirement.) Delete this provision.
36.27(1)(c)	(Limitation on charges for MBA students enrolled prior to the 1989-90 academic year). Delete this provision.
36.27(2)-(4)	(Nonresident tuition exceptions, tuition remissions, and tuition award program.) Options: (1) Adopt system's proposal, which preserves most current nonresident tuition exceptions (except for that relating to certain individuals who are not US citizens), eases statutory restrictions on nonresident tuition remissions, preserves mandatory remission programs, and eliminates tuition award program. (2) Leave 36.27(2) through (4) as is; add new section 36.27(6) to read: " <i>Applicability.</i> Subsections (2) through (4) do not apply beginning on the date on which the board adopts a resolution to that effect or on [date], whichever is sooner. "

3. HUMAN RESOURCES

A. Summary

- a. What is the flexibility sought for UW System Institutions?
The flexibility to manage certain aspects of the State personnel system, such as the compensation plan, classification and titling, and hiring process.
- b. Can this be provided directly to the UW System Institutions?
Possibly yes although it could result in different personnel systems at each institution.
- c. How is it accomplished?
Granting flexibilities to either UW System institutions or UW System Administration requires amended sections in chapters 16, 36, 111 and 230.
- d. What flexibility is ultimately obtained?
UW System institutions would no longer be subject to the state Compensation Plan and could develop personnel policies for titling, compensation and salary ranges, and determine appropriate job classifications for all staff system-wide. It also would reduce oversight by OSER, grant the Board of Regents authority to negotiate collective bargaining agreements, and delegate the creation of new positions (FTE allotment).

If deemed unworkable for each institution to create a separate personnel system, the identified statutory changes could be granted to the UW System Administration which could then delegate them directly to institutions.

B. Statutory Changes

Statute	Change Needed
16.417 (1)(a)	(Overload payments) Modify the definition of "Agency" to exclude institutions of higher education defined in Ch. 36; This eliminates the limitation on overload payments to employees of UW System entities.
16.505 (2m) & (2p)	(FTE allotment) Delete subsections 16.505 (2m) and (2p) in order to eliminate restrictions on creation of new positions; Also eliminates oversight by and reporting requirements to OSER and JOCER.
36.09(1)(e)	(Comp plan) Delete cross references to 36.09(1)(j), 20.923(4g), and 230.12(3)(e) to exempt unclassified employees and senior executive positions from state compensation plan and other compensation restrictions.
36.09(1)(i)	(Academic staff designations) Delete language that requires the Board of Regents to obtain OSER's approval when deciding which positions should be designated as academic staff and thus exempt from the classified service.
36.09(1)(j)	(Setting compensation) Delete language that limits the Board of Regents' ability to increase salaries and requires the Board to report the amount of salary increases granted for competitive factors.

36.11	(Setting compensation) Add subsection granting authority to campuses to develop and implement a compensation plan and process independent of plan set forth in s. 230.12.
36.11(33)	(Position report to JCOER) Delete subsection (33) to eliminate requirement that the Board of Regents report to Joint Committee on Finance regarding the number and type of management and staff positions.
111.815 (1)	(Board of Regents employer authority for collective bargaining) Add sentence to s. 111.815(1) granting Board of Regents authority to conduct "employer functions" for purposes of Ch. 111, subchapter V: "With respect to the collective bargaining units specified in s. 111.825 (1) (a) through (e) and (f) (1), (2), (4), (5), (7), and (9), (2)(a), and (2)(g), the Board of Regents of the University of Wisconsin System is responsible for the employer functions under this subchapter."
230.09	(OSER oversight of job classifications) Add new subsection (4) exempting classified service employees employed by the University of Wisconsin System from section 230.09 in order to remove job classifications from OSER's oversight. Delete references to the University of Wisconsin System in subsection (2)(g).
230.10	(Comp plan for classified) Add subsection (3) to exempt classified employees employed by UW System institutions from compensation plan coverage.
230.12 (1)(a)(1)(b)	(Comp plan for unclassified) Delete or modify subsection (1)(a)(1)(b) such that the compensation plan no longer includes provisions governing pay of all unclassified employees of the University of Wisconsin System.
230.12 (3)(dm)	(Comp plan exemption) Add subsection (3)(dm) which states as follows: " <i>University of Wisconsin System employees.</i> This subsection shall not apply to employees of institutions of higher education defined in Ch. 36."
230.12 (3)(e)(1)	(Comp plan procedure) Delete subsection (3)(e)(1) containing the procedures for developing a compensation plan covering UW System senior executives, faculty and academic staff.
230.15 & 230.16	(Staffing and hiring) Add subsection to each of the sections noted that exempts each institution of higher education defined in Ch. 36 from the state recruitment, evaluation and hiring process; Provide each campus institution with the independent authority to develop staffing system similar to existing unclassified-type process at UW campuses.
230.29 (3)	(Transfers) Add subsection (3) to exempt employees of the University of Wisconsin System from transfer provisions. Note: This will not eliminate the ability of employees to take jobs at other institutions. Current employees may, however, be required to submit application through the same hiring process in which non-UW employees participate.

4. CAPITAL PLANNING AND CONSTRUCTION

A. Summary

- a. What is the flexibility sought for UW System Institutions?
The ability to: (1) procure and manage construction projects involving non-GPR dollars or bonding and retain savings if costs of administering the project are less than the 4% DOA administrative fee; and (2) accept gifts of real estate and permit privately-owned or operated facilities to be built on UW lands without approval of the Building Commission.
- b. Can this be provided directly to UW System Institutions?
Yes. The first flexibility could be accomplished by statutorily exempting UW System non-GPR projects from the statutes that grant DOA control and amending relevant statutes to require UW System to delegate management and contracting authority to campuses and to permit the individual campuses to retain cost savings related to the DOA 4% fee. Regarding the second, because title to all UW real estate is held by the Regents, the most pragmatic approach would be to exempt from building commission approval the acceptance of gifts of real estate to UW System and the authorization for privately owned or operated facilities to be built on UW lands. Concurrently, Chapter 36 could be amended to require UW System to delegate this authority directly to institutions.
- c. How is this accomplished?
Exempt UW System non-GPR building projects from statutes which grant DOA control over building projects; Exempt gifts of real estate to UW System and construction of privately owned or operated facilities on UW lands from statutes requiring advance building commission approval; Amend Chapter 36 to require UW System to delegate the flexibilities directly to institutions/chancellors.
- d. What flexibility is ultimately obtained?
Institutions would receive delegated authority to manage construction projects and retain any savings, to accept gifts of real estate, and to permit the construction of privately owned/operated facilities.

B. Statutory Changes

Statute	Change Needed
13.48(2)(1m)	(Gifts of real estate) Delete this statutory provision.
36.29(6)	(Gifts of real estate) Delete this statutory provision.
13.48(12)(b)	(Privately-owned/operated facilities) Add exception for facilities constructed by or for UW System institutions.

36.11(1)(b)	(Privately-owned/operated facilities) Delete sentence that references 13.48(12).
16.85(1)	(DOA to supervise construction work) Revise to provide exception for UW System projects funded by non-GPR sources.
16.85(12)	(DOA to review and approve plans and specifications) Revise to provide exception for UW System projects funded by non-GPR sources.
16.855(22)	(DOA shall let bids for construction projects) Revise to provide exception for UW System projects funded by non-GPR sources.
16.87(5)	(DOA and Governor’s approval of construction contracts) Revise to provide exception for UW System projects funded by non-GPR sources.
16.89	(Restriction on employing engineers, architects and spending money on construction projects) Revise to provide exception for UW System projects funded by non-GPR sources.
36.11	(general statute outlining powers and duties of the Regents) Add new provisions which require the Regents to take all steps necessary to: (a) grant Chancellors the authority, upon request, to manage all aspects of construction projects on their campuses that are funded by non-GPR sources and to retain any administrative savings; (b) grant Chancellors the authority to accept gifts of real estate and to authorize the construction of privately owned or operated facilities on their campuses.

5. FINANCIAL MANAGEMENT

A. Summary

- a. What is the flexibility sought for the UW System Institutions?
Under the New Badger Partnership, flexibility to manage finances has been proposed for UW-Madison because of its status as a public authority. The additional advantage of public authority status is that the restrictions on “state funds” will not be applicable to non-GPR funds of the authority. Under the Wisconsin Idea Partnership proposal the flexibility to manage finances is delegated to UW System.
- b. Can this be provided directly to the UW System Institutions?
The answer to this question is not clear. An institution of the UW System could presumably be granted the authority to manage its own funds to the extent an institution’s funds may be distinguishable from general UW System funds. However, it is questionable whether a state agency, much less a subunit of a state agency, would be allowed to consider its funds non-state funds. As a result, no amendment is proposed here because of significant concerns that a state public agency would not have legal authority to invest state funds independently and unchecked by the restrictions on “state funds.” If an opinion is received that this can be done, then the most pragmatic proposal would be a delegation of authority to UW System. If successful, further statutory delegation directly to chancellors may be provided.
- c. How is this accomplished?

If a state agency (or branch thereof) is able to keep its revenues “off of the books,” and if the UW System institutions are given the power to manage their own funds, the statutory changes to achieve these flexibilities would include the statutory changes proposed for the University of Wisconsin-Madison Public Authority in addition to changes that may be necessary resulting from the Board of Regents’ continuing status as a state agency.

- d. What flexibility is ultimately obtained?

A state agency’s ability to manage its own funds will likely continue to be subject to restrictions on “state funds” including but not limited to a potential “sweep.”

B. Statutory Changes

Statute	Change Needed
	None provided at this time.

6. PURCHASING AND PROCUREMENT

A. Summary

- a. What is the flexibility sought for the UW System Institutions?
Provide each institution with delegated authority to (1) procure goods and services related to higher education and make purchases from higher education purchasing consortia; (2) manage UW vehicle fleets; (3) decide whether to opt out of state-wide risk management program and procure private insurance.
- b. Can this be provided directly to the UW System Institutions?
The answer is not clear. DOA has generally delegated authority to agency heads. However, there does not appear to be a legal impediment to a direct delegation to chancellors. An alternative to direct statutory delegation would be delegation to UW System in conjunction with an amendment in Chapter 36 requiring delegation from UW System to the institutions.
- c. How is this accomplished?
Amend relevant Wisconsin statutes to provide for delegation from DOA directly to UW System institutions of purchasing authority with respect to goods and services related to higher education, to provide campuses with autonomy in fleet management, and to enable campuses to opt out of state-wide risk management program.
- d. What flexibility is ultimately obtained?

The flexibility for purchasing authority that is ultimately obtained will depend on the extent to which DOA will negotiate and agree to confer such authority to UW System Institutions.

B. Statutory Changes

Statute	Change Needed
16.04(1)(intro)	(Fleet management) Revise to exclude "University of Wisconsin System" from agencies subject to DOA fleet oversight.
20.915	(Fleet management) Revise to exclude "University of Wisconsin System" from agencies subject to this statute.
16.71(4)	(Delegation to make higher education purchases) Revise to provide delegated authority to UW System institutions.
16.73(5)	(Purchases from higher ed purchasing consortia) Revise to grant purchasing authority directly to UW System institutions.
16.865(10)	(Risk management) Revise to grant opt-out authority directly to UW System institutions.