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LR542 Ad Hoc Committee
June 29, 2010

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The LR542 Ad Hoc Committee met at 9:00 a.m. on Tuesday, June 29, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska. Senators present: Mike Flood, Chairperson; Greg Adam; Brad Ashford; Bill Avery; Tom Carlson; Colby Coash; Abbie Cornett; Deb Fischer; Tim Gay; Lavon Heidemann; Russ Karpisek; Chris Langemeier; Steve Lathrop; Rich Pahls; Dave Pankonin; and John Wightman. Senators absent: Amanda McGill.

SENATOR FLOOD: If I can have everybody's attention, we're going to start this promptly at 9:00 this morning. Welcome to the LR542 Ad Hoc Committee created by the Legislature in 2009 or 2010. My name is Mike Flood. I'm a state senator from Norfolk and the Chair of this Ad Hoc Committee. As publicized, this is an organizational meeting for members of the LR542 Committee to discuss the role of standing committees and the Executive Board of the Legislature in identifying programs for reduction, consolidation, or elimination to address the anticipated budget shortfall of \$679 million for the next two-year biennium. Although the meeting is open to the public, as you can see, we will not be taking any public testimony today. At this time, it's my pleasure to introduce the members of the LR542 Committee, as created by the Legislature. We begin with Senator Carlson from the 38th District. Senator Carlson is the Chairman of the Agriculture Committee. Next to him, Senator Pahls from the 31st District; Senator Pahls is the Chairman of the Banking, Commerce and Insurance Committee. Next to him is Senator Lathrop from the 12th District. He is the Chairman of the Business and Labor Committee. To Senator Lathrop's left is Senator Adams from the 24th District. He is the Chairman of the Education Committee. To Senator Adams' left is Senator Wightman from Lexington. Senator Wightman is the Chairman of the Legislature's Executive Board Committee. To the left of Senator Wightman would be Senator Karpisek. Senator Karpisek is from Wilber. He is the Chairman of the General Affairs Committee. To that seat's left is Senator Avery. Senator Avery is from Lincoln. He is the Chair of the Government, Military and Veterans Affairs Committee. To his left is Laurie Weber, research assistant in my office. To my left we have Senator Lavon Heidemann. Senator Heidemann is the Chairman of the Appropriations Committee. To his left is Mike Calvert, director of the Legislative Fiscal Office. To his left is Senator Tim Gay of Papillion. Senator Gay chairs the Health and Human Services Committee. Next to him is Senator Brad Ashford of Omaha. Senator Ashford is Chairman of the Judiciary Committee. Next to him is Senator Langemeier from Schuyler. Senator Langemeier is Chairman of the Natural Resources Committee. Next to Senator Langemeier is Senator Pankonin from Louisville, representing the 2nd Legislative District. He's the Chairman of the Retirement Systems Committee. Next to him is Senator Cornett. Senator Cornett chairs the Revenue Committee. She is from Bellevue. Next to her is Senator Fischer from Valentine, the 43rd Legislative District, and the Chairperson of the Transportation and Telecommunications Committee. And next to her is Senator Coash. Senator McGill of Lincoln is the Chairperson of the Urban Affairs Committee. Senator Coash is the Vice

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Chair of that committee and, pursuant to the resolution, only Senator McGill will have voting rights but Senator Coash is here today representing the Urban Affairs Committee. Off in the corner we have Anne Fargen. Anne is...works with Senator Heidemann. She is serving as our committee clerk. Our page today is Sarah McCallister of Lincoln. Sarah is in the light-blue shirt. Before I would begin, before we begin...oh, Senator Karpisek has joined us from Wilber. Have a spot for you over here. Before we would be...we begin, I would ask everybody turn off your cell phones, personal communication devices, anything that beeps, and we would ask you to not have any conversations while you're in here so that we can hear everybody that will be discussing from the panel today. I would remind everybody that we are transcribing this hearing. For that reason, I would ask that you only speak when recognized by me, as Chair, so that we can make it very easy for the transcriptionist to prepare an accurate record of today's meeting. You all have received an agenda which you should have in front of you. I would ask you to go to number II, Roman numeral II on your agenda. I'm going to make some brief statements here before we get into the meat of what we're doing today which, of course, does include a presentation by members of the Legislative Fiscal Office. What does the LR542 Ad Hoc Committee do? The best way that I have been describing our mission is to reinforce the fact that when we get to our budget next year, for the biennial budget that's created during the 2011 Legislative Session, we want the Legislature to have options. We don't want to get to mid-April and look at a very large budget gap and not have had a substantive discussion on program eliminations and cuts via public hearing following a bill being introduced in the first ten days. We are not creating a separate state budget. We are not, as an Ad Hoc Committee, writing a separate state budget. That remains the sole role of the Appropriations Committee. However, no one is in a better position to determine if an actual program or state service can be reduced than those of you as committee chairs within your subject matter jurisdiction. What is the role of the Ad Hoc Committee and the role of standing committees? Number one, we're obviously going to facilitate a lot of communication between the chairs, each of you, and serve as a general steering committee with respect to making some basic decisions as to the mission for each standing committee. The real work will be done by your individual committees. What types of outcomes are we looking at with LR542? When originally introduced and maybe potentially originally envisioned, the idea was that we would all be preparing legislation that would be introduced that would completely address a 10 percent General Fund budget gap. I don't think it's the role of myself or any of us to force any individual senator to introduce legislation. That is and remains the prerogative of either the committee as a whole, the chair individually, or any member of the Legislature. What we're asking for is to identify the programs and services within your subject matter jurisdiction that need to be on the table and to take it seriously so that when we put together an Options List, and we'll talk more about this, the Options List gives every member of the Legislature, and hopefully your committee, ideas and potential savings for the state by eliminating state services or programs. We'll talk about these 10 percent option lists under item IV on your agenda. LR542 is premised on the fact that our committees institutionally are seen as experts in

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their subject matter jurisdiction and the members of the committee are in the best position to determine the priorities of the state for these programs. Because we're asking potentially for bills to be introduced during the 2011 Session, we're going to make sure the committee that will be hearing those bills identifies the pros and cons of eliminating any specific state service. LR542 asked for the committees to provide input regarding their priorities at the beginning of the process rather than after the ten-day introduction of new bills. A secondary goal of this resolution, however, is that it calls for every member of the Legislature to become familiar with the appropriations process and participate in setting priorities for the programs within your subject matter jurisdiction. This education obviously I think will help the entire Legislature next year when the Appropriations Committee, in cooperation with all of your committees, put together a budget that we can hopefully adopt. There has been several questions about the issue between General Funds and cash funds. This task force deals with General Funds. Therefore, we are asking committees to look at General Fund savings. I know many of you, within your subject matter jurisdiction, have completely cash-funded agencies. That, I'm sure, will certainly be considered by the Appropriations Committee in cooperation with your committee in the next session, but I want to stress that we are looking at ways to reduce our General Fund expenditures. Certainly, if your committee chooses to look at the agencies and investigate cash funds, that's within, you know, your jurisdiction, which is something you can already do, but it is not a part of what you're being asked to do with LR542. There's also been a question about increasing a cash-fund fee to replace General Fund dollars. That is also not what we are looking for with LR542. We are looking for ways to cut our way out of this problem with this task force in an effort not to increase fees or taxes. Okay, LR542 process versus the Appropriations budget process: This Ad Hoc Committee is intended and was created to help make next year easier. The Governor still maintains his role in that he is required to submit a budget to the Legislature, and that does not change because of LR542. The responsibility for the Appropriations Committee to review the Governor's proposal and agency budget requests does not change. That will still happen as it does every year following the introduction of the Governor's budget in January. The responsibility for standing committees to hold public hearings on the actual legislation that will make public policy changes does not change as well, and I guess I want to make that point very clear. We're talking, in LR542, about changes that require a bill or a statutory change to eliminate a duty or burden currently placed on the executive branch that requires General Fund dollars. The Appropriations Committee cannot do that. They do not do that. If, for instance, Senator Carlson wanted...and I'm just picking him out of convenience, if he wanted to eliminate a program under the Department of Agriculture, that cannot be done inside the department...or the appropriations process. That would have to be a bill with a public hearing, voted on by the members, advanced to the floor, and then ultimately decided by the entire Legislature. What the LR542 process will do will allow us to enter the 2011 Session with some items worthy of discussion that we may not want to do but we may have to do in order to address this record shortfall. So with that, I'd like to turn the...our time over to our financial outlook and steps to

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determine proposed biennial shortfall. Mr. Calvert, I would ask you to share with us your presentation. And, Mr. Bergquist, if you would take a seat there at the testimony table and, Mr. Calvert, if you want to go there, too. That way you can see the whole committee. []

MICHAEL CALVERT: Okay. Very good. []

SENATOR FLOOD: We'll go ahead and get started on sub III of your agenda. []

MICHAEL CALVERT: (Exhibit 1) Good morning. I'm going to be referring to the document "Calculations of Financial Status, Following Biennium" through 2012-2013, dated April 2010. We issued this in the early part of May. What the financial status before you tries to articulate is it builds a scenario. It builds a scenario for the next budget biennium based on a series of assumptions and estimates, both on the revenue and on the expenditure side. I would characterize it as a current law outlook. It does not anticipate changes to law that would increase/decrease obligations beyond what already exists in law, nor does it change the revenue base on which the General Fund operates. So it is a current law outlook. We have certain benchmarks, primarily a 3 percent reserve. If you go to line 20 on the status on page 2 and scan across to the far right-hand column, given all of the estimates for the next two fiscal years of the following budget biennium, we are obligated by law to meet, at minimum, a 3 percent reserve. It's an ending balance of about \$221 million based on the estimates that are embodied in the status. Now that number can move and it will move, it will change, because it is a function of revenue and expenditures that are actually authorized. But as a general guideline, statutorily we have an obligation when we build a biennial budget to meet a minimum reserve requirement of 3 percent for the biennium and, roughly speaking, it works out to about \$221 million. If one were to then build a scenario with that end objective in mind and build a scenario based on, as I said, a current law estimate of a series of future expenditures and a technique that we use for estimating revenues based on economic cycles and basically plug those numbers in and do the mathematics, we end up being about \$679 million short of meeting that minimum reserve requirement, and that is line 21, shortfall to the minimum reserve, far right-hand column, for fiscal '12-13. Again, it is predicated on a series of assumptions and the rest of the document really lays out those assumptions. I think we've been quite reasonable with respect to the projections. I will not go through them in detail, but what we do generally is look at cost centers, such as Medicaid, public assistance, a simulation on future school aid costs under current law. Those are major cost centers. We also isolate on other major cost centers and try and extrapolate into the future what a budget under current law conceivably might look at. So we've laid out the assumptions on the expenditure side as to what we've plugged in with respect to fiscal '11-12 and '12-13, the forthcoming biennium. Likewise, we make assumptions with respect to revenue growth. We do not have official, formal, long-range forecasts for those two fiscal years. The first time that the formal forecasting process will actually identify those revenue

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amounts for those two fiscal years will be this forthcoming October when the Forecasting Board meets in the latter part of the month, so that will be the first official estimate with respect to revenues that will be submitted. In lieu of that, we have created a method by which we look at the cycling of revenues over an extended period of time, and it has clearly demonstrated a cycle. Unfortunately, it is not always absolutely predictable. Peak to peak can run anywhere from four to six years in terms of percentage growth, but we have adopted a methodology that recognized that cycle and that's built into this assessment, this scenario, if you will. So the two future years, and you can look at the material at your leisure later on, but essentially what we are looking at is a revenue growth pattern on line 26 that estimates revenue growth at about 7.2 percent year over year, on line 26, for those two out-years. That's above average. Long-run average is about 5.2 percent. But if you look at the historical pattern on page 3, particularly the graph at the bottom of the page, that growth rate is consistent, if you will, with past patterns. We have had a series of peak-to-peak cycles or trough-to-trough cycles over the last 20-plus years, so that is the simulation that we have built in, in substitution for formal forecasts. Once those formal forecasts are completed in October, we will substitute those into the General Fund financial status on page 2 in place of the revenue estimates that we've got built in based on that cycle. So bottom line is, given all of the assumptions that are laid out in this document, if they are reasonable assumptions, you plug in the estimates that are generated off of those assumptions, you arrive at the conclusion that we have a \$679 million potential shortfall of meeting the minimum reserve in the next budget biennium. Roughly speaking, you divide that in half, you're in the neighborhood of about \$340 million on a year-to-year basis, two years. Roughly speaking, that is approximately 10 percent of the projected General Fund budget in any one year for the next couple of years in round numbers. So that's the status. Cash Reserve Fund, for those of you that perhaps are not familiar with it, Cash Reserve Fund is, in effect, a General Fund savings account. By different mechanisms, we can devise and have, in effect, saved amounts from the General Fund that were not obligated and set it aside in a separate fund. Our current or our projected balance going into this next biennium, as far as the unobligated portion, if you will, that which is not going to be currently transferred out under current law, is about \$321 million. In recent couple of years, the Legislature has deemed it desirable to make transfers from the Cash Reserve Fund to help support the General Fund budget. I would suspect that you will be seriously considering doing the same in this next biennial cycle. The question will become, to what degree. But in effect, you have an asset in the tool kit, if you will, that can be used at the Legislature's discretion to help offset that imbalance. By straw poll, the Appropriations Committee has discussed this. Senator, I don't know, are you comfortable with me...I think it has been reported in the press that it appears that the comfort level for the Appropriations Committee is in the neighborhood of about \$270 million, leaving roughly about \$50 million left in the Cash Reserve. That is not a formal decision. It's still a work in process. There's a lot yet to happen that might cause that number to be something different. But as it stands right now there seems to be an interest, at least amongst the majority of the committee members, to use some portion

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of that as an offset. We have adopted...if you're not aware, the executive Budget Office, the Governor's Budget Office is responsible for developing the instructions and the directions to agencies for submitting budget requests. Budget requests are going to be due September 15. Those instructions were released this past Friday. Prior to that, I'm given the opportunity to review, comment, suggest changes to those instructions and the mechanics of the budget process. One of the areas that we pay particular attention to is, part of the budget request documentation asks agencies to use what I characterize as a modified zero-based budget. But rather than starting from zero, we arbitrarily say, okay, start from some percentage of your current appropriation and then prioritize your request from that margin up to your full request. We agreed, I agreed with the executive Budget Office in setting a baseline target of a 90 percent-based budget. So as an example, if I had a \$1 million budget in this next fiscal year as my current authorized budget and I ask for \$1.1 million in the next fiscal year of the next budget biennium, I am expected to start from \$900,000 and prioritize decision packages, as I characterize them. We call them modifications but they are decision points from 90 percent up to the full \$1.1 million request. Want to make it clear, agencies have a request that they have specified that they have been asked to then slice that and dice that in a way that gives us some choices in terms of priorities below that full request and it's a recognition of the difficult budget prospects that we're looking at. So the guideline of starting from a 90 percent base is very much consistent with our imbalance target of \$679 million, as I pointed out, roughly about 10 percent of current appropriations. So we landed on a 90 percent criteria which should yield choices that are very much consistent with that \$679 million total. We apply that to operations, we apply that to aid. When budgets are due in September, in the middle of September, that itemization is part of the budget request package that agencies submit, so that itemization will be available and I think in the last couple of years that has been generally within a few days readily available on the Web site maintained by the executive Budget Office. So in terms of process, kind of a baseline. Mr. Speaker, I hope that addresses the things that you wanted. []

SENATOR FLOOD: Thank you very much. Mr. Bergquist, do you want to add anything?
[]

TOM BERGQUIST: The only thing I'd like to add is on the...as part of the \$680 million shortfall, that it's about a 10 percent per year spending growth is what's shown in that out-year. I know there's been a lot of talk that's going to be way too high and, obviously, it is way too high because that's what's triggering a big part of the shortfall. One thing I wanted to point out, about half of that growth is replacing ARRA money. Now included replacing the ARRA money wasn't a judgment call in that out-year. Most of the ARRA money is in Medicaid match rate and in education in TEEOSA. In both instances, statute dictates the overall funding level. It dictates the level of TEEOSA aid, it dictates what coverage is in Medicaid and things of that sort. You find...you arrive at those levels and then you subject other fund sources. You calculate the estimated amount and you subject out how much federal funds is available in the Medicaid match rate. With

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TEEOSA, you calculate the TEEOSA level, you subtract out insurance premium and, in this case, ARRA money. When the ARRA money disappears in both cases, statute dictates the overall level. So I just wanted to make it clear that that projected status picks up the loss in the ARRA money but it wasn't a judgment call on our part to put that in there; statute dictates the levels. And then you'd have to change the statute to not replace that ARRA money. So I wanted to make that clear that that's about half of that growth in spending is replacing the ARRA and that ARRA money that, like I say, it wasn't a judgment call, that's what the current law would end up having us pick up. So that was just a point I wanted to make on that out-year. []

SENATOR FLOOD: Do any members of this Ad Hoc Committee have any questions for either Mr. Calvert or Mr. Bergquist? Please raise your hand so that we can identify you. Senator Pankonin. []

SENATOR PANKONIN: I'm just curious about, since we left in mid-April, any...what the changes have been in revenue coming in and how that compares to the trend line. []

MICHAEL CALVERT: Yeah. The first thing that will alter this financial status will be actual year-end results within the next few days for the current fiscal year. The last official report carried us through May. We had a fairly decent month in May and I think, on a year-to-date basis, the estimate was we were about \$41 million behind, we are not...for the entire fiscal year for the current, for the current fiscal year, so not good news. This month is not complete. There are two processing days remaining. Frankly, June does not look very good. So the prospect is that the first adjustment to this financial status will actually probably make the imbalance larger just because year-end results. I don't see us making up the difference in June. []

SENATOR FLOOD: Senator Carlson. []

SENATOR CARLSON: This may be, Mr. Calvert, an elementary question but I'm going to ask it anyway. How does the \$321 million in line...on page 2... []

MICHAEL CALVERT: Down at the bottom of the page, Senator? []

SENATOR CARLSON: Yeah, down at the bottom, how does that relate to the \$221 million in line 20? []

MICHAEL CALVERT: Oh, minimum reserve? []

SENATOR CARLSON: Uh-huh. []

MICHAEL CALVERT: As it stands right now, the \$321 million is the Cash Reserve Fund balance. The only transactions from the Cash Reserve to the General Fund are those

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that are set forth in current law as we now speak. Okay? I mentioned the Appropriations Committee has thought perhaps something of the magnitude of \$270 million would be brought into the...potentially could be brought into the General Fund. The \$220 million that you mentioned, the \$221 million, that's a fixed number. That's your target. What's important is, based on the math, where do you end up relative to that, and we're \$679 million short. So the effect of...let's say the Legislature decides in the next legislative session to use some amount from the Cash Reserve and bring that up to the top here in the General Fund. That would make the \$679 million number smaller. The \$221 million doesn't change much. It becomes more a function of what you actually budget and what your revenues are, so it might have a little bit of an impact but it won't be much. The true impact is on the shortfall to the minimum reserve and, theoretically then, you're bringing an asset into the General Fund for purposes of spending, if you will, so that gap becomes smaller. So that's how...that's how it would work. []

SENATOR CARLSON: Thank you. []

MICHAEL CALVERT: You're welcome. []

TOM BERGQUIST: And I'm just going to add, in simple terms, the Cash Reserve Fund, like Mike had said, is like our savings account. The General Fund is our checking account. And the minimum reserve is something similar to the bank telling you, you have to maintain a minimum balance in your checking account. So that's kind of the distinction between what those two amounts would be and a lot of times it provides for cash flow to get through the following month because that's the projected balance at the end of the month and it provides cash flow through the remainder of the next month. []

MICHAEL CALVERT: Tom raises a point and...or just simply mentions about cash flow. One of the areas that we try and assess, not only in terms of the budget biennium but in the shorter term cash flow, liquidity, available funds, do we have enough money in the General Fund to pay bills, and that does not appear to be a problem, through the end of the calendar year most certainly. I don't...haven't looked at the projections beyond that point in time. But liquidity, funds available in the General Fund to meet current obligations should not be a problem. []

SENATOR FLOOD: Senator Gay, you have a question? []

SENATOR GAY: Thank you, Speaker Flood. Yeah, Tom, can you update us again what was the total amount of ARRA funds that we received? I'm somewhat familiar in health but as far as education, just the whole package, can you explain what's needed? []

TOM BERGQUIST: Yeah, and actually in this document here we isolate it out. There on the first page shows the total amount. Actually, it's \$250.6 million. If you actually go to page 6, these are the projected increases in the budget and you'll see down at the

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bottom I isolated out replacing use of one-time ARRA funds, and you can see TEEOSA was \$140.2 million. We had \$52 million of general stabilization, we put \$35 million into Corrections, in to replace General Funds in '09-10, and then \$17 million in '10-11. So we'd have to replace that \$17 million. Then you see the enhanced FMAP. Where it says "Unemployment Bonus FMAP," that shouldn't be "Public Assistance." That's Medicaid. And then the child care and some others. So in total, it's about \$250 million... []

MICHAEL CALVERT: For the fiscal year. []

TOM BERGQUIST: ...for the fiscal year in '10-11, which then means we have to add \$250 million of General Funds to pick those up... []

MICHAEL CALVERT: In each fiscal year. []

TOM BERGQUIST: ...in each fiscal year. []

SENATOR FLOOD: Any other questions? Senator Avery. []

SENATOR AVERY: Thank you, Speaker Flood. Aren't we required by statute to have a 3 percent Cash Reserve? []

MICHAEL CALVERT: We are required by statute to meet the reserve requirement that I described on the financial status, which is line 20. That's the statutory obligation. []

SENATOR AVERY: So would we need to, in order to use \$270 million, would we need to change that law? []

MICHAEL CALVERT: No. Are you talking about the \$270 million from the Cash Reserve? []

SENATOR AVERY: Yeah. []

MICHAEL CALVERT: No. No. []

TOM BERGQUIST: The 3 percent applies to the General Fund. []

MICHAEL CALVERT: Right. []

TOM BERGQUIST: There's no requirement, minimum or maximum, balance in the Cash Reserve Fund, in the savings account side, but the 3 percent reserve is the General Fund, the checking account. []

SENATOR FLOOD: Senator Karpisek, you have a question? []

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SENATOR KARPISEK: Thank you, Speaker Flood. You talked about having enough money to meet our obligations for the current year. Roughly, how much a month are our obligations? []

MICHAEL CALVERT: Well, it varies because you don't have a uniform payment schedule for aid payments, for example. A lot of them start in September. I mean basically I guess you'd take whatever our appropriations are for '10-11 of about \$3.4 billion and divide that by 12. I don't have a calculator but I'm trying to recall. I think expenditures tend to be a little bit back-loaded, i.e., you tend to have more in the latter half of the fiscal year because, again, there are a number of aid payments that really don't start until September. So your first few months of the fiscal year tends to be somewhat smaller. []

TOM BERGQUIST: You take the overall budget, it's close to \$70 million a week on, just simply dividing it, on average. []

SENATOR KARPISEK: A week? []

MICHAEL CALVERT: A week. []

TOM BERGQUIST: Yeah, a week. []

SENATOR KARPISEK: Thank you. Thank you, Speaker Flood. []

SENATOR FLOOD: Senator Wightman, do you have a question? []

SENATOR WIGHTMAN: Thank you, Speaker Flood. I guess I would have a question. With regard to the \$41 million that we are short as of the end of May, that shortfall, has that all occurred since February, when the Forecasting Board last met? []

MICHAEL CALVERT: Yes, that is in comparison to the February forecast, the last official forecast, which is built into this financial status. []

SENATOR WIGHTMAN: Oh, so when we're looking at \$41 million, that's been accumulated in about four months. Is that correct? []

MICHAEL CALVERT: Right. In essence, yes. []

SENATOR WIGHTMAN: And that is the shortfall there. I assume that (inaudible) we are not meeting the 5.2 percent growth factor that was set by the last Forecasting Board meeting. []

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MICHAEL CALVERT: Well, the 5.2 percent applies to next fiscal year. []

SENATOR WIGHTMAN: Okay. []

MICHAEL CALVERT: The growth rate, based on the current forecast, which we're falling short of, the growth rate is about 2.4, a negative 2.4 percent. The forecast anticipated a decline in revenue growth. It appears that the decline is going to be greater based on year-to-date results. []

SENATOR WIGHTMAN: How many consecutive forecasts have we had that have revised downward, two or three? []

MICHAEL CALVERT: Oh, gee, stump the analyst I'm afraid; at least, I would suspect. []

SENATOR WIGHTMAN: Three probably. []

MICHAEL CALVERT: They've been ratcheting down. The Forecast Board meets a minimum of twice a year, sometimes three, depending upon what session we're in. I don't know, we might have a chronology. []

TOM BERGQUIST: The '09-10 has dropped four times. They dropped it \$150 million in February of 2009, \$26 million in April of 2009, \$125 million in October 2009, and \$40 million in February of 2010. []

SENATOR WIGHTMAN: Thank you. []

MICHAEL CALVERT: What about '10-11? []

TOM BERGQUIST: So that's a total of \$341 million; '10-11 they dropped it \$298 million, so... []

SENATOR WIGHTMAN: So it would be five actual reductions. []

TOM BERGQUIST: Yeah. Correct. Well, they did them at the same time, both years. []

SENATOR WIGHTMAN: Okay. []

SENATOR FLOOD: Seeing no other questions, Senator Heidemann. []

SENATOR HEIDEMANN: I just want to make a comment and you can follow up on it, Mike. We keep talking about, in the Cash Reserve, of \$321 million that we'll have available to us. That is contingent on getting that \$8.5 million back from the Water Contingency Cash Fund. You can comment on that. And then when is that money

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supposed to actually...it appears in 2010-2011, when is the time frame that that's supposed to come back? []

MICHAEL CALVERT: Well, that's what we have it scheduled for. For lack of a better word, that may be speculative. I don't know what the timing of that will be. []

TOM BERGQUIST: As I understand, the current law says it's supposed to be in '10-11. I'm not sure what the date or specific timing of it. []

SENATOR HEIDEMANN: And I... []

TOM BERGQUIST: I think it said on or before June 30 of 2011, I believe. []

SENATOR HEIDEMANN: I probably brought that up for the purpose of when, if for some reason that doesn't happen, that could affect us by \$8.5 million. []

MICHAEL CALVERT: Correct. []

SENATOR FLOOD: All right, not seeing any further questions, we'll proceed now to the next item on the agenda, which still involves Mr. Calvert and Mr. Bergquist, and that is sharing with us some of the information provided on the setting of a biennial shortfall target, so... []

MICHAEL CALVERT: Okay. I'm going to refer to the single page that's titled "Setting A Biennial Shortfall Target," and it's kind of a stepwise progression as to how you can arrive at a target. One thing I think you need to keep in mind is the financial status, the target that we start with of \$679 million is as of this point in time. We're going to be, between now and the end of the next legislative session, shooting at a moving target. There will be a number of things that will occur, some things that won't occur that will alter that target and that is the...one of the purposes here is to lay out those sorts of things, those contingencies. We start with a \$679 million target in terms of a shortfall, and we're using "target" in terms of giving some direction to the Ad Hoc Committee. What are some of the things that could alter that? I mentioned one already in terms of the revenue results in the current fiscal year. To the extent that it is above or below, and as it stands right now it clearly is running below the current estimate, that will alter the target. If it's running below it's going to add to the shortfall. We will have a lower amount of revenue coming in, in the current fiscal year, to carry forward into the next budget biennium. So that is one area. I mentioned earlier the Cash Reserve transfer to General Fund. That will obviously reduce the shortfall should the Legislature deem it desirable to transfer assets from Cash Reserve to the General Fund. The third item on the list, we've seen quite a bit of press with respect to Congress extending the enhanced FMAP for six months, i.e., the federal cost-share that goes to support our Medicaid Program. The ARRA Act passed a year ago in February enhanced the amount of federal cost-share

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for the Medicaid Program for all states and that is, under current law, scheduled to terminate December of this year. Since early in the spring Congress was discussing, both houses were discussing the prospect of extending that an additional six months and, frankly, in February and March of this year prospects of that extension looked pretty good, then it faded from the scene, then it kind of resurrected itself, and then it faded from the scene again in terms of congressional debate. As of this point in time, it has not passed both houses of the Congress and, frankly, the assessment is that it's not good in terms of an extension. If there had been an extension, that would have allowed for a lower General Fund cost obligation and, thus, the shortfall potentially would have been and could have been reduced. Prospects for that at this point in time do not look very good. Just for anecdotal information, NCSL conducted a survey of the states and asked them, when they built their budget for this next budget cycle, the forthcoming fiscal year, how many of them anticipated the passage of that act and the additional funding, and my recollection is roughly about 30 states went ahead and decided to enact a budget that anticipated the receipt of federal funds, which at this point in time appear to be at risk. State of Nebraska did not, so we don't have that particular problem to solve here in the near term. The fourth item on the line...fourth item in the display deals with reducing funding for the property tax credit, and I know there will be mixed views as to the desirability of whether that should or should not be done. My rationale for including it is that, in fact, statutes that created the property tax credit does set forth language that, and I'll paraphrase, in essence says that if funds are available. I leave it to your judgment and the Legislature's judgment ultimately as to whether funds are available to sustain the property tax credit for the next two years. We have modeled in, under current law assumption, that, given past actions of the Legislature, it would be the intent to continue to fund that. And the funding for that property tax credit actually shows up on line 10 of the financial status on the transfers out because the way the law is structured is the property tax credit is transferred from the General Fund to a cash fund specifically set up to account for the credits, and then the appropriation is made from the cash fund. But again, because of the wording of the law, and it's a relatively large dollar amount, it would become your collective judgment as to what extent that is a viable option. Actual revenue results for the current fiscal year I mentioned were running behind. If you go down to the next line, revised and new forecasts, because there will be a forecast revision for the fiscal year that we're about to start when the Forecast Board meets in October, so potentially any changes to that dollar estimate may or may not...may adversely or may favorably, if they increase the revenue estimate, if things turn around to the extent that they could, they might, it could add or subtract to the shortfall. Currently, the implied growth rate, Senator, 5.2 percent in the next fiscal year. Okay? The two fiscal years beyond that for which we will be setting a budget in the next legislative session, 7.2 percent respectively for each year. Again, they are above average but they do match up with past history with respect to the historical pattern. Those are the two years that the Forecast Board, when they meet in October, will be setting official forecast estimates for the first time. So depending upon how those work out, they could add to the shortfall, perhaps subtract from the shortfall. We won't know

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until October. Having done budgets both here and with the city for 30-plus years, invariably in the budget process we have surprises, good and bad, in terms of the requests. We pick up information with respect to some costs that have materialized that we didn't anticipate, perhaps some costs that don't materialize. Depending on how that all works out, because keep in mind this status is built on a set of assumptions and projections that we have done based on expenditure patterns in the past, agency requests, when they come in, in September, we'll start looking at and analyzing and making some determinations as we go through them to what extent these assumptions are accurate, and we'll start making adjustments. Depending upon how those work out, they may add or subtract to the shortfall. I do know, for example, given the series of natural disasters and flooding and whatnot, that it hit a large part of our state. I suspect that we are going to have a fairly significant demand on the Governor's emergency fund sometime in the next year to 18 months. So that might be a cost obligation that we did not anticipate that would add to the budget gap. You sum up all of those transactions, that equals your net shortfall after adjustments. And recall again, I said we're going to be shooting at a moving target and these are just simply examples of some of the things that may cause that target to move. It helps define, as we stand today, what your target is, as we look at it at this moment, knowing what we know, of \$679 million, and that dovetails and helps define the budget request structure. As I had mentioned earlier, in working with the executive budget officer, we decided to set base budgets at 90 percent and then ask agencies to build modifications, decision packages, a variation of zero-based, up to their full request. So generally, that structure then comports with the current view of a \$679 million budget shortfall for the biennium. In other words, there will be options, there will be decision points at least from an agency's point of view in what they offer that will get you close to meeting that shortfall on the budget side. []

SENATOR FLOOD: Any questions for Mr. Calvert? Seeing none,... []

SENATOR ASHFORD: I just... []

SENATOR FLOOD: ...oh, Senator Ashford. []

SENATOR ASHFORD: Mike, Mike, when you...looking at this chart, you're assuming 7.2, which is the same growth rate that occurred in '02-03 time frame. That's where you got that? []

MICHAEL CALVERT: Comparable. It's actually looking at the full cycle for the last 20-plus years. And, Senator, let me describe... []

SENATOR ASHFORD: But... []

MICHAEL CALVERT: Go ahead with your question. I'm sorry. []

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SENATOR ASHFORD: No. No, I mean...the economic conditions were significantly different worldwide in '02 than they were in... []

MICHAEL CALVERT: Every recession is different, every recovery is different. []

SENATOR ASHFORD: Right. []

MICHAEL CALVERT: This says something akin to the long-run average in terms of a cycle... []

SENATOR ASHFORD: Okay. []

MICHAEL CALVERT: ...to the extent that a recovery...and keep in mind, we're talking about two different kinds of recoveries. We're talking about an economic recovery on one hand,... []

SENATOR ASHFORD: Right. []

MICHAEL CALVERT: ...but also a recovery with respect to the revenue cycle and the revenue patterns. []

SENATOR ASHFORD: And that lags. I mean, you know, that... []

MICHAEL CALVERT: There can be lags. There can be lags. []

SENATOR ASHFORD: So... []

MICHAEL CALVERT: So... []

SENATOR ASHFORD: Okay. That's fine. That's all I have. []

MICHAEL CALVERT: Very good. []

SENATOR FLOOD: Any other questions? Thank you, Mr. Calvert, Mr. Bergquist. We now proceed to item number IV on the agenda. Quickly, I just want to talk about the methodology. I believe our Fiscal Office did a good job of touching on this. We're looking at a \$679-\$680 million budget shortfall. Break that in half, it's \$340 million per year; \$340 million works out to be 10 percent of the General Fund appropriations for FY '10-11 of \$3.4 billion. What we did then...I should say what the Fiscal Office did then is they applied that 10 percent cut to each agency, coming up with a figure that if each agency were to cut equally we would be able to reduce the budget by \$340 million. You may have already seen this document. (Exhibit 2) It is titled the "LR542 Calculation of Committee Target Levels." I will make this part of the record for this hearing. In order to

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reach a committee dollar amount target, the 10 percent cut to the agency was then totaled for each committee by grouping the agencies within their committee budget review subject matter as adopted by the Executive Board in April. So what we've talked about doing by committee is asking each committee to identify potential cuts that would have to be made to reach the 10 percent target within our subject matter jurisdiction of your committee. So for instance, if you're Senator Avery and you've got a number of different agencies within the subject matter jurisdiction, there's not the expectation that he and his committee find 10 percent out of each one of those separate agencies or programs, I should say agencies. The idea is that there would be 10 percent reduction found among all of those within his subject matter jurisdiction. So for instance, one agency cuts could be identified that total 6 percent and one agency could have cuts that total 25 percent. But the idea is at the end of the day, when Senator Avery and his committee present an Options List, that 10 percent General Fund reductions are identified and made available to the rest of the members in the Legislature. Let's talk about that. Senator Lathrop. []

SENATOR LATHROP: I do have a question because as I'm sitting here it sounds like you are talking...when you're talking about a 10 percent cut from each of the committees, those are not just our recommendations, you can trim here and you can trim here, but programs that you would eliminate that equal 10 percent. So built into this is the assumption that the process is taking us to the elimination of 10 percent of the programs and not simply a recommendation that...I was going to...I'm looking at Senator Ashford and thinking of Corrections. If his recommendation is to trim some part of the budget that involves Corrections but doesn't involve an elimination of a program, that's not what we're here for. []

SENATOR FLOOD: That's right. []

SENATOR LATHROP: You're looking to make this all up in reductions in programs and not reduction in budgeted amounts. Is that right? []

SENATOR FLOOD: That's right. And to clarify, I think next year obviously the Appropriations Committee, in cooperation with the committees, will be in the perfect spot to look at the big picture as it relates to reducing funding for agencies, as we have done with two across-the-board cuts, one in the special session and one in this last budget. I would ask, though, if you do identify places that we could reduce General Fund appropriations without the elimination of program, that you should send a letter to Senator Heidemann and every member of the Appropriations Committee, making them aware of where you believe there could be cuts. But the idea of the LR542 Committee is to identify a set of options that would have to be done to be able to meet our obligations by reducing General Fund appropriations and eliminate programs. So you provide really good focus on what the mission is here. The mission is not to look at the Department of Corrections, for instance, and say, well, we think they could survive an

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across-the-board, inside agency 7 percent cut. That may be your...that may be something you believe and I would ask that the committee then notify Senator Heidemann of that, but the idea is to look at, for instance, the Department of Corrections and identify what program or service by statute would have to be eliminated or modified in statute to produce the result desired in terms of reducing General Fund expenditures. Okay. So let's get down to this Options List. Again, what I envision here is not everybody showing up at some point later this year and saying these are the bills we're going to introduce. Now I think some committees have already said if we're going to put it on a list, we're going to introduce it, which I think is completely reasonable. But I think what the rest of the Legislature needs to see and we as a group need to do is to put down on paper, by some point, what types of changes would have to be made in the statute to accommodate a 10 percent General Fund reduction in expenses. I want to be very clear that obviously we want to take this very seriously, but I think the committee also owes it to the rest of the Legislature to identify the pros and cons of such a decision. If a decision on paper would result in a \$7 million General Fund savings, we should know that. If it's also the case that it would result in this harm to the public or this compromise to public safety or the loss of federal matching funds or whatever the cons are, I think those should be identified as well by the committee. I don't want anybody to go into this thinking, well, I'll just pick a couple of things no one is ever going to do and I'll tell you what it saves and I'll tell you 15 reasons why it doesn't work. That may be the case, but I think we have to take it very seriously because every member of the Legislature at some point is going to be looking at these lists. And so if we commit to taking it very seriously, and I believe everybody here has already made that commitment, the idea is that that Options List is a resource. And I think if your committee desires to introduce items 1 through 4 of your 15 items on your Options List, you should let the rest of the Legislature know that you intend to make this change and that this bill will be brought by the committee or this senator and it will be handled by the Education Committee and we want to make this a priority. I think that's completely reasonable and would be appreciated. So that's the direction we're going on these Options Lists. I want to stress that these items on your list would comprise a list that your committee members, number one, agree need to be done during the next session or, two, believe the item should be on the table for discussion as we undertake developing a budget during the next session. So we're asking you and your committee to develop this list of priorities and it will be a committee work product. The other thing I want to mention here before we go to discussion on the Options List specifically, items on your 10 percent Options List need to be programs that, while you may not support the reduction at the time you submit the list, you and your committee recognize that if we do cut our way out of this problem this program may have to be reduced or eliminated. This is a "have to" list, not a "want to" list. And I want to make that very clear for the public. We're looking at things that would have to be cut, not things that we want to cut. Does anybody here have anything they want to talk about as it relates to the Options List? Okay. So without any additional discussion, are we all committed to moving forward with an Options List rather than what I think was originally envisioned in

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that you'd come with a binder full of bills, and we'd make this available to the general public? Senator Ashford. []

SENATOR ASHFORD: Do you have...is there a timing... []

SENATOR FLOOD: Yes, I have a...I want to... []

SENATOR ASHFORD: A time line. I'm sorry. []

SENATOR FLOOD: Yep, it's coming up here. Okay, so then it will be the direction of this committee that we'll move towards an Options List as described. Do we have any questions from any of the committees on what they're being asked to prepare? If you do have any additional questions, you can certainly contact myself, Laurie Weber, Mike Calvert, Tom Bergquist, Senator Heidemann. Okay. And I think one of the other things we're going to do is provide like a standardized message for use on each Options List that clearly identifies that these are options, not recommendations, and that a specific committee believes this is what will have to be done if you want to cut your way out of the problem, so that it's uniform and, when it is made available, that everybody knows what that is. Let's talk about handling the process to get information. As a committee Chair, you know you have a lot of tools at your discretion. You can certainly meet with an agency at any time and have any discussion you want relating to what the General Fund dollars are used for by the agency. I know some of you are already...have already started that. Several of you have opted or want to hold what we are calling agency briefings. Now this is not a standing committee of the Legislature and this is not...and these are not going to be hearings. If you have an agency briefing, the way we've talked about it individually is that a committee may meet as a committee and call in an agency director, for instance, and that will be closed to the public with the exception that the media would be allowed to attend, as it would during an Executive Session. These are not briefings where testimony is taken. And we've been discussing this in my office. I'd like to move forward in that vein, to the extent you want to have an agency briefing, where the agency director comes in, the agency director will provide information about what the programs do and where the money goes and what the mission that state government is required to meet is under the statute. I want to make clear these are not sessions where we act like an Appropriations Committee and we grill an agency director on what they want to see done because, obviously, they're in the process of putting together an executive branch budget and on September 15 they're going to have essentially their Options List or recommendations for a 10 percent cut that we'll have the pleasure of seeing. But it is an opportunity for us to call in the Department of Agriculture and its director Greg Ibach and ask him specifically what does agency XX do and what does Program 123 do. And those things I think will be very helpful to the committee. If the committee wants to have an agency briefing, that's at their discretion. If they want to meet with the agency with its Chair, that's also at the Chair's discretion. Does anybody have any questions about that? Is everybody comfortable? I think that because it's a

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briefing and there's no action going to be taken, we are allowing the press in to ensure there's transparency. I think that's a reasonable step. And to the general public, the advocates or members of the lobby that want to question that, I would remind each of you that all we are doing in these briefings is getting information about what the state budget does and how it works. And in the event there's any action taken to reduce a program or service, there will be a bill introduced and there will be a hearing on that bill, as is our rules, and the appropriations process will continue to operate as it has by providing every agency an opportunity to be heard and the committee to ask questions in open session. So I think we've taken steps here that ensure transparency while at the same time give committees that want to do briefings the opportunity to do so. Is everybody okay with proceeding in that manner? Senator Pahls. []

SENATOR PAHLS: Senator Flood, I have a question. Let's say we have one of these agency meetings, and I am discussing this with one of the individuals in the Fiscal Office. They will...can I ask them what their recommendations would be? []

SENATOR FLOOD: Can you ask who? []

SENATOR PAHLS: That person, for example, the Fiscal person who has talked to me on the...let's say, Department of Economic Development. []

SENATOR FLOOD: Absolutely. Mr. Calvert, do you want to answer that? []

MICHAEL CALVERT: I wouldn't characterize...well, we tend to...recommendations, not necessarily. Options,... []

SENATOR PAHLS: Okay, options. []

MICHAEL CALVERT: ...you know, drawing from the analyst's experience and knowledge, you have some choices here. There are consequences attached to the choices. I think ideally that's a better process to follow. Necessarily saying this is the choice... []

SENATOR PAHLS: Just some ideas to think about. I just wanted to clear that up. []

MICHAEL CALVERT: I want to emphasize, the staff, the Fiscal Office staff have been engaged in a number of different areas, I really appreciate, with some standing committees. Senator Adams, I know they've helped your staff in working. That's a standing offer in terms of the analyst assigned as a resource. They're a resource to the entire Legislature. []

SENATOR PAHLS: Thank you. []

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SENATOR FLOOD: The only thing I'd add to that, Senator Pahls, is institutionally our branch of government is charged with developing and passing a state budget. We hold the power of the purse strings in this state and I think it's incumbent upon us to take that responsibility very seriously and to do our own independent investigation, to the extent each committee is comfortable, and ask the tough questions so that we can understand what's appropriate or what's not appropriate. And so that's the direction we're going. You know on the agenda, sub V or paragraph V, sub (2), making cuts or alternatives, the reason Senator Heidemann came up with LR542 with Mr. Bergquist and Mr. Calvert, and we give him full credit, is that this is an effort to investigate whether we're willing to cut enough to avoid raising taxes. Ultimately, those decisions will be next year. But if we don't find savings, there's only one other alternative and, as Senator Cornett and her committee know, that's to raise taxes. And I don't sense there's an appetite to do that, myself included, in the Legislature at this point. And so that's why we're here. Okay. Sub VI and we're handing this out. (Exhibit 3) I prepared a little time line for you to look at. It's being passed out right now. You should have that. You'll see on June 25, last week, DAS already issued forms and instructions to agencies for budget requests. On the 29th obviously we're meeting. I'm proposing that we meet again by conference call to be scheduled sometime in August. On September 15, agencies will submit budget requests to DAS. Mr. Calvert, can you explain for everybody what the significance of the September 15 date is? []

MICHAEL CALVERT: Sure. That is the due date for agencies to submit their budget requests to the executive Budget Office. By statute, they are the clearinghouse. The information will be available, I expect, as past practice, available on-line. There will be a Web site that allows you to access those documents. It's probably not going to be immediately on the 15th. There might be a process of some conversion and setup and some edits that are necessary to make sure the material is ready, but that's the significance of it. Those are the formal budget requests from every state agency. Again, the due date is September 15. Generally, there's pretty good compliance, so a lot of information will be available. []

SENATOR FLOOD: And what is...and can you just, for the benefit of the committee here, we talked a little bit about the Department of Corrections. []

MICHAEL CALVERT: Yes, sir. []

SENATOR FLOOD: What kinds of things are on these reports as it may relate to like the Department of Corrections? []

MICHAEL CALVERT: There will be narrative describing programs and functions. There will be very detailed, line-item account listings showing past expenditures, past appropriations, and projected dollar amounts, their request. The 90-10 split, the modification process, is a separate section. There is a summary listing on how those

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modifications, those decision packages are rank ordered, because agencies are not only asked to identify the functions they're putting out on the margin, if you will, as identifiable issues, but then they're asked to prioritize them: what is the first highest priority above that 90 percent base, what's the second highest, third highest, and so on. That information is in the request documentation. It is very extensive. You may need some coaching. If individually your staff or you are interested in accessing a document, you might be confronting a 200-300 page document, so contact the analyst in the Fiscal Office and they can help point you in the right direction on some of the things that you might want to look at. []

SENATOR FLOOD: Is it fair to say that this year that September 15 document is going to be given more weight given the situation the state is in that maybe it hasn't in prior years? []

MICHAEL CALVERT: Well, it's always been given significant weight. Under the circumstances, the attention that will be given to it, will that be higher? Most certainly. []

SENATOR FLOOD: And I would stress, this is the executive branch's... []

MICHAEL CALVERT: It's the individual agencies' requests. []

SENATOR FLOOD: Right. []

MICHAEL CALVERT: Some of those fall under the direct purview,... []

SENATOR FLOOD: Code agencies. []

MICHAEL CALVERT: ...code agencies, under the direct purview of the Governor. Many of them are independent. []

SENATOR FLOOD: So Game and Parks will also do this. []

MICHAEL CALVERT: Absolutely. All agencies are required to submit a budget request. []

SENATOR FLOOD: University of Nebraska? []

MICHAEL CALVERT: Yes, sir. []

SENATOR FLOOD: Good. All right, as you move on the time line here, we get to November. I have an item there that standing committees finalize their LR542 10 percent Options List at some point in November. We have a meeting in November here again in the Capitol, our second and hopefully final meeting in person, and then

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December those would be released at some point to the full Legislature, either at the symposium to be scheduled or we can mail it out to members of the Legislature. And then as you see in January, the idea is that, okay, if Senator Karpisek's committee comes in and says, we're going to introduce items 1 and 2 on our Options List but items 3, 4, 5, and 6, you know, these are options. If Senator Pankonin saw one of those options and said he wanted to put that in, he would have the benefit of seeing it on the Options List, hopefully toward the end of December would have the benefit then of going to the committee counsel for the General Affairs Committee, getting assistance having the bill drawn up with the help of the Revisor's Office, and then within the first ten days there would be a public hearing scheduled for that concept in the Legislature. The other thing I want to make clear is that even if it's not introduced in the first ten days, under our rules the Appropriations Committee will obviously have the same role, they also have the ability to introduce bills, outside of the ten-day window, five days after they present their preliminary budget, if I recall the rule correctly. []

MICHAEL CALVERT: That is correct. []

SENATOR FLOOD: So that's a little bit of a look at the time line. Now does anybody here want to make changes to the time line? This is just the first stab at it. I'm not necessarily committed to this exact time line. I do think that we should give committees until mid to late December before we expect anything to get pushed out, so that to the extent there are questions or problems, they've had a chance through the forecast, they get an idea on what the revenues are doing. I mean are you comfortable with that? Anybody have any issues or want to make any changes? This is just my attempt to try and start the discussion. Senator Lathrop. []

SENATOR LATHROP: Maybe I will speak about one thing that I've had some concern about and a little bit of it's coming together today and this is my concern. If our job in this committee is to identify programs that we would cut that would get us to 10 percent, the assumption in the whole process is that we are going to balance the budget by eliminating programs and not by making appropriation styled adjustments to our budget, right? So we may have committees, and I'm thinking of mine but I could be thinking of Transportation or...some things that are required by federal law which will be taken off the table because that's not something we can change by law, some things that are required, functions of government that are required by our constitution that will be taken off the table. Those things that...functions of government that are cash-funded, for example, the Work Comp Court, those things will not be included in here even though we might say we can save a little bit of money or trim a little bit of money from this process of government that's mandated by our constitution. And my concern is that this process seems to be taking us to a place where, first of all, it assumes that we're not going to take any money out of the Cash Reserve, that everything we need, including leaving the Cash Reserve where it's at, everything we need to make up the budget is going to be done in program cuts and not in simply reducing the amount of money we're

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spending on existing programs. And when we get to December, I think we're hard-pressed to come up with 10 percent of our budget in program cuts when much of it is off-limits because it's a process mandated by a constitution, it is a process that is paid for with a cash fund or it is a process that is...the constitution cash funds or federally... []

SENATOR FLOOD: Federal law. []

SENATOR LATHROP: ...federally required, like for example the NEOC. And when we get to December or whenever we...whenever we have a document that seems to be our final work product, I think the exercise is about getting information, sharing information among the senators in a process that's outside of our required responsibilities with respect to the budget and whether we have a document or a product that is released or shared or it becomes an education process for each of the Chairs so they can participate in the reductions that will necessarily have to occur, I guess that, in my judgment, is an open question. []

SENATOR FLOOD: The only thing I would say to respond to that, and I understand what you're...I don't even think you have concerns, you have observations as to how the process is going to work and... []

SENATOR LATHROP: I think that's a fair characterization. []

SENATOR FLOOD: The first thing I'd say is we're not saying this is...these Options Lists aren't what we will cut. These are things that would have to be cut if the situation required it. What I would remind folks is, obviously, we use the methodology that has 10 percent. We all know we have \$321 million, less \$8.5 million potentially, in the state's Cash Reserve. We also are looking at \$40-plus million shortfall as we end the fiscal year Thursday or Wednesday this week, tomorrow. And we're not overly optimistic that that number is going to go down. Quite frankly, it could go up to \$1 billion for all we know in the October revenue forecast. The idea is to identify 10 percent in General Fund reductions by program so that we have as many more tools in the toolbox. But given the observations that you made about our process, I think the reason I'm suggesting we meet in November as a committee, Ad Hoc Committee, is that we have the option at that time to trim back or to add to what we expect from the committees after we see the late October forecast, because I think that will give us a better picture of exactly what we're up against. If the revenue picture gets much better, I don't know that we'll need as much from the committees. I think we should work on 10 percent reduction, but I guess as to the December date that has yet to be announced or as to the publication of any Options List requirements, I think that could still be amended at our November meeting. We'll adopt it on a preliminary basis today but we'll come back in November and visit about it again probably in mid-November as to what we're looking for toward the beginning of the 2011 Session. []

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SENATOR LATHROP: Maybe my point is about how we measure our success and what our expectation is here. Because whatever we come up with is only one piece of it and we still have an opportunity, through the appropriations process, to make it up. So if we don't come up with 10 percent of our budget in this process that doesn't mean that the Legislature is headed to a tax hike. []

SENATOR FLOOD: That's a very good point. We don't want...the expectation from the general public and the media shouldn't be that we'll have our budget problems solved by this group on January 1, 2011. This effort is ancillary, quite frankly, to the Appropriations Committee process that happens next year, and it's designed to give the Appropriations Committee some options when they're building the budget to say, well, Senator Lathrop found \$750,000 in agency X under the Business and Labor Committee's jurisdiction that we can build into the budget should that bill pass. That's the expectation. This is step one in a several-step process so that by the time we get done with our budget next year we can look back and we can collectively be satisfied that we passed a state budget, during difficult financial times, that was responsible and addressed the needs of the citizens of the state to the extent we can afford it. Is that...does anybody else want to talk about the time line? We haven't been taking votes here. I guess because we don't have much discussion, I'm going to print this time line and I'm going to treat everything past the mid-November time as preliminary and we'll have additional discussions in mid-November as to how we'll roll this out. But I don't want anybody to think that we're locked into this process in December. I want to make sure that's more articulated at our November meeting. So that will be only adopted preliminarily. All right, 2011 Session, Senator Heidemann, why don't you fill us in on how you intend to solve all of our problems next year. []

SENATOR HEIDEMANN: First, I do...I want to thank Speaker Flood for all the work and effort he's put in, and Laurie from his office. I think they were a little hesitant when this came up last year, when he introduced this. I think they've got over that. He has taken charge and has been great in organizing everything that we need to do that, and I appreciate that. Come next January, things will be as you would probably would usually recognize them. The Appropriations Committee is going to start meeting, we're going to start working on a preliminary budget. The Governor will introduce a budget shortly after that and things will be somewhat normal. But because, I believe, of LR542, things are going to be a little bit better in at least a couple of different ways. We do have some severe challenges before us and what LR542 is going to enable us to do is to get every committee involved by putting options together, and we're going to be able to, as an Appropriations Committee, look at those options. We might not agree with each and every one, just like you might not, as you're putting them together, agree with each and every one. But we have to do things that we don't normally would probably like to do but because of the challenge before us we're going to have to do, and you're going to have to do the same thing when you're putting your options together. You're not going to have to agree with each and every one of them, but you hopefully will get those options

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to us so that the Appropriations Committee can go, yes, we can...we would like to go with that or, no, we don't think that's a wise thing. The other thing that I think is very positive with LR542, time and time again when the Appropriations Committee hits the floor, I have members from the Legislature come up to me and say this is too complicated, this is too complex, what does this do, what does this do. You're going to have an opportunity over the next few months to get to learn the budgeting process a lot better, especially with the agencies underneath your jurisdiction, so that when we have to make these difficult decisions, you're already going to be ahead of the game by saying, yes, we know what this is going to do. And we could...you could either agree with it at that time or say, no, even though we put that as an option, we don't feel comfortable with that, and then we're going to have to go on from there and figure out how to make it work. The other thing that I want to stress as we had stated before, it is our hope that if there has to be statutory changes that if it's on your Options List that either the committee chair or the committee as a whole or somebody from the committee would introduce that legislation. If it is on your Options List and no one from your committee or the committee does not feel comfortable doing that, I would ask that you would get back to us so that we don't miss a window of opportunity, as we get into this process and the February Forecasting Board doesn't treat us very good and the April Forecasting Board doesn't treat us very good, that we definitely have these options on the table that we can go back to, that we don't miss a window of opportunity to at least introduce it. Just because you introduce statutory changes doesn't mean you have to put it out of your committee. It will just be something that can sit there that if we need that option, that at that time we can go back to you and say do you think that you can pass this thing out of your committee and get it to the floor, but if you're not comfortable with that, get back to us. It's not uncommon that the Appropriations Committee or somebody from the Appropriations Committee will put a bill in for statutory changes for...to change a program for...to change the appropriations amount or to eliminate or whatsoever. So we're going to need some cooperations between the committees to make this all work, between all of your committees and our committees. []

SENATOR FLOOD: The only thing I'd add to that is no one can force any member of the Legislature to put a bill in. That's your individual prerogative as an independently elected officer of the Legislature, as a member of the Legislature. So, you know, I think a number of you have said that if it's on your list, you're going to introduce it. I think if you're not going to introduce it, let the Appropriations Committee know. Obviously, they have a separate window after their preliminary budget. The next thing I want to talk about in this is integrating the LR542 legislation with the budget, we've been...since I've been Speaker, this was my fourth year, we haven't included a lot of bills in the budget package. You know, everybody needs a priority to usually get on the floor after a certain point in the session. I think in the last two sessions we've added one or two bills that Senator Heidemann says they need to make it work, and then usually at the end of day it's the Speaker's final decision. I would hope that if you are putting forward ideas that you would use your committee priority designations, because we really need to focus

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next year on getting the budget issue solved and your...we already have redistricting to deal with, which will come to the floor and has to be discussed, and it's like the budget. And so we're going to also have the budget. And you've each got two priority designations. I would hope that you'd use that. In the event that you've already used those up, hopefully in other budget-cutting ways, and you have other bills, you need to, you know, and as they move through the system, you need to let Senator Heidemann know so that when he gives me a list of bills he wants, the Speaker can make a decision on whether or not they're included in the budget package. In 2003, when Senator Bromm was the Speaker, May 14 of that year, this was his budget package. I'll bet that's 16 bills. And that was during a very tough financial year. So it is something I would consider. I would prefer, though, that you use your committee priorities to prioritize bills that will reduce the General Fund expenditures to the extent you introduce them or individual senators will do that. Because I don't want...my hope is that we don't build a budget based on a bunch of very controversial measures at the time the budget is being passed that if they're not adopted you've got a lot of trouble. My hope is that the committees will get those bills out early, we can get those bills up, and that when we get to the budget we can do some cleanup. But usually this is fairly noncontroversial stuff. We don't want to have our entire budget package hinge on an extremely controversial vote, extremely controversial issue. That places the budget process at risk. Okay. We're now going to move to sub VIII, committee updates. Let's start first with the Executive Board. Senator Wightman. []

SENATOR WIGHTMAN: Thank you, Mr. Speaker. As far as what we have done at this point, we've not had any meetings, and we have a meeting scheduled for this afternoon. We probably only will preliminarily touch on what our role will be in LR542 but we'll set a date, probably for early August, that we will probably look at some briefings from our division executives, and they will come in and visit with us, some of them at least if not all of them, at that time and give us options, as we discussed earlier today. But until then, we really have not moved forward very far in meeting the target, so... []

SENATOR FLOOD: Thank you, Senator Wightman. Senator Carlson, Agriculture. []

SENATOR CARLSON: Thank you, Speaker Flood. Before I get into specifics on what the Ag Committee intends to do, in our discussion today about three things have come to mind that I hope have cleared out some cobwebs for me and maybe for some of the others as well. I think that we're coming to the point that we recognize that the state of Nebraska government can't do everything for everyone. And in this process, I am seeing that no agency should be exempt regardless of federal or state mandates, and I think that that's being handled. We need to be willing, of course, to modify current statutes if that's necessary. But in looking at what we're dealing with, first of all, is a service helpful or beneficial, I think the vast majority of what we do and what we legislate is helpful and beneficial. Next question, is the service necessary, and then most of what we do we're going to say is necessary. The crux of the matter is, is the

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service essential, and I think that's eventually what we're really dealing with in terms of making these difficult decisions. The Ag Committee, through our research analyst Rick Leonard, has made significant plans and moved forward in this process. We have met with the Department of Ag and we will have continued meetings with them. Tomorrow Mr. Leonard is sending out a notice to all the members of the Ag Committee of the schedule that we're going to be on, and it appears that it's going to coincide very nicely with what the Speaker has put out and so I believe that we'll be in a position to meet these deadlines in a manner that makes it very helpful. Thank you. []

SENATOR FLOOD: Thank you, Senator Carlson. Senator Pahls, Banking, Commerce and Insurance. []

SENATOR PAHLS: Thank you, Senator Flood. The Banking, Commerce and Insurance Committee, we have seven agencies that are identified under the jurisdiction of LR542. All of these agencies, except one, are cash funded. Just to give you an idea, they regulate the banks, insurance companies, realtors, appraisers, accountants, and abstracters. The one that we will be concerned with would be the Department of Economic Development, because they have a variety of funds, cash funds, federal funds, and General Funds. Now the legal counsel has been...we're looking at the statutes which the DED is responsible or they have the authority to work, and he's already organized these statutes into 19 different provisions. And what he has done, he's sort of given a brief idea what these statutes all are about and then we've asked the Fiscal Office to show us the monies that are involved in that, because we...now...and we will have a meeting on, let me see, July 8 and with the committee and the Fiscal department, sort of to explain this to us so we'll have a better understanding what we're all about. Because if we are, as you say, if we are going to take the money away, we have to deal with the statutes involved. And right now we have identified just roughly several that could be on that Options List and I do see, though, that there's potential to help meet the needs which you have directed us to. So...and like I say, I think we are rolling down the hill. The concern that I do have, though, just a little bit of a sidebar here, is since we do have these cash-funded agencies, I thought last session was very easy for us to go to banking and insurance because they were not organized, so we could hit those cash-funded agencies. But, lo and behold, if there's a group out there that gets a little bit organized, we just rolled over. So I'm hoping that in the future that since there is a system that you want us to develop for this, that maybe I will understand the system that we do when we hit these cash-funded agencies. There may be one there and I don't understand it, but it did seem like we did get the banking and insurance group a pretty hard and, like I said, there are 30,000-some insurance agents who do put money into that fund. That's a concern of mine. And one more little bit here is, you know, the one nice thing about this issue, this problem that we are having, maybe we'll start taking a look at tax exemptions. (Laughter) We just might start taking a look at that because just to give you an idea,... []

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SENATOR ASHFORD: Do we have those? []

SENATOR PAHLS: ...round ball... []

SENATOR FLOOD: All right. All right. All right. []

SENATOR PAHLS: ...round ball figure... []

SENATOR FLOOD: It's nice to see that you're feeling better, Senator Pahls. (Laughter)
We're going to confine our comments to the actual subject matter committee here. So,
Senator Lathrop, Business and Labor. []

SENATOR LATHROP: Business and Labor committee counsel has been meeting with
the different folks that are...NEOC and some of those folks that are within our
jurisdiction. Much of what goes on that we have subject matter jurisdiction over is cash
agencies, not unlike Banking. Some of them are federally mandated, and some of them
are required by the...required by the constitution. So what we will be doing, given our
assignment and the scope of our work here in this committee, is identifying which
functions of government that fall within our subject matter jurisdiction are even
amenable to change by legislation, and then we'll identify those and see if there are
options found within them. []

SENATOR FLOOD: Thank you, Senator Lathrop. Senator Adams, Chair of Education. []

SENATOR ADAMS: Well, given the magnitude of the budget problem and the size of
the General Fund appropriation that education has, from TEEOSA all the way through
the university, we started, my staff started organizing what we were going to do clear
back in the end of April, shortly after sine die, and we have up to this point held three
meetings. The first one was in early May with the state aid review committee and at that
time the Fiscal Office and Senator Heidemann joined us, in nearly a morning-long
meeting, discussing our options, and we have not met since then. Instead, we're doing
modeling and weighing some of the things that were laid out on the table. However, the
Education Committee has met twice, I'm going to guess in aggregate for six to eight
hours, with the Fiscal Office only, not with agencies, in order to develop an
understanding of the constitutional as well as the statutory provisions of the agencies
under our jurisdiction to better understand the budgeting process and start developing
questions that we need answers to, and some of those questions will be deferred to the
agencies in advance of their actually meeting with us so they can have an idea of what
to expect. We have already scheduled meetings with all the agencies under our
jurisdiction, set dates and times in July and August for meetings with them, and we will
also be meeting again with the state aid review committee. So my staff was very
proactive and we understand our role in this process and we're off and running.

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Ultimately, I would hope that certainly our committee, and I would hope that all the committees here, whatever the Options List looks like, are responsible options that are put out there and not just things to get to the 10 percent but responsible things. []

SENATOR FLOOD: Thank you, Senator Adams. Senator Karpisek. []

SENATOR KARPISEK: Thank you, Speaker Flood. First, I'd like to touch on something you said about legal counsels working with the entire Legislature if a senator from outside of the committee would have an idea, that if everyone would work and allow their counsels to work with that senator or be involved in that, and I think that is a big issue. Because Senator Pankonin may have an idea for my committee and I would welcome the help. The General Affairs Committee legal counsel has contacted each of our agencies' directors, again to dialogue regarding LR542. We have scheduled our briefings for September and have notified our committee members, agencies, and the appropriate fiscal analysts. []

SENATOR FLOOD: Thank you. Senator Avery. []

SENATOR AVERY: Thank you, Mr. Speaker. The Government Committee was assigned 13 agencies and commissions. The committee counsel and I have reviewed the Legislator's Guide To State Agencies. That's very helpful. We have already met with the fiscal analysts for all of our agencies and commissions. We have reviewed additional documents, such as the state government cash and revolving funds and some other more detailed budget information, by agency. We have met with two agency directors to discuss specific proposals and we have already started compiling a preliminary list of possible budget cuts that account for about 35 percent of our targeted reductions. The next stage in our process will be to hold briefings with fiscal analysts for the entire Government Committee to discuss the duties of those agencies and specific budgetary reductions, and we'll start that process in early August. That will be followed by several days of briefings with agency directors and heads, and that will be with the entire committee, and we'll be discussing the duties of those agencies and possible budget reductions. We'll do that in September. []

SENATOR FLOOD: Thank you, Senator Avery. Senator Gay. []

SENATOR GAY: Thank you, Mr. Speaker. During the session, the Health and Human Services Committee actually obtained budget information, program information, went through all the budgets because we had kind of a lack of bills due to the current situation. So we have kind of got a jump on this and looked through. I wish I could say that there was a lot of great ideas that came from that but there wasn't, but I think we've got a good handle. Senator Pankonin serves on the committee as well. We got a good handle of what's out there so we will go through that again. We held briefings with department directors regarding our information, back and forth. On June 10 our counsel

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met with the fiscal analyst and they reviewed the agency budgets, discussed some of this process and where we're at, so we're up to speed on that. I think you're right on track with this time line. We will follow that accordingly and hold hearings. I'd just off...probably just looking at this, what we would look at is more of a priority based on safety of the citizens, the federal mandated programs, and the matches that we'd see or lose or whatever it could be, look at the quality of the programs and the management of the programs. And again, as Senator...as others, just to prioritize. One thing we are going to watch a little bit closer is the Health Care Reform Bill passed and that will create initiatives that we don't know yet. Call them whatever you want to call them. They could be mandates that could cost us more money. So we're working with Senator Heidemann on that and that's in August, I think, we're going to be discussing those. And also one thing we are going to look at is the Health Care Cash Fund as well. There's a tremendous amount of money in that, so we're going to review that. Thank you. []

SENATOR FLOOD: Thank you. Senator Ashford. []

SENATOR ASHFORD: Thank you, Mr. Speaker. We, Judiciary Committee, obviously has the public safety initiatives, agencies, \$58 million. We plan to meet in August and go over it with the Fiscal Office. We do meet on an ongoing basis with the Fiscal Office, they're very helpful, throughout the year. The agencies, we will meet with the agencies end of September and have our briefings. Legal counsel, as is the case with all the other committees here, have started the process and...but by the end of September we should be honing in on some of these. []

SENATOR FLOOD: Thank you. Senator Langemeier, Natural Resources Committee. []

SENATOR LANGEMEIER: Upon sine die, we sent out a letter to all the directors, heads to all agencies that fall within our statutory purview. We've got mixed results. Some have been real cooperative; some have been less than cooperative. And so we've been working with the Fiscal Office, through our legal counsel, and they've been very, very helpful, and to gather data in and we look forward to working through the time line. []

SENATOR FLOOD: Senator Pankonin. []

SENATOR PANKONIN: Thank you, Speaker Flood. The Retirement Systems Committee has jurisdiction over Nebraska Public Employees Retirement System, NPERS, and the Nebraska Investment Council, and I (inaudible) both are primarily cash-funded agencies. There is a General Fund impact under NPERS for funding defined benefit plan obligations, particularly the State Patrol, judges, and schools plan, the schools plan being the largest by far. Public pension obligations are contractual and, thus, constitutionally protected for existing employees in DB plans. This limits options available to the committee for identifying program and plan cuts, but staff has been and will be exploring options available to the committee. The end of the defined benefit plan

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fiscal year is June 30 as well. Committee and Fiscal staff have also been working with the state actuary and State Investment Officer to identify year-end investment return on DB plans for this fiscal year, 2009-2010. The committee is also conducting LR477 that is looking at the sustainability of the state pension plans, in particular the defined benefit plans. This study is looking at long-term funding issues. The committee is also updating the general principles that guide the committee in setting policy regarding retirement plans. The committee will schedule a briefing by NPERS later this summer after the final investment returns are available. []

SENATOR FLOOD: Senator Cornett, Revenue. []

SENATOR CORNETT: Yes. My staff has somewhat of a two-pronged issue this year. The first will be obviously what can we cut. I have made a request to the Department of Revenue and have met with the Department of Revenue in regards to giving me a list of all programs that are statutory that they administer at the department. Some examples of that, Senator Pahls, would be exemptions, but others would be the EITC, the homestead exemption, state aid to cities, all the programs that they administer, and we will be looking at those based on what the dollar amount is and how many people utilize each program. TERC also falls under our jurisdiction and we are looking at budget reductions for TERC. The other area that we have started work on for a number of months is, in the eventuality that the rest of the committees cannot make the cuts that are necessary or that the budget deficit grows beyond what we can cut, we are working on matrixes to supplement our revenue if it reaches that point. But I want to make it very clear it is not our intention to do that. But I figure, because of the situation the state is in and the...we don't know precisely what our deficit will be, we need to have a plan in place basically. But so the staff has been working on both sides of that issue. []

SENATOR FLOOD: Thank you. Senator Fischer, Transportation and Telecommunications. []

SENATOR FISCHER: Thank you, Mr. Speaker. I'd like to thank you for your leadership in getting us organized to move forward on this process, and I'd like to thank Senator Heidemann for introducing the bill and giving us some work to do this summer. My office has been reviewing the programs that are under our committee's jurisdiction and, as Senator Lathrop mentioned, many of those agencies are cash funded that we deal with and they also work with federal money that passes through those agencies. And so there are some challenges that my committee will face on that. That being said, we do have ideas for options already and we will be putting those out. With regards to the briefings that have been suggested that we hold, every two years, at the beginning of a biennium, since I've been Chairman, I have briefings for my committee, that as Senator Gay went through a couple years ago, and we have the agencies come in at that time to educate the committee on what those programs are. What I see happening with this briefing that we will be holding this fall will be that, as I said in the conference call, I will

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just have my committee on the panel, other senators will be welcome to come and listen to that briefing, but I think, as Senator Gay can also attest to, our committee usually asks a lot of questions and these briefings take a lot of time. So I think just to move the process forward, it will be helpful if only my committee members are impaneled to ask questions, but any other member of the Legislature is certainly welcome to come and listen. Thank you. []

SENATOR FLOOD: Senator Coash, as Vice Chair of Urban Affairs. []

SENATOR COASH: Thank you, Speaker. The Urban Affairs Committee is in a unique position in that the agencies don't have any General Fund obligations, only cash funds. However, with that said, much of the work that other committees do, especially the Government Committee, impacts the cash funds of the Urban Affairs Committee. So our research analyst has been working with the Government Committee to assist them in researching the Government Committee's...departments under that purview, to assist them and we stand by to continue to do so. []

SENATOR FLOOD: Thanks for being here too. All right, we now move to further discussion on our agenda. Logistically, one of the issues I think comes to mind is, and I think Laurie will visit with your committee counsels, we're going to have to figure out some way to collate the information as to when you're...if you do decide to have an agency briefing. Obviously, it would not be open to the public. It would be available for credentialed or credential-eligible members of the media. If you can get that information to Laurie sometime tomorrow. And then to the members of the media that are present that are eligible for credentials, you should contact Laurie Weber at 471-2929. Additional thoughts, discussion? Seeing...Mr. Calvert. []

MICHAEL CALVERT: Thank you. As you heard, a number of the committees have availed themselves of Fiscal Office staff members in your area of assignment for assistance, and thank you very much. We appreciate that and look forward to continue to do that. If you have not yet done so, please contact the analyst in your office. The second thing I would like to offer is that if you do have a standing committee meeting and you feel it desirable perhaps to do a walk-through in terms of the financial outlook that I did earlier, contact either me or Tom Bergquist and we would be available to do that if it was your judgment that that would be a useful thing to do. []

SENATOR FLOOD: Thank you. Anything else? We're adjourned. []