

TAX RATE REVIEW COMMITTEE  
November 16, 2010

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The Tax Rate Review Committee met at 1:30 p.m. on Tuesday, November 16, 2010, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a meeting. Members present: John Wightman, Chairperson; Abbie Cornett; Doug Ewald; Mike Flood; and Lavon Heidemann. Members absent: None. Also present: Mike Calvert.

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SENATOR WIGHTMAN: Welcome, everyone. I think it is 1:30, so we'll go ahead and open the Tax Rate Review Committee, or sometimes called the No Name Committee. And glad to see a number of people in attendance. I would ask that Mike Calvert, our fiscal agent, present the report prepared. []

MIKE CALVERT: Very good. Good afternoon. I have extra copies of our report that we sent out to you earlier, late last week, if anyone needs one. I will be referring to several sections of the report, starting with the Summary. What we are providing you is a report that is a scenario. We are building a scenario for the next budget biennium that will carry us through June 30, 2013. And for the first time we're bringing in a scenario that we build for the following biennium, to give you a longer-term view in terms of consequences of the financial outlook and any changes that may occur. The report that you have before you suggests for the forthcoming budget biennium through June 30, 2013, that the General Fund financial status, given the assumptions that are built into this scenario, is about \$986 million below the minimum reserve for that biennium. Projected shortfall, absent any changes in the next legislative session and thereafter, would grow to about \$1.9 billion under the assumptions that we lay out. It's important to note that these estimates are based on, number one, current law. We try and assess the scenario based on the application of current law, both on the revenue and on the expenditure side. We try and look at our obligations under the assumption that there is no change to law other than what might be back-loaded into future years. But, generally, we make no assumption with respect to changes in current law. Second of all, the estimate that you have before you is based on the forecasts that were developed by the Nebraska Economic Forecasting Advisory Board, October 29. What the board did at that time was revise the current fiscal year estimate for fiscal year '10-11. So they revised their estimate that we had used as of sine die. And for the first time, the board provided estimates for fiscal year '11-12 and '12-13. Those estimates replaced planning estimates that our office, the Legislative Fiscal Office, had developed based on an economic cycle and growth pattern. So those formal forecasts for the first time were substituted in lieu of those cyclical estimates. Thirdly, the revenue projections that we used for the newly added biennium through June 30, 2015, uses once again the historical average methodology. We look at the long-term patterns of revenue growth year over year; we believe that there have been cycles. We have built in to that same scenario a cyclical pattern for the ensuing biennium. And fourthly, the new heart to this assessment--and we do this every two years--is we build in our initial pre-session

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assessment of General Fund appropriations under current law. And what we do is we look at requests--those were due September 15--look at historical trends, and we try and give you a new assessment as to the expenditure assumptions that we're using for the forthcoming biennium. If you would turn to page 4, I can do a walk-through on a summary basis as to how we got to where we're at. At the top of the page, you'll see a "Chronology of Projected Financial Status." If you start at the line immediately below number 3, Variance from Minimum Reserve, your last meeting of this committee we had estimated--and I'm going to concentrate on the biennium ending June 30, 2013--we had a variance of about \$751 million short of the minimum 3 percent reserve. With the Forecast Board meeting in October, with the revisions to the current year and the first official estimates for the next two years, the revenue reductions for that time period amounted to about \$663 million, on line 4. There's a recalculation of the reserve requirement. And then, as was widely publicized, you'll see the line, Variance from Minimum Reserve: NEFAB, Nebraska Economic Forecasting Advisory Board, October 2010--\$1.395 billion. And that was widely reported. Again, the new element in this report is we have made revisions...and, again, we're scenario building; we're making some judgments here on line 6 with the revised estimate on a projected budget--and this is a two-year total--of some improvement of about \$408.7 million. No significant change to the reserve calculation, thus the final line: Variance from Minimum Reserve: Tax Rate Review, November 2010, in this report--\$986.5 million. If you drop down to the bottom section, you will see notes as to what constitutes our adjustments on item 6. The positive numbers lower the imbalance. So the positive numbers are, in effect, a lower cost consequence. Therefore, the imbalance becomes smaller. We have deficit requests of about \$30 million, as compared to what we had originally--a negative \$30 million, compared to what we had originally planned, about \$5 million. TEEOSA school aid: In October there was a joint meeting of staff to reassess how the actual formula under current law would work. Cost consequences compared to what we had previously done for this committee in July were somewhat less. We made adjustments on Medicaid assumptions, originally 7.5 percent; public assistance, 8.5 percent. We changed those to take into consideration the adjusted requests in the September submission from Department of Health and Human Services. We're a little concerned about some of these estimates, because we're working with a limited amount of data. We typically get more-detailed spreadsheets to help us substantiate what's in the budget requests. We're a little bit less certain of this, but for the moment we're going to go with the request level. Special ed: Instead of a 5 percent growth, a zero percent at the request level. Behavioral health: a zero percent request. Developmental disability aid to cover transition costs only. Salary: Originally when we had done this scenario, in July, we were looking at something akin to inflation, prior contracts of about 2.5 percent per year. The NAPE/AFSCME bargaining unit ratified a zero and 2, so we recalculated those and then estimated the impact. So we made some gains with respect to the cost consequence on salary base. Health insurance: We have stayed with roughly a 10 percent estimate. This is always a tough one to try and nail down, and we always have to go through and revise that periodically. It's not just the cost associated with the base

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program, but it's how people migrate from one part of the program to another, and might have some cost savings or not. Retirement contributions estimates: Somewhat better in '11-12. Operating costs--and these are really primarily related to 24-hour-a-day, 7-day-a-week facilities: Some of the cost estimates look a little bit lower. There's a cash fund shift in Health and Human Services that looks plausible to us at this point in time. We also have a couple items that are working against us. We have a fairly significant homestead deficit, in the neighborhood of, what, \$10 million? And it looks likely to be annualized into the future year, so we've accounted for that and anticipated that there might be higher cost consequences than what we had originally anticipated. The depreciation assessment: This is one item that I missed, we had not built in to the status. We've gone through a series of years where the depreciation set-aside for buildings had been deferred, been pushed back statutorily. Well, the last time was a couple of years ago, and it expires going into the next biennium unless statutorily it's extended. But as current law now stands, we have a cost obligation of 1 percent per year on depreciation. So if you total all of those items over the two-year period, we come up with about \$408.7 million net cost avoidance, possibly lower costs that flow up to that spreadsheet on the top of the page, on line 6. And that's how we arrive at \$986.5 million at this point in time. And it looks like we've got a couple questions already. []

SENATOR HEIDEMANN: I have one. []

SENATOR WIGHTMAN: Senator Heidemann. []

SENATOR HEIDEMANN: You took...there's savings in special ed, why? On page 4. []

MIKE CALVERT: These are generally going to be based on the requests. The request is at zero percent. []

SENATOR HEIDEMANN: If you took the request for special ed at zero, their request for TEEOSA was \$810 million. Why didn't you take that? []

MIKE CALVERT: Well, current law says that TEEOSA is...there's a defined cost under TEEOSA. And the law hasn't changed. Now special ed--what is it, zero to 5? []

TOM BERGQUIST: Special ed is authorized to go up to... []

MIKE CALVERT: Up to 5. []

TOM BERGQUIST: ...a 5 percent increase, but there's no minimum required. []

MIKE CALVERT: So there's a range of discretion. []

TOM BERGQUIST: TEEOSA is under the current law. Special ed can go up to 5

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percent, but there's no set minimum in statute. []

SENATOR HEIDEMANN: So you're saying that the Department of Ed requested something that wasn't reflecting current law? []

MIKE CALVERT: No, I think it does reflect current law. []

TOM BERGQUIST: Current law is zero to 5. []

MIKE CALVERT: Zero to 5. []

SENATOR HEIDEMANN: No, I'm talking on TEEOSA. []

MIKE CALVERT: This scenario is based on current law under TEEOSA. And it includes the replacement of ARRA funding and the existing law, as we understand how the formula would generate a cost estimate for TEEOSA school aid. So that is built in. []

SENATOR HEIDEMANN: Okay. []

SENATOR WIGHTMAN: Senator Cornett. []

SENATOR CORNETT: Mike. []

MIKE CALVERT: Yes, Senator. []

SENATOR CORNETT: Originally, the \$1.4 billion was based on a 10 percent growth, correct? []

MIKE CALVERT: It was based... []

SENATOR CORNETT: On the 10 percent growth in budget, basically--or spending. []

MIKE CALVERT: Oh, I've got to stop and think. []

SENATOR CORNETT: Well... []

MIKE CALVERT: It was close to that. []

SENATOR CORNETT: ...10.5, pardon me. []

MIKE CALVERT: Yeah, it was close to that. More importantly, what it was based on was our assessment based on the cyclical pattern of revenue growth... []

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SENATOR CORNETT: Okay. []

MIKE CALVERT: ...that future years' revenue growth was going to be about 7.3 percent... []

SENATOR CORNETT: And the one... []

MIKE CALVERT: ...to 7.4 percent. []

SENATOR CORNETT: And the one memo I got last week was saying these numbers are basically based on the 7.6, correct? Growth? []

MIKE CALVERT: Oh, on expenditure growth? []

SENATOR CORNETT: Yes, on expenditure... []

MIKE CALVERT: I think the recalculated expenditure growth is lower. []

SENATOR CORNETT: Correct. What would we have to lower that to, to bring the deficit down to... []

MIKE CALVERT: Purely on the expenditure side? []

SENATOR CORNETT: ...to an area where the Cash Reserve can make up the difference? What percentage? []

MIKE CALVERT: Stump the analyst. []

SENATOR HEIDEMANN: How much money are you bringing in the Cash Reserve? []

MIKE CALVERT: Yeah. []

SENATOR CORNETT: You and I had talked about \$275 million. []

TOM BERGQUIST: Close to freezing--it'd be pretty close. []

SENATOR CORNETT: Zero? 1 percent? 2 percent? []

TOM BERGQUIST: When we say \$400 million here, I'd drop the average growth from 10 to a little over 7. []

SENATOR CORNETT: 7. Correct. []

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TOM BERGQUIST: So you get about \$400 million for the equivalent of a 3 percentage point. So you'd need \$800 million to \$900 million to drop it down to zero, so it'd actually have to be pretty close to frozen. Maybe even a little bit of a reduction on that. []

SENATOR CORNETT: And if you use part of the Cash Reserve... []

TOM BERGQUIST: It depends on how much Cash Reserve you use. []

MIKE CALVERT: Yeah. \$275 million... []

SENATOR CORNETT: Isn't that...that is the number we had spoke about, correct? []

SENATOR HEIDEMANN: \$270 million, around in there. []

SENATOR CORNETT: \$270 million, okay. What percentage would that leave us at? []

MIKE CALVERT: I'm guessing, at 1.5 percent to 2 percent per year. I'm guessing, because I'm...basically I'm taking \$986 million less \$275 million leaves you \$710 million, and I'm trying to prorate it across two years. So... []

SENATOR CORNETT: So statutorily we would have to look at changing some of the required growth areas--like TEEOSA, homestead--down to either holding them flat or to 1 percent, 2 percent growth. []

MIKE CALVERT: Probably, just simply because you're considering very large programs... []

SENATOR CORNETT: Correct. []

MIKE CALVERT: ...that if you don't... []

SENATOR CORNETT: If we don't find a way to control the spending. []

MIKE CALVERT: ...they're going to swamp everything else... []

SENATOR CORNETT: Correct. []

MIKE CALVERT: ...in terms of growth. That would be true. []

SENATOR WIGHTMAN: Mike, the published figure was approximately \$1.4 billion. Is this \$1.3952 billion on--between lines 5 and 6, Variance from Minimum Reserve? Does that reflect the figure that was published after the Forecasting Board met? []

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SENATOR CORNETT: That was immediately after the Forecasting Board met. []

SENATOR WIGHTMAN: And then the \$408 million is the variance from expenditures. Is that correct? []

MIKE CALVERT: Yeah. That is, again, that is the new item. We try and take advantage of this November meeting to give you a preliminary assessment based on requests, you know, a reassessment of the school aid formula and how it might operate--a number of different cost items--and try and start to factor those in to give you a better idea as to what we're looking at in terms of budget stress. []

SENATOR WIGHTMAN: And then, you indicated that the health insurance increase is almost impossible to ever determine in advance. []

MIKE CALVERT: Yeah, we've always...I mean, the historical pattern has been generally around 10 percent, but we had a lot of variability around it. No question. []

SENATOR WIGHTMAN: Was there any attempt...or would it even--it probably would be fruitless to try to analyze the effect of the new healthcare bill in light of the changes that may occur even during this congressional cycle? []

MIKE CALVERT: Well, that's real...I mean, we're in the very early stages of that. We have some, quote, healthcare-related budget issues in HHS that we're trying to assess, but how it's going to affect health insurance I haven't a clue at this point in time. []

SENATOR WIGHTMAN: Thank you. []

MIKE CALVERT: Thank you. []

SENATOR WIGHTMAN: Any other questions? I just realized I didn't introduce everybody. And I might do that. Starting at the end of the table is, as you know, our fiscal analyst, Mike Calvert. Going on around to his right is Senator Heidemann, the Chair of Appropriations; Speaker Mike Flood. This is our committee clerk, Jessica Shelburn. To her right is the Chair of the Revenue Committee, Abbie Cornett; and then Tax Commissioner Doug Ewald. So I apologize for not doing that earlier, but I think you all knew them, probably. So any other questions? If not, do we have any...? Yes, Senator Heidemann. []

SENATOR HEIDEMANN: Just out of curiosity, "General Fund Transfers In," on page 9--just so I get a sense of it, and I think I know the answer to this. []

MIKE CALVERT: Yes. []

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SENATOR HEIDEMANN: We've relied very heavily on transferring in from cash funds already. There might be some, but that is going to be more limited than we have seen in the past, because it's been taken advantage of during regular and special... []

MIKE CALVERT: It's been used pretty heavily. And that was one of the points that I was going to make in closing, is that there are some things that are yet to be determined. And one of them are on page 9, "General Fund Transfers In." As you point out, Senator, we have used in 2010-11 General Fund transfers in of about \$72.1 million. That's a fairly large amount, and it hit quite a few cash funds. In the prior year we use cash funds. But in terms of this scenario that we have built, since the decision has not been made in the budget bill and/or any other legislation that might be necessary, we make no assumption as to additional transfers in. I will tell you right now, in all likelihood, we--the Appropriations Committee will have an issue for discussion as to Securities Act Cash. We have routinely tapped that fund almost every year since I've been here. Similarly, the Department of Insurance Cash Fund is a candidate; Tobacco Products Administration Cash Fund fairly routinely we are able to make transfers; Charitable Gaming, somewhat variable. But those four, amongst others, we have periodically gone to just about every year. That's not built into this status. That would help narrow the shortfall. And, as Senator Cornett was alluding to with respect to the Cash Reserve Fund, we make no assumption at this point in time as to the use of the Cash Reserve Fund to help offset that shortfall. That, again, is a matter of legislative action. In order to move that money, the Legislature has to pass a bill. At this point in time I don't know if you're going to do that and in what amount. But that resource is there. []

SENATOR WIGHTMAN: Senator--Speaker. []

SPEAKER FLOOD: I'm ready to make a motion; I don't know if you're ready to receive it. []

SENATOR WIGHTMAN: Well, I had one more question. Then we'll entertain your motion. I'm assuming, and you probably have made no real review of these cash funds, but there's probably lesser balances on hand at the end of this year than there was the previous year, because we tapped it, I know, both in the special session and the last regular session. So... []

MIKE CALVERT: I wouldn't say that the well is completely dry, but I think it's been drained. We will...part of the staff assignment, in terms of working with the Appropriations Committee, will be, obviously, again looking to that as a resource. []

SENATOR WIGHTMAN: Water table may have fallen just a little in the... []

MIKE CALVERT: I think so, Senator. []



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SENATOR WIGHTMAN: Okay. Any other questions? Senator Flood, for a motion. []

SPEAKER FLOOD: I make a motion that we accept the "Chronology of Projected Financial Status" noted on page 4 of our packet, specifically the revised estimated spending versus planning numbers, and also that we recommend that no special session of the Legislature be called and that tax rates not be readjusted at this time. []

SENATOR WIGHTMAN: Do we have a...? []

SENATOR CORNETT: I second that motion. []

SENATOR WIGHTMAN: Okay, motion made by Senator Flood. Seconded by Senator Cornett. Roll call. []

JESSICA SHELBURN: Senator Wightman. []

SENATOR WIGHTMAN: Yes. []

JESSICA SHELBURN: Senator Cornett. []

SENATOR CORNETT: Yes. []

JESSICA SHELBURN: Commissioner Ewald. []

DOUG EWALD: Yes. []

JESSICA SHELBURN: Senator Flood. []

SENATOR FLOOD: Yes. []

JESSICA SHELBURN: Senator Heidemann. []

SENATOR HEIDEMANN: Yes. []

SENATOR WIGHTMAN: Any other motions? If not, the Chair would entertain a motion to adjourn. []

SENATOR CORNETT: So moved. []

SENATOR FLOOD: Second. []

SENATOR WIGHTMAN: Motion moved and seconded. All in favor say aye. []

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COMMITTEE MEMBERS: Aye. []

SENATOR WIGHTMAN: Motion...the meeting is adjourned. []