[]

The Tax Rate Review Committee met at 10:00 a.m. on Wednesday, November 18, 2015, in Room 1003 of the State Capitol, Lincoln, Nebraska. Senators present: Bob Krist, Chairperson; Mike Gloor; Galen Hadley; and Heath Mello. Senators absent: None. Others present: Tax Commissioner Leonard J. Sloup; Legislative Fiscal Analyst Michael Calvert.

SENATOR KRIST: Senator Mello is here. We can start. All the committee members are here. Thank you, Commissioner, for coming, Speaker, Senator Mello, Senator Gloor. So now it's time for Mr. Calvert to tell us how good or bad things are going to be.

MICHAEL CALVERT: (Exhibit 1) I have extra copies of the report. Does anybody need one? Okay, I knew there would be at least one.

SENATOR GLOOR: Please.

SENATOR MELLO: Sorry.

________________: Not at all.

MICHAEL CALVERT: (Laugh)

SENATOR HADLEY: Gee whiz. You show up without the report.

SENATOR MELLO: I gave all stuff to my staff in the hallway and forgot the folder.

SENATOR KRIST: Blame it on the staff, that's good.

SENATOR HADLEY: I went home to get this.

SENATOR KRIST: Can I have that one?

MICHAEL CALVERT: Oh.

SENATOR MELLO: Oh, oops.

BETH DINNEEN: I'm his staff. (Laugh)

SENATOR KRIST: Oops.

BETH DINNEEN: I'm his staff.

MICHAEL CALVERT: Anybody else?

SENATOR KRIST: Well, I've read it from cover to cover. I just didn't bring it with me.

MICHAEL CALVERT: Okay. My name is Michael Calvert, Legislative Fiscal Analyst. The report that our office is providing is as required under the law for this committee meeting in November. The financial status that we will review starts on page 2 of the report and I'll go to the bottom line and then switch over to a later page with some details as to how we got to this particular point. Bottom line is that in terms of our ending balance is on line 27, as projected with this current financial status, of about $157 million. That's as of June 30, 2017, and it's an unobligated balance. The requirement under the statute in terms of a 3 percent reserve is line 28. It says, like, the calculations as set forth in the statute, we should plan for an ending balance, unobligated, of about $267.3 million. The net difference is $110.2 million on line 29, which says that we are out of compliance with our minimum 3 percent reserve to the tune of about $110 million. Now that does not mean we have a negative General Fund balance. We have a positive General Fund balance. Analyzed cash flow for the remainder of the fiscal year, we have absolutely no problem in terms of cash flow. That's not the issue. The issue just simply is in terms of a technical compliance with a statutory obligation. And the end...at the beginning of each and every biennium you set the budget. The statute says you plan for a 3 percent reserve when you first set the budget. In the meantime, it becomes a judgment call to what extent you need to comply with that. Okay? But again, cash flow is positive and the balance is technically out of compliance about $110 million. One of the things I will point out is on line 36. One of the things that we try and analyze in terms of the longer run outlook is to what extent revenues exceed expenditures or vice versa. And you will see that the gap between revenues and expenditures is projected to narrow and it's a relatively small dollar amount. So technically speaking, that's a relatively good thing in that we are very close to sustaining expenditures and obligations over an extended period of time based on the revenue estimates that are set forth here. How did we get to this point in time with respect to a $110 million imbalance of the reserve requirement? If you go to page 3, you will see changes of financial status since July. The last time this committee met in July, under Table 2, we projected a positive $17.2 million balance above the minimum reserve. As you well know, the Forecast Board made significant changes to the revenue forecast in October of 2015, all told reducing revenue estimates for the two years of $154.3 million. What was widely reported at that point in time was is we were out of balance about $132.6 (million), i.e., you start $17 (million) positive, you subtract off the negative, you're at a negative $132.6 (million). The November meeting of this committee we have always gone through and worked through some adjustments. One adjustment that's a little bit new is Appropriations Committee had embarked upon the process of looking at carryover obligations, in other words, appropriations from prior years that justifiably are carried forward to meet obligations that were incurred. We took a real close look at that and in July we had estimated that General Fund lapses, i.e., funds freed up in the General Fund, were about $25 million, what we planned on. There is a formal process of certification of reappropriations. And subsequently, that process has identified about another $20 million worth of General Fund appropriations that, in effect, go away, thus, freeing up money to the bottom line. So that's under the first line under October 2015, freed up $20 million. One of the things we do as a planning process, we project, going into the next budget or next legislative session, basically a $5 million deficit item. Now that we have requests from agencies, we just simply wipe that off the board and then we substitute the request. So the line that shows a positive $5 million, that's where we pick up a little bit of room. That's our planning number that goes away. We pick up 2016 midbiennium budget requests as they have been filed to date of about $3.2 million in the current year, $19 million in the second, all told $22.2 million worth of requests. We are not making a judgment for you as to whether those are a good, bad, or indifferent idea. We are just simply saying, based on the requests before us as we know them today, potentially you might have additional obligations to work into the budget of generally that magnitude, maybe more, maybe less. I don't know. One other adjustment, TEEOSA school aid revisions: There's a meeting in October that involves our office, Department of Administrative Services, the Property Tax Administrator that goes through and looks at the data available and recasts estimates for the next fiscal year as far as school aid obligations. School aid estimate for TEEOSA, General Fund, reduce about $19.3 million. That consists mostly of changes in valuation. There's also a higher volume of insurance premium that offsets General. So all told, those two things together, we project about a $19.3 million being...going away in terms of an appropriation obligation for the next year. That's based on current data. That's subject to some more additional revisions in December. You do all the math, you get down to $110.2 (million). So what that amounts to is that we have revenues that have declined roughly an average about a percent per year based on the Forecast Board revisions and some other adjustments that have brought us to this particular point. It's not the worst scenario. I went back and looked at prior Tax Rate Review Committee reports and I remember...well, I found that we had one that was over $900 million in terms of a negative. So in terms of order of magnitude, we're not talking anything of that significance. The rest of the report is an itemization of the specific requests on page 4 from state agencies. There are a couple things I probably ought to point out that are not included at this point in time. Typically, I think towards the latter part of December we will get a better estimate or better idea from Department of Revenue as to our homestead obligation. That has fluctuated somewhat, plus or minus, in comparison to what we originally budget. I do expect there might be some changes with respect to the retirement obligations we might have for defined contribution plans, how significant I don't know. And as I mentioned earlier, some further adjustments with respect to TEEOSA as some additional data primarily I think on the school expenditure side that will become available, so that our estimate on TEEOSA is not final. But we kind of move in increments closer and closer to where we think it's going to end up and there's a bit more work yet to do.

SENATOR HADLEY: Mike, just...I can ask dumb questions because I don't...

MICHAEL CALVERT: Sure.

SENATOR HADLEY: ...understand at times.

MICHAEL CALVERT: Sure.

SENATOR HADLEY: The $103.1 million for...it's the five-year total, is this primarily because of land, under TEEOSA, is that primarily because of valuation increases? Is that the primary driver in that number?

MICHAEL CALVERT: I think the description is on the bottom of page 3, Tom, if I'm correct. In terms of the TEEOSA changes with respect to the immediate estimate is about...it says in the last sentence on the bottom of page 3, about 85 percent of the reduction in aid is attributable to actual certified valuations being at 10.4 percent growth, which is higher, versus what was done earlier of about 9 percent. So I assume that kind of extends into the future.

TOM BERGQUIST: I was preoccupied with the snow out there. (Laughter)

MICHAEL CALVERT: You don't have to drive anywhere.

TOM BERGQUIST: No, the valuation we've been using at 9 percent was the estimate for the last year and it came in about 10 percent, so that's the bulk of it.

SENATOR KRIST: Do your mikes pick up here in this room pretty well? Okay. Can you just come up to a mike just to make sure that you're...

MICHAEL CALVERT: Oh, I'm sorry.

SENATOR KRIST: No, no, you could...just right here at the table is fine, just.

MICHAEL CALVERT: Yeah, why don't you sit there. That's fine.

TOM BERGQUIST: Yeah, it was 10 percent was the actual valuation and we'd been using a 9 (percent) from the year ago. So that's what mostly caused it. The rest was some of the adjustments in the formula. They start calculating new school adjustments, student growth adjustment, those things. Each piece that becomes new, we keep updating the number. It will change significantly again in December when...

MICHAEL CALVERT: Yeah. And if you look in the second paragraph on page 4, Senator, there's also a description. It's not an obligation but we go...Tom and the staff go through a process of extending into the future years and some of the assumptions that are laid out there in terms of projected spending growth decreases a bit and property valuation growth has increased based on preliminary input from county assessors. So there's a couple different things that are driving the estimates into the future too. So in part, I think the answer is, yes, but that's not the sole...

SENATOR HADLEY: It's not the sole. I guess I was looking for the big driver. Okay.

MICHAEL CALVERT: Which typically I think has been.

SENATOR KRIST: Just for perspective, Tom, this, when we talk about a projected growth rate to increase in '18 by 2.4 (percent) and 5.3 (percent) in '19, can you give me a number? What approximately what is...if you're looking at 2.4 percent, is that of the total?

MICHAEL CALVERT: It's that one right there.

TOM BERGQUIST: Yeah, that's total aid.

SENATOR KRIST: So what kind of number is that?

TOM BERGQUIST: TEEOSA aid is around $1 billion, so 3 percent increase would be $30 million,...

MICHAEL CALVERT: Yeah.

TOM BERGQUIST: ...$30 (million) to $50 million a year.

SENATOR KRIST: And the 5 (percent) ends up being close to $50 (million), $60 million.

TOM BERGQUIST: Yep.

SENATOR KRIST: Okay. Yeah, now it's not couch change anymore. Senator Gloor.

SENATOR GLOOR: Just curious, under "Corrections" under the "General Fund Requests,"...

MICHAEL CALVERT: Yes.

SENATOR GLOOR: ...the adjustments, there's "Corrections--Vacancy Savings." Is that an offset to the county jail program and the expenditures there? What's...

MICHAEL CALVERT: To my knowledge, that is...a large organization you have a certain amount of turnover and...I assume, and I haven't looked at this in any detail, but typically the way it's happened in the past is it is some measure of how much of your budget you...you budget based on full staffing and you make an adjustment based on the fact that you expect a certain amount of turnover and there's some salary obligations that you're not going to incur. Now it's risky in that, yeah, I mean if you don't have the turnover and you're talking a relatively large organization, you could derive a deficit. We haven't gotten to the point of being able to evaluate or comfortable to evaluate the individual requests, but that's part of the requests that we know of.

SENATOR KRIST: Senator Mello.

SENATOR MELLO: I think, Senator Gloor, this is an issue with the Department of Corrections that traditionally they have a consistent vacancy, about 150 positions that are consistently vacant within the department through the course of a fiscal year. This is the first time in my time in the Legislature where we're seeing them put forward an actual number and put it through the budget process that they were going to take those savings. Traditionally, normally, they just do it outside of the budget process where they just...we appropriate the money, they reallocate the money within their budget to take care of the need,...

SENATOR GLOOR: Whatever.

SENATOR MELLO: ...so to speak, within the agency. So this is kind of a new ground, so to speak, that the Department of Corrections is laying forward because they're actually saying they're going to use...they're not going to fill these positions, which is kind of a new process, so to speak, in regards to what we traditionally go through in the budget. But I'm sure there will be some discussions with the Department of Corrections moving forward of how they got...how they arrived at that number and how they're going to guarantee they're not going to fill those positions.

MICHAEL CALVERT: Yeah, my perspective, I kind of take it to mean they're not able to fill them for a variety of reasons.

SENATOR KRIST: And also yesterday I had a nice conversation with Mr. Frakes and it was exactly that; they can't fill the positions, so. But whether or not they can't long term is another question.

MICHAEL CALVERT: Yeah.

SENATOR KRIST: Okay. Any other questions at this point? And, Mr. Calvert, are you wrapped up or you got something else?

MICHAEL CALVERT: Yes. The only other thing I had is I passed out a copy of a cover letter. Statutes, as were amended, oh, about four or five years ago, call for an annual report to be filed. The last couple meetings that we've had, I just simply accept your direction to file the copy of the July report, the November report of this year, plus the cover letter, and then that meets the requirements. Primarily it also indicates that we've incorporated with the report the tax expenditure report that Department of Revenue publishes every year, and that was the primarily driver of Senator Pahls's legislation about five years ago. That's what he wanted was to have that report have some notoriety, and this was the vehicle he chose.

SENATOR GLOOR: Do you need a motion for that?

SENATOR KRIST: We'll take...yeah, we will take one at the end.

SENATOR GLOOR: We'll get that? Okay.

SENATOR KRIST: But let me just ask, any other questions? Let me just ask you this.

MICHAEL CALVERT: Yes, sir.

SENATOR KRIST: I mean you've been doing this for many years.

MICHAEL CALVERT: Yes, sir.

SENATOR KRIST: Those of us who were here, and we were all here, in 2009 saw the wall and we dealt with it. These little, in listening to Mr. Goss and several others and their projections about the next two to three years, at what point traditionally should we start looking at making some other kind of motion than just continuing on? And I mean the bottom line has been decreased. So you get the question. Go ahead.

MICHAEL CALVERT: Sure. There have been instances where we clearly, if action wasn't taken, we were going to run into a liquidity problem, i.e., literally the General Fund balance was going to be run down to zero. Now the one thing that has always been the safety net is that the law that created the Cash Reserve initially, that was the initial purpose of the Cash Reserve, was if you ran into a situation where you didn't have enough money day to day to pay General Fund bills you had a pool of funds to borrow against. And then the law said you would repay it, okay? We're not anywhere close to that point, number one. Number two, it became a judgment call for this committee and eventually the Governor in terms of pulling a trigger on a special session as to the timing and what time and opportunity you had to deal with any budget imbalance. Sometimes there were instances, and there haven't been that many instances but I remember part of the discussion was you might be better off making some adjustments in the current year, relatively small, lower the base, send the initial message and then go from there. Personally, I don't think you're anywhere close to being there. The other...

SENATOR KRIST: That essentially is the gist of my question.

MICHAEL CALVERT: Yes.

SENATOR KRIST: Are we getting to that point where coming into the session we should be making adjustments?

MICHAEL CALVERT: By matter of observation and experience, no.

SENATOR KRIST: Okay. And I didn't mean to cut you off. Did you have...

MICHAEL CALVERT: No.

SENATOR KRIST: Okay.

MICHAEL CALVERT: No. I guess the only other thing I was going to say is that it was also a situation where you were in the biennial period what you thought the future of cash flow was going to look like. I remember that judgment being made. But there was, you know, this committee pulled Motion 85 and I think there was a couple other instances, but it was also one of those situations where it was pretty much a foregone conclusion. Everybody, and not just this committee, saw the handwriting on the wall and knew there was going to be a special session, pure and simple.

SENATOR KRIST: Okay. Well, I'm reminded every day by my colleagues who are in the agricultural industry that commodity prices continue to go down. They're at 10-year lows, 15-year lows, 30-year lows. So at some point that will affect, but right now we're in good shape.

MICHAEL CALVERT: And just to make an observation on that, I think they're quite correct. But also, I do know that in our revenue forecasts we presented to the board, we had anticipated declines in ag income and it was on a calendar year basis. And it was not quite of the magnitude of what I think it's going to end up being but it wasn't too far off. So all I'm saying is to some extent the data that we used, perhaps even the Department of Revenue, we have at least anticipated to some extent declines in ag income and how it would affect tax receipts.

SENATOR KRIST: Well, I, for one, will say that this "No Name Committee" is here to put a rubber stamp on the hard work and the great effort that we have in this state to make these assessments, and that comes from the Forecasting Board and the hard work of the Fiscal Office and I want to...and your department, obviously. So I want to thank you all for your hard work in that. So at this point, I guess we're going to direct...a motion to direct the Fiscal Analyst to file an electronic copy of the annual report, consisting of the July and November reports of the calendar year, as required by statute, with the Clerk of the Legislature. Such report includes incorporation by reference the tax expenditure report as published by the Department of Revenue. Is there a motion?

SENATOR MELLO: So moved.

SENATOR GLOOR: Second.

SENATOR KRIST: Is there a second? Motion by Senator Mello, second by Senator Gloor. All those in favor?

COMMITTEE MEMBERS: Aye.

SENATOR KRIST: Opposed? Thank you very much. And a motion to adjourn, please?

SENATOR HADLEY: So moved.

SENATOR GLOOR: Second.

SENATOR KRIST: Motion and second. We are adjourned, unless there's any other dialogue. (Laugh)

SENATOR MELLO: Yea.