Spending Cap Commission
Monday, May 9, 2016
Minutes

Attendees:

Members:
Commission Co-Chairperson William Cibes, Commission Co-Chairperson Patricia Widlitz, Senator Joan Hartley, Representative Davis, Representative Jonathan Steinberg, Representative Melissa Ziobron, Suzanne Bates, Tom Fiore, Roberto Hunter, Lori Pelletier, Richard Porth, Ellen Shemitz, Ron Van Winkle

Staff:
Amanda Zabel, Committee Clerk, Appropriations
Sarah Schnitman, Committee Assistant Clerk, Appropriations

Call to Order by Chairperson Cibes

Chairperson Cibes called the meeting to order promptly at 10:06 A.M.

Approval of the Minutes

Chairperson Cibes called for a motion to approve the minutes of the April 18, 2016 meeting. The motion was made by Lori Pelletier and seconded by Pat Widlitz. Hearing no discussion or recommendations for changes, the minutes were approved.

Panel Discussion on How the Spending Cap has been and is Calculated

Chairperson Cibes provided a brief introduction to the panel presentation to be given by Spencer Cain, President of Cain Associates, LLC and former Office of Fiscal Analysis (OFA) staff person, Tom Fiore, Director of Economics of the Capital and Revenue Forecasting Section of the Office of Policy and Management (OPM), and Christopher Wetzel, Principal Analyst for OFA. Chairperson Cibes asked his Co-Chairperson for any comments prior to the presentation.

Chairperson Widlitz indicated her enthusiasm to hear from the presenters and thanked them for preparing such a comprehensive presentation on the spending cap in a short span of time.

Spencer Cain introduced himself, Tom Fiore, and Chris Wetzel to Commission members and briefly described his work in OFA on the spending cap for over about fifteen years, as well as his prior work with Tom Fiore of OPM. He stated that the presentation would provide an overview of how the cap was developed, what it looks at on the component level, and how it has evolved over the last twenty to twenty-five years since its implementation in 1991 and 1992.

Chairperson Cibes asked if the panelists would prefer for Commission members to hold questions until the end of the presentation or write down their thoughts and ask questions throughout it. Mr. Cain indicated that it would be preferable for members to hold questions until the end of the presentation.

Hard copies of the presentation were distributed to members. The link to the presentation where subsequent page references can be found is as follows:

http://cgalites/app/tfs/20160330_Spending%20Cap%20Commission/20160509/Calculation%20of%20the%20Spending%20Cap%20Presentation.pdf

Mr. Cain provided an overview of the spending cap, detailed on slide two of the presentation, which described the four major pieces of the cap, in addition to the calculation process for determining whether the cap has been exceeded or not. The four major factors included defining general budget expenditures in the Constitution and state statute, defining the growth factor in statute, declarations made by the Governor to exceed the cap before the Legislature can vote to do so, and rebasing of the cap.

Mr. Cain discussed what funds are currently included under the expenditure cap on page three of the presentation. He explained how statutory definitions have determined what has been included in the cap from appropriated funds over the last twenty years. He stated there are $19.8 billion in expenditures in total currently under the nine funds which are included under the spending cap. He stated the two largest sources are the General Fund and Special Transportation Fund.

Tom Fiore described exemptions from the general budget expenditures on slide four that are detailed in the state's Constitution and in CT General Statutes 2-33a. These included debt service (mentioned both in the Constitution and in statute), federal mandates and court orders, statutory grants to distressed municipalities, and expenditures pursuant to the Budget Reserve Fund (mentioned in statute only). He also discussed those changes made during the 2015 session to exempt unfunded pension liabilities for fiscal years 2015, 2016, and 2017 from general budget expenditures.

Mr. Fiore defined debt service in the State Constitution and in statute on slide five and described how OFA and OPM have calculated the spending cap exempting debt service. He indicated debt service makes up $1.9 billion in the general fund and $2.4 billion in the state budget overall, which comprises 12% percent of all funds of the state budget. In addition, the past service liability for the state employees' and teachers' retirement systems amounts to $1.8 billion. All told, evidences of indebtedness account for 21% of the state budget.

Mr. Fiore defined federal mandates and court orders on slide six of the presentation and described OFA and OPM's practice to exempt the first twelve months of a federal mandate or court order, even if the twelve months span fiscal years. He stated that such defined mandates and court orders comprise $42.9 million or two tenths of a percentage of the state budget.

Mr. Fiore discussed statutory grants to distressed municipalities on slide seven and stated there are thirty such municipalities in existence since July 1, 1991. He stated these grants total $1.6 billion or eight percent of the state budget. He further described annual practices for these grants undertaken in OFA and OPM and discussed how education cost sharing (ECS) is the state's largest grant, comprising $1.3 billion exempted from the cap alone of the total $1.6 billion. Additionally, he stated that overall $5.9 billion or 29.7 percent of the state budget is exempted from general budget expenditures.

Spencer Cain expressed the importance of understanding what exemptions mean in relation to growth. He indicated that items which are exempted from the cap may vary in whether they help or harm spending from year to year.

Tom Fiore discussed the expenditure cap growth rate, increase in income, and increase in inflation as defined in the state Constitution and in state statute on slide nine and practices on cap growth by OPM and OFA on slide ten. He indicated that there are differences in the calculations for the two- year budget as the calculation is based on actual data in the first year and on forecast data in the second year for personal income and inflation.

Mr. Fiore explained the graphics detailed on slides eleven and twelve, which highlight the history of the expenditure cap growth rate over time between 1993 and 2017. He referenced fiscal year 2013 where the consumer price index was used to calculate the spending cap as opposed to personal income as the limiting factor. He also discussed how personal income was calculated on a calendar year rather than on the basis of a state fiscal year in 1993, 2015, 2016, and 2017, as directed in Section 35 of Public Act 15-244 in reference to 2015, 2016, and 2017.

Mr. Fiore provided statutory definitions on slides thirteen and fourteen that allow for the state to exceed the cap by the Governor issuing a declaration, with at least three fifths of General Assembly voting in favor of exceeding the cap. This statute, 2-33a, provides the Governor with the authority to decide whether or not expenditures are included in the base calculating the cap for the succeeding year. He stated there have been seven declarations delivered in twenty-five years, which has spanned eight budget cycles. He explained that the impetus for such declarations has largely been to spend surplus dollars.

Spencer Cain remarked that failure to include the growth by which the spending cap is exceeded is a large limiting factor. He referenced governmental practice in the 1980s where surplus dollars were spent and rolled into the base to be used for various items including school construction, etc.

Chris Wetzel of OFA explained rebasing as a factor of the spending cap, which is detailed on slide fifteen of the presentation. He discussed how rebasing is not defined in state statute, but has historical precedent. It is used to create and “apples to apples” comparison of one budget year to the next. He explained how shifting expenses on or off budget creates or loses artificial room under the spending cap given that calculations are based on the budget of the previous year. The impact of such movements creates a disconnect in the base for calculations, so current OFA and OPM practice allows for changes to be made to the base to account for any disconnect. This practice ensures that the base looks like the upcoming year’s budget for which calculations are being completed. Additionally, Mr. Wetzel provided several examples of rebasing that have arisen in the past and presently.

Mr. Wetzel explained the spending cap calculation for fiscal year 2016 as a calculation example and stated for members’ reference that there are always examples in OFA budget books so members can review cap calculations historically. He explained that the cap calculation works to create buckets of funding which include the base or prior year versus the current year for which the calculation is being done and capped items which are subject to the spending cap versus non-capped items.

Spencer Cain thanked Matt Pelloweski for putting together the slideshow presentation. Regarding the cap calculation, he explained there is not enough information in the Constitution to calculate the cap, so the statutory language is needed for the calculation. Further, he spoke to the lack of guidance on the calculation process, and how OFA and OPM have worked together to share relevant information to help inform the cap calculation. He also referenced the lack of time frame by which the legislature must calculate the cap and stated there has been no office directed to calculate the cap. He described how OFA and OPM in practice have undertaken this charge. He brought up the role of the legislature, as defined in statute in relation to calculating the cap and explained the various beliefs relating to the legislature's adoption of definition changes. Mr. Cain, on behalf of all three panelists, offered assistance to the Spending Cap Commission in their deliberations and offered to answer any questions Commission members might have following the presentation.

Chairperson Cibes thanked the presenters for their presentation and asked members if they had questions.

Representative Steinberg thanked the panelists for their edifying presentation and asked if a table could be provided to members, which would detail contributing exemptions so that members might better assess volatility and variability and how they have contributed to the relevant numbers from year to year. He also asked Chris Wetzel how soon the calculation for fiscal year 2017 would be available presuming the passage of a budget in the current week.

Chris Wetzel indicated that 2017 calculations were contingent upon finalization of the budget for the fiscal year, which will come to a General Assembly vote during the special session. He explained that the cap is calculated the night before or the morning of the budget vote once all numbers are concrete. He explained that there has already been a calculation done for the initial budget in place. Representative Steinberg indicated he looked forward to the cap calculation for the upcoming fiscal year.

Mr. Wetzel clarified the requested items to be compiled into a table and stated the table would be provided to members. Representative Steinberg expressed his thanks.

Chairperson Cibes followed up Representative Steinberg's question on the calculation for fiscal year 2017 by stating that OPM calculated a cap for the Governor's revised budget, which was presented on May 2, 2016. This calculation indicated that appropriations were $751 million under the spending cap in fiscal year 2017, as proposed in the Governor's revised budget.

Ellen Shemitz thanked the panelists for their presentation and asked for clarification in the difference between the thirty distressed municipalities in effect in 1991 and the twenty-five number referenced in the presentation.

Tom Fiore explained that there are thirty different grants and twenty-five identified distressed municipalities.

Ellen Shemitz asked if using the twenty-five distressed towns from 1991 would have a significant impact on the numbers.

Tom Fiore indicated that OFA and OPM rebase for any necessary adjustments in the town numbers. He stated that, in most cases, the same towns are included among the distressed municipalities and generally speaking, there is little impact when looking back historically.

Ellen Shemitz followed up by asking if the policy and practice of rebasing has ever been challenged given rebasing is not in the state constitution or state statutes.

Tom Fiore indicated he is not aware of any challenge to rebasing.

Ellen Shemitz inquired about the impact of the lookback period on the calculation of personal income growth. She observed that under a 5 year lookback, the recession had a pulling down effect. She asked if Mr. Fiore had any recommendations with regards to looking at personal income grown over either a longer period of time or a shorter period of time.

Tom Fiore explained that time period and current fiscal situation do have impacts on cap calculation. He explained that OPM has done a ten, five, and one year look back in years past as the question has been raised before. He indicated he did not know what the best approach would be in terms of time frame look back given the benefits and drawbacks to looking longer versus shorter term.

Ellen Shemitz inquired about the availability of data relating to the inclusion of capital gains in the definition of personal income. She inquired about the difficulty of including capital gains in this definition.

Tom Fiore indicated that capital gains are not yet part of personal income growth. He mentioned that the federal government has discussed its potential inclusion, although this has not been changed, and also explained that OFA and OPM do not receive data on capital gains for two years from the Internal Revenue Service (IRS). He stated that incorporating capital gains into personal income would require using an estimate or a retrospective number from two years prior, which may be challenging to undertake.

Chairperson Cibes asked for clarification that the capital gains discussed were realized capital gains.

Tom Fiore clarified that the gains referenced are realized gains.

Chairperson Cibes asked Commission members if they had further questions for the panelists.

Richard Porth thanked the panelists for their helpful presentation and clarified that on several occasions, the consumer price index has been utilized to define the spending cap growth rate where generally the personal income growth is used.

Tom Fiore indicated that Mr. Porth was correct in stating that generally the personal income growth is used but there have been several exceptions.

Mr. Porth inquired as to what determines use of personal income versus the consumer price index, and how does the choice differ from year from year.

Mr. Fiore indicated that data is taken from statistics provided by the Bureau of Labor Statistics or the Bureau of Economic Analysis and the greater of the two measures is used as defined by the Constitution and Connecticut General State Statutes. He indicated that there has only been one year where consumer price index scored higher in 2013 due to the impact of the recession.

Roberto Hunter asked for an explanation behind the reasoning for shifting to a calendar year versus using the fiscal year in reference to the expenditure cap growth rate.

Tom Fiore stated that this shift to the calendar year was caused by the resulting lower growth rate from using the state fiscal year in 2015 and the national recession that had occurred over the five year period selected which radically depressed Connecticut personal income. This shift did create about $100 million of room under the spending cap.

Roberto Hunter inquired if this shift was passed by the General Assembly.

Tom Fiore indicated the shift to the use of calendar year was passed by Public Act 15-244.

Roberto Hunter inquired as to whether that change required some type of override or declaration of emergency.

Tom Fiore indicated that this change required action by the General Assembly. Had this action occurred prior to Attorney General Jepsen's opinion, PA 15-244 would have needed to pass by a three-fifths vote. Instead, the legislation needed only a majority vote to pass.

Chris Wetzel directed members to a copy of the language where the statutory change was enacted on slide twenty of the presentation.

Richard Porth asked the panelists whether the categories of exemptions change substantially from one year to the next and asked for the dissemination of information detailing changes over time to Commission members.

Chris Wetzel stated that he would include this information among that asked for by Representative Steinberg given both requests are along the same lines. He briefly summarized the changes across categories.

Representative Davis thanked the panelists for their presentation and asked how those who created the definitions, both in statute and in the Constitutional Amendment, chose to use the "greater of" levels of personal income growth or inflation, rather than a "lesser of" determination.

Tom Fiore indicated that at the time the spending cap was debated there were several amendments filed that spoke to the “lesser of” language. He believed that signaled that there were discussions regarding this; however he was not party to such discussions.

Spencer Cain referenced the Metropolitan Alliance Forum that was shown to members during the first Spending Cap Commission meeting. He discussed how Former Speaker Balducci, Attorney General Jepsen, and Bill Cibes were in the legislature at the time when the there was great difficulty in getting the income tax passed. He stated that there were many negotiations during this time over many relevant items.

Representative Davis followed Spencer Cain’s comments by asking what impact taking the lesser of measure would have had on calculations over time.

Tom Fiore indicated that the growth rates would have been significantly lower if the lesser of measure was used.

Representative Davis inquired as to what kind of impact taking the lesser figure would have had on state spending over the last twenty-five years and the need for revenue. He stated that he would like the panel to look at the issue of using personal income growth versus rate of inflation as it seeks to define the spending cap. Further he remarked that he hoped the goal was not to take in as much money as we can and spend it, rather to provide the services the state needs for the least amount of money.

Representative Ziobron apologized for her tardiness, as she was attending a drug policy council meeting. She inquired about the impact of net appropriating Medicaid on the calculation.

Chris Wetzel referenced the rebasing slide of the presentation in his response to Representative Ziobron, citing how over $1 billion in cap room would have been created without rebasing. He mentioned how this specific rebasing effort eliminated any benefit with creating room under the cap. He also indicated there were additional impacts in terms of growth rate with the rebasing.

Representative Ziobron asked who in DECD comes up with the list of distressed municipalities and asked if OPM had any involvement in this process.

Tom Fiore responded that he did not know who at DECD was in charge of the list; OPM and OFA get that information from DECD’s website. He added that the list was part of DECD’s statutory charge. He would get that information to Representative Ziobron.

Chairperson Cibes, in reference to questions asked about taking the greater figure rather than the lesser, indicated that the Constitution specifies the measure rather than the state statutes.

Suzanne Bates indicated she did not see Medicaid included in the non-capped expenditures and asked if other federal dollars were also off book.

Chris Wetzel asked for clarification if Suzanne Bates was referring to net funding.

Suzanne Bates stated that in looking for Medicaid in the budget book, she could not find the money and wondered if that funding was totally off book currently.

Chris Wetzel stated that the net funded dollars are not budgeted or reflected in the revenue schedule, and indicated that there are some dollars that are gross funded, totaling about $1 billion. He stated these gross funds are largely Medicaid and that the coinciding appropriation would be in the budget book. He stated he would be in contact with those individuals in OFA who cover Medicaid for more detail.

Ms. Bates asked the panelists to explain what income is included in the Bureau of Economic Analysis definition of income and how income is measured from year to year (does it include Social Security, Social Security disability, etc.).

Tom Fiore responded with a reference to the economic report of the Governor that would provide a good definition of income. He state such things like wages, salaries, rentals, dividends, social security income, stocks and imputed value of home are some of the measurements of that definition. He will follow up with an email providing the page number to find the definition.

Ron Van Winkle commented on the use of personal income as it pertains to the measure of ability to pay. He then commented on the use of CPI as a measure, as it is an easy number to ascertain and that it is a basket of goods for consumers, not government. In periods of very high inflation the cost of goods out runs income. He further stated that inflation is not a measure of ability to pay. Personal income has been a measure relied upon by decades. He asked the panelists if they thought the goal of the spending cap legislation was to measure the ability to pay and how would they as analysts measure ability to pay.

Spencer Cain responded that the thought the original idea behind income was to not let revenue out strip total personal income. He believed the reason they used inflation because at the time there was some connection between inflation and what government would need to continue current services. Inflation has only been used once over the years and total personal income has been a good measure and has tracked very well with revenue taken in. One issue was in 2009 with a decline in total personal income in Connecticut, which caused a dip in growth rates in recent years. Regarding ability to pay, he stated that it is decided by the legislature as a whole body.

Ron Van Winkle asked the panel what they believed was the best measure of ability to pay in the state of Connecticut.

Spencer Cain responded that, as a former nonpartisan staff member, he believes the best measure would be what the legislature decides.

Tom Fiore responded that he believes income is a good measure because it has a direct bearing on personal income tax collections and is very closely related to what is collected in sales tax revenue. He remarked that gross state product could be used but ultimately concluded that the Bureau of Economic Analysis personal income data is better. Further, it is his belief that the principals were trying to get at ability to pay and came pretty close to a good measure.

Chairperson Cibes made an observation about the definition of income the legislature has used upon which to base the income tax. The legislature has used the base federal AGI measure, which includes realized capital gains. Based on this measure, ability to pay, in terms of the state as a whole, should include some measure of this segment. Volatility may be a factor, but he believes that it certainly provides a base which indicates there is sufficient revenue to use as a measure of ability to pay. One question he believes should be explored is whether carried interest is part of realized capital gains.

Representative Melissa Ziobron commented on the growing enrollment in Medicaid, which is now approaching nine-hundred thousand, roughly a third of Connecticut citizens. Representative Ziobron expressed her concern that so large a program is not included under the spending cap. She also inquired about the low income adult program under Medicaid and how it is handled in terms of the spending cap.

Spencer Cain explained that there was a major policy change around 2012 when Connecticut shifted the General Assistance population to Medicaid. When the Affordable Care Act was enacted, the federal government decided to cover low income adults at 100% of federal funding. As a result that population grew from approximately 15,000 people to approximately 150,000 people, which lead to a major increase in federal funding to the state. The state funded portion of Medicaid is about 2.5 billion dollars and the federal portion is about $3.5 billion. He observed that the state portion has not grown that much. Additionally, it would not make a difference if the dollars are under the cap as it is dollar- for-dollar state to federal match and the growth of state funds is captured. If the state appropriated the federal funds they would be included under the general budget expenditure definition. By moving federal funds from under the cap the state can attract as much federal funding as needed to cover the low income adults. He informed the members that the state funded portion of Medicaid is still under the spending cap.

Representative Ziobron asked Mr. Cain about the federal coverage of Medicaid going to 90% in 2017 and would that mean the state would be paying more than we have before.

Spencer Cain replied that he will have to look up the correct date. There will be a point in the near future when the federal funding to state will be a 90 to 10 match.

Representative Ziobron questioned if there will be a sliding scale or a different ratio in the out years.

Mr. Cain responded not as yet.

Chairperson Cibes pointed out that the 90/10 match raises another issue in that the state's portion will have to be under the spending cap. That will decrease the room under the cap and will have to be taken into account.

Suzanne Bates observed that the state has seen a lot of volatility of late, especially in how the lack of capital gains income this year blew a hole in the budget. She asked if members could receive information regarding the kind of volatility that has been seen in capital gains and carried interest income and the revenue off that money to get a sense of what that would mean to the spending cap year to year.

Tom Fiore replied there is data going back to the nineties on capital gains realizations. He will get that for the commission.

Ellen Schemitz questioned the calculation for the upcoming change to the Medicaid match. She asked for confirmation that there will be a rebasing with respect to the 10% back for the prior year.

Chris Wetzel responded that OPM and OFA haven't looked into that issue yet. As he is not a Medicaid analyst, he is unsure how the ramp-down will work or what the law states.

Representative Steinberg added that it will have significant impact not only on the spending cap but on policy. He would appreciate any help moving forward as the change approaches.

Representative Ziobron observed that it appeared the discussion was on trying to figure out how to get around it instead of cut spending. She would like to see the commission work result in the legislature reducing taxpayer spending and the best way to accomplish that. Representative Ziobron stated her concern that people will be spending more time figuring out how to move the additional10% of Medicaid dollars off budget to stay under the cap rather than use it as a policy decision to cut state spending.

Chairperson Cibes asked for more questions.

Chairperson Widlitz pointed out that it would appear there is movement to move line items to bonding to avoid the spending cap. She informed members that, before a budget goes before the General Assembly, there must be a declaration from the Treasurer that the bonding items are within a certain limit, a cap, of sorts. She asked if anyone could shed light on what the percentage limit is.

Tom Fiore replied there is in state statute a requirement that general obligation bonds outstanding or unissued cannot exceed 1.6 times the general fund tax revenue of the state. There is also a bond limit that the Treasurer will certify as we approach 90% of our bond limit and a notice will be issued. This notice alerts the Bond Commission that it may have to issue cancelations to avoid reaching the threshold.

Chairperson Widlitz shared that it is an important issue to understand, as 1.6 times the generated revenue is a large number. The cap on the bonding is in place to stop General Fund expenditures from being moved to bonding and out from under the spending cap.

Chairperson Cibes commented he believes that had to be done this year and the action was taken by the Finance Committee to cancel some outstanding bonds that had yet to be allocated.

Representative Davis confirmed that the pending bonding bill will de-authorize approximately 1 billion dollars in bonding authorizations. Even with that number the legislature will be close to the 90% limit due to the decline in revenue. The impact of the budget putting back diverted revenue to the General Fund will add to the cap space.

Representative Steinberg asked if the panelists knew the derivation of the 1.6 times ratio. He observed that it seemed like an arbitrary number.

Tom Fiore responded that in 1991 and years prior to that it was at 4.5 times, so it has been significantly tightened. He can recall asking people the same question to no avail.

Chairperson Cibes called for additional questions.

Roberto Hunter inquired about the cap calculation, specifically non-capped versus capped. He observed that a third of the budget looks to be non -capped and growing more than twice the allowable cap growth rate. He stated that debt service appears to have grown at more than 12% in the last fiscal year. He asked the panelists if they had any sense of how this rate of growth was going, as it appeared that debt service will double in six years.

Tom Fiore explained that over time some exemptions have grown at a rate greater than the cap growth rate and in other years not. He further explained the debt service could be influenced by the economic recovery notes issued in 2009 entering the recession. In FY 14 and 15 the state extended the economic recovery notes. The recovery notes came back on-line in FY 16, which would explain that jump in growth. He then explained that when the notes come back off in FY 18 or 19 debt service may be level in that year. There will be rising pressure on long term debt service mainly from pension payments, hence why they were exempted by PA 15-244. Pension payments have risen at a much greater rate than cap growth rate.

Chairperson Widlitz recalled discussions from a previous meeting about splitting the pension requirements into two pieces. Commission members discussed the possibility of dealing with pensions by putting the current actuarial requirement under the cap and putting the unfunded liability outside of the cap. She asked the panelists if they saw any problems with that approach.

Chris Wetzel stated that essentially that what was already done in PA 15-244. He cited the example he presented earlier of the SERS/TRS (State Employees' Retirement System/Teachers' Retirement System) unfunded liability line. It is the accrued liability going back that has not been funded and is non-capped; however, the ARC (annual required contribution) portion is capped.

Chairperson Cibes had a question regarding inflation, referring to Ron Van Winkle's previous comment. He remarked that goods and services purchased by government may inflate more rapidly than the goods and services purchased by a family. That may be a reason to find a different definition of inflation. He asked the panelists if this is something the commission should look at. He added that the Higher Education Price Index (HEPI) is in excess of inflation (CPIU), as the costs of higher education rise more rapidly than the services purchased by a family. He does not suggest using HEPI; however, it speaks to the notion that there may be other measures out there worth exploring. Chairperson Cibes suggested a meeting to focus on potential measures of inflation.

Tom Fiore stated he did not think the expenditures of state government are typical of an average household, primarily because of the amount the state pays for healthcare costs, which rise faster than the US inflation rate. He also concurred with Chairperson Cibes' citing of education costs. He further stated he cannot say for certain that another method was ever looked into internally, as personal income has always been the limiting factor and was growing faster than even the US rate of inflation.

Chairperson Cibes referred to the presentation, which showed that OPM and OFA treat the appropriations net of the originally adopted lapses. He asked for confirmation that it's not the subsequent lapses; it's the original adopted lapse.

Tom Fiore responded in the affirmative.

Chairperson Cibes then asked for confirmation that subsequent changes in the appropriations and additional forced lapses are not taken into account in the base calculation.

Chris Wetzel responded that Mr. Cibes' understanding was correct. He explained that the fiscal notes on deficit mitigation bills have included a paragraph regarding the impact on the spending cap. In each case, the legislature made no change to the appropriation level, instead using a "forced" lapse number to reduce spending. As the appropriations level was not changed, there was no impact on the spending cap.

Chairperson Cibes made another comment in regards to additional items excluded from the spending cap. He noted that higher education tuition fees, research grants, Pell grants are not under the cap. He also believes that federal highway funds are not included under the spending cap, which Mr. Fiore confirmed.

Chairperson Cibes stated that in many respects these off budget items have always been off budget and have never been appropriated. He suggested that making the federal portion of Medicaid off budget would not be out of line with past practice. He further suggested that there may be other items off budget, and that the commission might want to look at what the impact might be if they were included.

Representative Ziobron asked if the Governor's Scholarship is under the spending cap.

Chris Wetzel stated it is appropriated and therefore would be under the cap.

Representative Ziobron appreciated Mr. Wetzel's response. She expressed concern about the money being moved off budget and cited the Democrat's proposed budget, which proposed to move ten million dollars from the General Fund to the Insurance Fund. She asked if the Insurance Fund is under the spending cap.

Chris Wetzel answered the Insurance Fund would be part of the cap. He directed her to slide three that shows the current funds under the expenditure cap.

Representative Ziobron thanked Chris Wetzel for his answer.

Chairperson Cibes pointed out that either by state statutory mandate or by mandate from the Higher Education Department, 15% of tuition collected is set aside for scholarships. These scholarships are in addition to the Governor's Scholarship program, and are not included under the spending cap.

Representative Ziobron remarked that she has offered an amendment two years in a row to inform parents that 15% of their tuition is being put toward scholarships for other folks. She expressed her appreciation for the dialogue at commission meetings, as she feels she learns something new at each meeting.

Chairperson Cibes noted that private colleges and intuitions have the same practice of shifting some percentage of tuition and fees for scholarships. He then asked about the spending cap calculations presented as part of the Governor's budget to the General Assembly. He seemed to recall that in some years a different base with respect to growth and income or inflation was used in January than was used in the calculation in May, simply because of the difference in data at the time of the calculation. He asked the panelists if they recalled that situation.

Tom Fiore stated generally the cap growth rate stays consistent in both calculations. He believes that in 1993 OPM used a fiscal year in January and OFA used the calendar year in May, but otherwise they have been calculated the same way.

Chris Wetzel concurred with Mr. Fiore's remarks.

Richard Porth asked if the panelist had any advice for the commission in its deliberations.

Tom Fiore stated that some of the issues and questions that were discussed today will be the items the commission will be wrestling with. He cited examples, such as whether personal income is the correct measure or is it adjusted gross income, what should be in and what should be out. He thought, in general, the spending cap has served the state well, even with the challenges of the recessions. He shared his belief that coming out of the recessions of the 90's, it did allow the state to enact tax reductions; at other times when taxes needed to be raised, the spending cap acted as a shock absorber. Further, he believes that the spending cap ensures that we don't get too far ahead of ourselves coming out of a recession.

Roberto Hunter sought a better understanding of items being on budget and off budget. He stated his understanding to be that both the Constitutional amendment and statutory cap go to general budget expenditures; therefore, if an item like Medicaid is moved off budget, it is no longer subject to the cap. He asked for confirmation from the panelists.

Tom Fiore responded that Mr. Hunter's understanding was correct.

Mr. Hunter then asked if in either case, what it would take to get certain items out from under the general budget expenditure category.

Chris Wetzel stated it would relate to appropriations, and whether or not the item is appropriated anymore. If it is not appropriated, it would not be part of the cap.

Spencer Cain discussed the meaning of appropriated funds and how the funds are distributed if there is no longer an appropriation. He explained that currently the legislature distributes 19.8 billion dollars' worth of items. The question is: if something is removed from the process, how does it get distributed, and how can the legislature continue to have oversight over those funds. The legislature has to decide if it's appropriate to move items outside of their purview or set up some kind of automatic distribution mechanism.

Roberto Hunter asked if there is anything in the Constitution or the cap statute to prevent the legislature from moving items out.

Mr. Cain answered that he did not know of such language.

Tom Fiore stated that the legislature would have to pass a law to take an item out from under the cap, as it did in PA 15-244 regarding pensions. He further stated that at one time a three-fifths vote was needed effect such a change; however, recently the Attorney General concluded a change could be made by a majority vote

Mr. Hunter stated that the change was made under the statutory language, but sought confirmation that if the change was made under the Constitutional Amendment process, a three-fifths vote would have been required.

Tom Fiore concurred.

Chairperson Cibes observed there are some areas where the legislature retains some control, such as town aid for roads and the Small Town Economic Assistance program, which were previously appropriated programs and are now bond funded. He stated that is not the case with tax expenditures, which he observed have resulted in a massive decrease in revenue that impacts the balancing of the budget. He further observed that it also means there are a number of things not under legislative control, and speculated that the legislature has not taken a hard look at tax expenditures.

Representative Davis replied that the legislature has looked at some tax expenditures, such as the sales tax on veterinary services and car washes; however, proposals to eliminate them were drawn back. He commented that at times there have been expenditures that have been removed and others put on. He stated an issue with tax credits is they are not always realized from year to year at the same amount, which makes it hard to budget. Additionally, he remarked that legislators do not get the appropriate data needed to determine the effectiveness of tax credits and how they are used.

Chairperson Widlitz stated it is difficult getting information on major corporations receiving tax credits, as they will claim that a lot of information policymakers seek to evaluate the benefit of the credit is proprietary information. She shared that there is a tax expenditure report issued every two years that offers the best information available. Further, she offered the sales tax exemption for services of yachts as an example of a tax credit of which people do not see the benefit. The public questions giving such a benefit to people they think can afford the services, yet don’t understand that the tax credit translates to jobs related to those services over the winter months and maintains the state’s competitiveness with neighboring states that have similar tax policies for these services. The tax expenditure is in place to preserve and generate jobs. Reducing the cap on how many tax credits can be utilized year to year creates unpredictability for business. She commented that this is not an easy issue and one the Finance Committee struggles with every year.

Representative Davis commented when you look at the tax expenditure report the Office of Fiscal Analysis produces, one of the biggest items we don’t apply the sales tax to is gasoline. That exemption is considered a large tax expenditure; however, we do have two separate taxes on gasoline outside of the sales tax. Similarly, unprepared groceries are not taxed, although he can’t imagine people wanting to tax those grocery items. He concurred with Chairperson Widlitz’s comments that some of those expenditures are in place for the public good, outside of the revenue the state is potentially losing because of it.

Chairperson Cibes responded that the state tax panel did look into putting taxes on groceries. He commended the members’ attention to the state tax panel’s report, as he found the background analyses to be excellent. He also pointed out that as tax expenditures help people in many ways, so do appropriated funds. He thinks to restrict appropriated funds too much would be just as wrong as restricting tax expenditures.

Ellen Shemitz asked if there is a compendium of non-appropriated funds.

Tom Fiore answered that the comprehensive annual financial report from the Office of the State Comptroller that would have those funds.

Ellen Shemitz asked if a list could be compiled by OPM or OFA.

Mr. Fiore stated it could be done, but will take time.

Mr. Fiore added a comment to Mr. Porth’s question regarding advice to the panel. He advised the commission to keep the calculation as simple as possible so that an average person would be able perform the calculation. He cautioned the panel that the more precise or perfect they try to be, the more complicated they will make the calculation. He urged the commission to strive for simplicity.

Chris Wetzel agreed that an easier calculation is the more effective approach in terms of time and the budgetary impact.

Chairperson Cibes called for further questions. Hearing none, he thanked the panelists for a great presentation and their knowledge of the spending cap issues. He indicated that the commission will call on the panelists for additional information in the future.

Chairperson Cibes apologized for the confusion in scheduling the meeting today due to special session and reiterated the commission needed to develop a schedule. He requested that commission staff use the Doodle Poll application for ascertaining when members will be available.

Chairperson Widlitz shared that the Committee Administrator needs to get approval to use Doodle from the Office of Legislative Management. Chairperson Cibes stated if the Administrator cannot do it through the General Assembly one of the members can conduct the poll.

Chairperson Cibes shared what some of the upcoming topics will be for future meetings: what inflation measure should be used; what measure of personal income should be used; the definition of general budget expenditures, which may be discussed over a couple of meetings. With respect to all of the topics, he believes the deliberations should include some analysis of what the impact of the cost disease of personal services is on government expenditures, which he referred to at a previous meeting as Baumol's cost disease. He added that economists have pointed out that education and health care are preeminent examples of face to face personal services that regularly increase in cost faster than the rate of inflation; face to face personal services are the services government focuses on. He also invited members to come up with topics.

Mr. Cibes reminded members that the deadline for submitting recommendations to the General Assembly is in December and asked commission members for guidance on how frequently the commission should meet. Chairperson Widlitz suggested that the members target some potential dates now and use Doodle to schedule future commission meetings. Mr. Cibes stated that a potential obstacle in setting meeting dates will be the availability of speakers who can address the topics identified.

Ron Van Winkle stated that UConn has written lengthy report on inflation and suggested it might be a place to start regarding a future discussion of the impact of inflation on the spending cap. Chairperson Cibes asked Mr. Van Winkle to circulate that report.

Roberto Hunter asked if there is a way to conference call or skype people who are not able to attend the meetings. Amanda Zabel expressed the possibility of using the phone system; however, to her knowledge, other technologies are not available. Chairperson Cibes asked staff to look into what technologies are available. He reminded members that CT-N records the meetings and that those members unable to attend can access the broadcasts, which are archived.

Representative Ziobron reminded members that in addition to holding meetings, the commission is charged with conducting public hearings in each congressional district. She talked about other key points and logistics that would need to be considered as part of the commission's deliberations. She suggested starting with the end date and working backwards in developing a schedule.

Chairperson Cibes agreed with Rep. Ziobron's observations and reemphasized importance of the commission developing a schedule soon. He stated he would be happy to hold public hearings before the commission comes up with definitions, but was unsure how helpful it would be to seek public input without having language drafted.

Chairperson Widlitz suggested that the co-chairs research the availability of presenters on certain topics and then poll members on their availability.

Representative Steinberg urged the commission to meet again before June, given the tight timeframe for deliberations.

Chairperson Cibes asked for suggestions regarding the next meeting date and time.

Ron Van Winkle requested a Wednesday meeting.

Chairperson Cibes asked if members were available on Wednesday, May 25th at 10 AM. Based on the consensus of members, Mr. Cibes set May 25 as the next meeting date.

Ellen Shemitz shared she will be out that day.

Chairperson Cibes asked commission members to submit additional materials and answers to fellow commission members' questions asked at previous meetings and the public hearing. He stated this would serve as a fruitful basis for discussion.

Representative Ziobron requested, if possible, to develop a draft calendar working backward from December to help in focusing the commission's conversations.

Seeing no further discussion, Chairperson Cibes adjourned the meeting at 12:06 PM.

Respectfully submitted,

Sarah Schnitman and Amanda Zabel