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Update on Fiscal Summary, Governor's Vetoes, and Reverse Sweep; Comparison of HB 3003 and HB 3004

House Ways and Means
Committee

August 23, 2021

Legislative Finance Division

Outline

1. Fiscal Summary of enacted budget
2. Overview of Governor's vetoes
3. Overview of CBR sweep mechanism and budgetary impacts
4. Comparison of HB 3003 (Governor's appropriation bill) to HB 3004 (Ways and Means appropriation bill)

A black and white photograph of the Alaska State Capitol building. The image shows the grand entrance with four large, fluted columns supporting a pediment. The pediment features the inscription "ALASKA · STATE · CAPITOL". Below the columns are three sets of double glass doors, each with a set of stone steps leading up to it. The steps are flanked by black metal railings. A semi-transparent rectangular box is overlaid on the center of the image, containing the title text.

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1. Fiscal Summary of Enacted Budget

Short Fiscal Summary - FY21/FY22 Budget

(\$ Millions) (Non-duplicated Funds)		FY21 Budget	FY22 Enacted	Change in UGF	
		UGF	UGF		
1	Revenue	4,767.3	4,731.6	(35.7)	-1%
2	UGF Revenue (Spring 2021 Forecast)	1,571.9	1,662.3	90.4	6%
3	POMV Draw	3,091.5	3,069.3	(22.2)	-1%
4	Misc/Adjust/Non-UGF Revenue	103.9	-	(103.9)	
5	Appropriations	5,317.9	4,511.0	(806.8)	-15%
6	Operating Budget	4,501.8	4,262.7	(239.1)	-5%
7	Agency Operations	4,009.3	3,902.8	(106.5)	-3%
8	Statewide Items	446.3	360.0	(86.3)	-19%
9	Supplemental Appropriations	46.3	-	(46.3)	
10	Capital Budget	136.0	239.8	103.8	76%
11	Current Year Appropriations	120.3	239.8	119.4	99%
12	Supplemental Appropriations	15.7	-	(15.7)	
13	Permanent Fund	680.0	8.5	(671.5)	-99%
14	Permanent Fund Dividends	680.0	8.5	(671.5)	-99%
16	Pre-Transfer Surplus/(Deficit)	(550.5)	220.6		
17	Statutory Budget Reserve	410.7	-		
	Other Fund Transfers	44.0	(316.0)		
18	Post-Transfer Surplus/(Deficit)	(1,005.2)	536.6		

Projected FY22 Fund Balances – With Reverse Sweep

		BoY Balance	In	Out/ (Deposit)	EoY Balance
Total Budget Reserves and Designated Funds		2,500.6	1,436.3	927.4	3,009.6
Undesignated Reserves		827.6	50.5	(455.9)	1,334.0
	Constitutional Budget Reserve Fund	415.7	50.5	(536.6)	1,002.8
	Statutory Budget Reserve Fund	410.7	-	80.7	330.1
	Alaska Housing Capital Corporation Fund	1.1	-	-	1.1
Select Designated Funds		1,673.0	1,385.8	1,383.3	1,675.5
	Total Excluding Permanent Fund	1,673.0	142.9	140.4	1,675.5
	Alaska Capital Income Fund	38.6	31.0	49.5	20.1
	Alaska Higher Education Investment Fund	416.4	25.1	21.8	419.7
	Community Assistance Fund	68.7	12.4	22.9	58.2
	Power Cost Equalization Endowment	1,149.2	74.4	46.1	1,177.4

Projected FY22 Fund Balances – Without Reverse Sweep

		FY22 Without Reverse Sweep (With Sweep)			
		BoY Balance	In	Out/ (Deposit)	EoY Balance
Total Budget Reserves and Designated Funds		2,591.8	1,411.2	927.4	3,075.6
Undesignated Reserves		1,373.8	50.5	(455.9)	1,880.3
	Constitutional Budget Reserve Fund	1,373.8	50.5	(536.6)	1,960.9
	Statutory Budget Reserve Fund	-	-	80.7	(80.7)
	Alaska Housing Capital Corporation Fund	-	-	-	-
Select Designated Funds		1,218.0	1,360.7	1,383.3	1,195.4
	Total Excluding Permanent Fund	1,218.0	117.7	140.4	1,195.3
	Alaska Capital Income Fund	-	31.0	49.5	(18.5)
	Alaska Higher Education Investment Fund	-	-	21.8	(21.8)
	Community Assistance Fund	68.7	12.4	22.9	58.2
	Power Cost Equalization Endowment	1,149.2	74.4	46.1	1,177.4

Note: This analysis assumes only a change in the sweepability of the PCE Fund compared to the FY20 sweep.

A black and white photograph of the Alaska State Capitol building. The image shows the grand entrance with four large, fluted columns supporting a portico. Above the columns, the words "ALASKA · STATE · CAPITOL" are inscribed on the frieze. The entrance consists of three sets of double glass doors, each with a set of stone steps leading up to it. The steps are flanked by black metal railings. The building's facade is made of light-colored stone or concrete. The overall style is neoclassical.

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2. Overview of Governor's Vetoes

Summary of Governor's Vetoes

Category	UGF	DGF	Other	Federal	Total
Veto of Legislative Addition	57,454.6	1,700.0	650.0	3,753.2	64,557.8
Partial Veto of Legislative Addition	8,662.1	0.0	0.0	3,000.0	11,662.1
Veto to Match Gov Proposed Reduction	37,451.3	411.3	34.4	293.9	38,190.9
Veto of Funding from a Different Source than Proposed by Governor	1,197.5	0.0	0.0	0.0	1,197.5
Other Operating Items	684,456.6	0.0	639.8	0.0	685,096.3
Capital Projects	107,644.3	4,000.0	0.0	220,000.0	331,644.3
Total	896,866.3	6,111.3	1,324.2	227,047.1	1,131,348.9

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3. Overview of CBR Sweep Mechanism and Budgetary Impacts

CBR Sweep Mechanism

The CBR sweep provision was established in Article IX, Section 17 of the Alaska Constitution:

(d) Repayment requirement – “If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.”

Reverse Sweep

- The “reverse sweep” is an appropriation from the CBR that returns swept funds back to the original subfund or account. The “reverse sweep” is an appropriation under art. IX, sec. 17(c), and requires a 3/4 vote to pass.
- The sweep is effective at the end of a fiscal year (June 30) and the reverse sweep is effective on the first day of the following fiscal year (July 1).

Statute Implementing Sweep Was Found Unconstitutional

- AS 37.10.420 was intended to implement the sweep.
- The Supreme Court in *Hickel v. Cowper* found this statute unconstitutional in 1994.
- Since then, the executive branch has had to implement the sweep without statutory guidance. The list of sweepable funds has been driven by legal interpretations of *Hickel v. Cowper*.
- The legislature could pass a new statute that attempts to define which funds are sweepable, but absent this or a court case the administration's interpretation is operative.

How the Sweep Works

- The Department of Administration's Division of Finance (DOF) accountants calculate the sweep while preparing the Annual Comprehensive Financial Report (ACFR). The sweep represents unreserved, undesignated fund balances of the general fund subfunds.
- DOF accountants calculate the sweep in September as the ACFR is prepared yet the amount of the sweep is posted in the financial records as of the end of the fiscal year (June 30th).
- After the ACFR is prepared (historically by the end of October), the ACFR is audited by the legislative auditor. The sweep amount is adjusted as necessary.

Changes in Interpretation for FY19 Sweep

- Starting with the FY19 sweep, the administration expanded the scope of the sweep to include additional funds.
- Most significantly, the sweep was expanded to include the Power Cost Equalization (PCE) Fund and the Higher Education Investment Fund.
- While this added only a few new funds, it greatly increased the affected balances: in FY20, those two funds accounted for \$1.4 billion out of the \$1.5 billion swept to the CBR.

Impact of Litigation on Sweep Interpretation

- The Alaska Federation of Natives brought a lawsuit against the administration challenging the sweepability of the PCE Fund.
- On August 11, a Superior Court ruled in favor of the plaintiffs, finding that PCE should not be subject to the sweep because, although it was available for appropriation, it was not part of the general fund.
- The Superior Court decision also indicates that other funds that are statutorily established outside the general fund should not be swept, although this is not directly ordered.
- LFD is reviewing the sweepable funds list to determine whether other funds should be reclassified, although it is up to the administration to reclassify them in the absence of further litigation.
 - Most notably, the Statutory Budget Reserve likely should not be subject to the sweep under this ruling based on statutory language that places the fund as a “separate fund in the state treasury” rather than in the general fund (see footnote 77 of the decision). This fund has long been considered sweepable.
 - The Higher Education Fund was established in the general fund and would not be affected by this ruling.

Impact of Sweep on the Budget

- Based on the list of funds swept in FY20 by the Division of Finance, the FY22 budget uses \$367.4 million from sweepable funds. Subtracting the PCE fund would reduce that to \$321.2 million.
- Not all funds are impacted equally, however. LFD breaks them into three categories:
 1. Immediate Impact: No ongoing source of revenue to support appropriations.
 2. Partial Impact: Ongoing source of revenue that is insufficient to support appropriations.
 3. Minimal/No Impact: Ongoing source of revenue fully covers appropriations.

Summary of Impacts by Category

Category	FY21 Projected Sweep Balance	Amount Used in FY22 Budget	FY22 Amount Available After CBR Sweep	FY22 Approp Shortfall Due to CBR Sweep
Immediate Impact	416,411.4	21,818.7	0.0	(21,818.7)
Immediate Impact Pending Interpretation	410,666.3	80,659.5	0.0	(80,659.5)
Partial Impact	104,558.4	168,562.8	129,030.9	(39,476.4)
Minimal/No Impact	27,093.8	50,203.5	52,809.8	0.0
Total	958,729.9	321,244.5	181,840.6	(141,954.6)

Immediate Impact

Fund Code	Fund Name	FY21 Projected Sweep Balance	Amount Used in FY22 Budget	FY22 Amount Available After CBR Sweep	FY22 Approp Shortfall Due to CBR Sweep
1226	Alaska Higher Education Investment	416,411.4	21,818.7	0.0	(21,818.7)

Pending Interpretation of AFN v. State Decision

Fund Code	Fund Name	FY21 Projected Sweep Balance	Amount Used in FY22 Budget	FY22 Amount Available After CBR Sweep	FY22 Approp Shortfall Due to CBR Sweep
1243	Statutory Budget Reserve	410,666.3	80,659.5	0.0	(80,659.5)

Items Funded with Statutory Budget Reserve in FY22 Budget

- Governor vetoed \$320.0 million appropriation for Permanent Fund Dividends from the SBR, along with \$362.5 million from the general fund.
 - If the SBR is swept, this would have resulted in a PFD estimated to be \$525. If the SBR is *not* swept, the vetoed PFD would have been estimated to be \$1,025.
- SBR also funds \$4.15 million for School Debt Reimbursement in FY22.
- SBR was used to fund \$76.5 million of capital projects, including:
 - \$10 million for Mat-Su Borough Pavement Rehab
 - \$9 million for Houston Middle School
 - \$8.5 million for West Susitna Access
 - \$36.5 million of projects in the Department of Natural Resources, including \$10 million for firebreak construction
 - \$6.3 million of projects in other agencies

Partial Impact

Fund Code	Fund Name	FY21 Projected Sweep Balance	Amount Used in FY22 Budget	FY22 Amount Available After CBR Sweep	FY22 Approp Shortfall Due to CBR Sweep
1052	Oil and Hazardous Substance Release Prevention Mitigation Account	8,981.3	15,339.9	13,820.0	(1,519.9)
1054	State Employment & Training Program	2,602.5	8,518.2	8,075.8	(442.4)
1153	State Land Disposal Income Fund	4,568.4	6,739.1	5,000.0	(1,739.1)
1157	Workers Safety and Compensation Administration Account	2,005.8	9,697.3	6,700.0	(2,997.3)
1166	Commercial Passenger Vessel Environmental Compliance Fund	2,239.8	1,505.8	100.0	(1,405.8)
1168	Tobacco Use Education and Cessation Fund	16,580.9	9,244.8	6,631.0	(2,613.8)
1172	Building Safety Account	446.2	2,226.4	1,682.6	(543.8)
1180	Alcohol & Other Drug Abuse Treatment & Prevention Fund	3,502.8	21,142.5	20,300.0	(842.5)
1195	Snow Machine Registration Receipts	24.5	250.0	170.0	(24.5)
1197	Alaska Capital Income Fund	38,663.4	49,500.0	31,000.0	(18,500.0)
1200	Vehicle Rental Tax Receipts	7,528.6	10,601.1	9,700.0	(901.1)
1203	Workers' Compensation Benefits Guaranty Fund	3,565.7	785.1	732.3	(52.8)
1220	Crime Vic Comp Fund	1,002.7	1,027.2	990.6	(36.6)
1237	Vocational Rehabilitation Small Bus. Enterprise Revolving Fd	322.1	198.2	128.6	(69.6)
1246	Recidivism Reduction Fund	6,644.4	20,971.9	16,000.0	(4,971.9)
1254	Marijuana Education and Treatment Fund	5,879.4	10,815.3	8,000.0	(2,815.3)
	Total	104,558.4	168,562.8	129,030.9	(39,476.4)

Minimal/No Impact

Fund Code	Fund Name	FY21 Projected Sweep Balance	Amount Used in FY22 Budget	FY22 Amount Available After CBR Sweep	FY22 Approp Shortfall Due to CBR Sweep
1012	Railbelt Energy Fund	3,445.7	0.0	0.0	0.0
1019	State Reforestation	0.2	0.0	0.0	0.0
1044	AK Debt Retirement Fund	30.5	0.0	0.0	0.0
1076	Marine Highway System Fund	0.0	0.0	0.0	0.0
1082	Vessel Replacement Fund	21,684.4	0.0	0.0	0.0
1087	Muni CIP Match Grant Fund	253.4	0.0	0.0	0.0
1088	Uninc CIP Match Grant Fund	0.0	0.0	0.0	0.0
1151	Technical Vocational Education Program Account	0.0	12,165.0	12,921.3	0.0
1154	Shore Fisheries Development Lease Program	475.9	367.0	367.0	0.0
1211	Cruise Ship Gambling Tax	6.9	0.0	0.0	0.0
1221	Civil Legal Services Fund	0.0	311.6	311.6	0.0
1248	Alaska Comprehensive Health Insurance Fund	0.0	0.0	0.0	0.0
1234	License Plates	0.0	9.8	9.8	0.0
1247	Medicaid Monetary Recoveries	0.0	219.8	0.0	0.0
1249	Motor Fuel Tax Receipts	0.0	37,130.3	39,200.0	0.0
3205	Alaska Historical Commission Receipts Account	26.8	0.0	0.0	0.0
3221	Originator Surety Fund	1,170.1	0.0	0.0	0.0
3222	Trauma Care Fund	0.0	0.0	0.0	0.0
3223	Abandoned Vehicle Fund	0.0	0.0	0.0	0.0
	Total	27,093.8	50,203.5	52,809.7	0.0

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4. Comparison of HB 3003 (Governor's appropriation bill) to HB 3004 (Ways and Means appropriation bill)

HB 3003 (Governor's Appropriation Bill)

- \$1.53 billion from the ERA to the Dividend Fund for a 2021 PFD based on 50% of the POMV draw
 - While this is based on 50% of the POMV draw, it is an additional draw beyond the POMV for FY22
- \$1.47 billion transfer from the ERA to the CBR
 - When added to the above appropriation, this represents the Governor's \$3 billion "bridge fund"
- \$21.4 million of fund changes from Higher Education Investment Fund to UGF, supporting Alaska Performance Scholarship Awards, Alaska Education Grants, and WWAMI Medical Education

HB 3004 (Ways and Means Appropriation Bill)

- Restores funding for all Governor's vetoes of operating and capital items except for the PFD
- Appropriates \$500.7 million to the PFD Fund (representing a roughly \$742 PFD) from the General Fund and Statutory Budget Reserve
- Funds direct CBR funded items that were removed from HB 205 with the failure of the CBR vote
 - \$114.0 million for oil and gas tax credits, \$48.6 million for School Debt Reimbursement
- Provides reverse sweep and CBR deficit-filling language (requiring a $\frac{3}{4}$ vote)

Questions?

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Appendix: Veto Details

Vetoed of Legislative Additions

Department	Allocation	UGF	DGF	Other	Fed	Total
Administration	Public Broadcasting Commission	46.7	-	-	-	46.7
Administration	Public Broadcasting - Radio	2,036.6	-	-	-	2,036.6
Administration	Public Broadcasting - T.V.	633.3	-	-	-	633.3
Education & Early Dev	Pre-Kindergarten Grants	2,500.0	-	-	-	2,500.0
Education & Early Dev	Library Operations	635.9	-	-	-	635.9
Fish and Game	Sport Fisheries	-	-	650.0	-	650.0
Health & Social Services	BH Treatment and Recovery Grants	250.0	1,000.0	-	-	1,250.0
Health & Social Services	BH Treatment and Recovery Grants	-	500.0	-	-	500.0
Health & Social Services	Designated Eval & Treatment	3,500.0	-	-	-	3,500.0
Health & Social Services	Front Line Social Workers	3,400.0	-	-	-	3,400.0
Health & Social Services	Front Line Social Workers	1,220.0	-	-	-	1,220.0
Health & Social Services	Nursing	1,250.0	-	-	-	1,250.0
Health & Social Services	Commissioner's Office	379.7	-	-	253.2	632.9
Health & Social Services	Medicaid Services	-	-	-	3,500.0	3,500.0
Law	Janus v AFSCME Legal Contracts	20.0	-	-	-	20.0
Military & Veterans' Affairs	Civil Air Patrol	250.0	-	-	-	250.0
Natural Resources	Parks Management & Access	-	200.0	-	-	200.0
Revenue	Tax Division	221.0	-	-	-	221.0
Transportation	Northern Highways & Aviation	2,190.5	-	-	-	2,190.5
Fund Capitalization	Community Assistance Fund	17,605.2	-	-	-	17,605.2
Fund Capitalization (FY21)	Community Assistance Fund	21,315.7	-	-	-	21,315.7
	Total	57,454.6	1,700.0	650.0	3,753.2	63,557.8

Partial Vetoes of Legislative Additions

Agency	Allocation	Fund Code	Legislative Addition	Veto Amount	Enacted Amount
Commerce, Community & Econ Dev	Community and Regional Affairs	1004 Gen Fund	370.0	(185.0)	185.0
Commerce, Community & Econ Dev	Alaska Seafood Marketing Inst	1269 CSLFRF	10,000.0	(3,000.0)	7,000.0
Transportation	Marine Highway System	1004 Gen Fund	25,298.9	(8,477.1)	16,851.8

- DCCED project is a named recipient grant to the Native Village of Napaimute for the Kuskokwim Ice Road.
- AMHS legislative addition figure includes only the addition to the full-year funding level and reflects an increase in all funds. The Governor's veto only affected UGF. The legislature also appropriated an additional six months of funding to move AMHS to a calendar year funding basis.

Veto to Match Governor's Proposed Reductions

Department	Allocation	UGF	DGF	Other	Fed	Total
Commerce, Community & Econ Dev	Community & Regional Affairs	400.0	-	-	-	400.0
Education & Early Dev	State System of Support	109.2	-	-	-	109.2
Education & Early Dev	Library Operations	91.9	-	-	-	91.9
Education & Early Dev	Museum Operations	86.9	-	-	-	86.9
Education & Early Dev	Archives	89.6	-	-	-	89.6
Environmental Conservation	Spill Prevention and Response	-	411.3	21.6	29.8	462.7
Health & Social Services	BH Treatment and Recovery Grants	200.0	-	-	-	200.0
Health & Social Services	Behavioral Health Administration	34.5	-	-	-	34.5
Health & Social Services	Children's Services Management	81.3	-	-	-	81.3
Health & Social Services	Front Line Social Workers	206.4	-	-	-	206.4
Health & Social Services	Family Preservation	22.4	-	-	264.1	286.5
Health & Social Services	Foster Care Special Need	57.7	-	-	-	57.7
Health & Social Services	McLaughlin Youth Center	155.3	-	12.8	-	168.1
Health & Social Services	Probation Services	118.6	-	-	-	118.6
Health & Social Services	Probation Services	67.2	-	-	-	67.2
Health & Social Services	Youth Courts	88.2	-	-	-	88.2
Health & Social Services	General Relief/Temp Assistance	164.9	-	-	-	164.9
Health & Social Services	Public Assistance Field Svcs	858.2	-	-	-	858.2
Health & Social Services	Medicaid Services	17,500.0	-	-	-	17,500.0
Fund Capitalization	REAA School Fund	17,119.0	-	-	-	17,119.0
	Total	37,451.3	411.3	34.4	293.9	38,190.9

Other Operating Vetoes

Item	Fund Source	Amount
Legislator Per Diem	1004 Gen Fund	1,995.0
Permanent Fund Dividend	1004 Gen Fund, 1243 SBR Fund	662,461.5
DOR Treasury Management Fees	1066 Pub School	639.8

- The PFD veto left \$8.5 million for administrative costs in the PFD Division within DOR.
- The Treasury veto was due to an inadvertent over-appropriation of the Public School Trust Fund. This was noticed during Conference Committee but too late for the legislature to fix it, so the Legislative Finance Division alerted the Office of Management and Budget to the issue. This veto will require a supplemental appropriation to the Department of Revenue.

Capital Project Vetoes

Department	Allocation	UGF	DGF	Other	Fed	Total
Commerce, Community & Econ Dev	Alaska Travel Industry Association	10,000.0	-	-	-	10,000.0
Education and Early Development	Major Maintenance Grant Fund for School Major Maintenance	21,642.3	-	-	-	21,642.3
Education and Early Development	Mt. Edgecumbe High School Repairs	3,882.0	4,000.0	-	-	7,882.0
Health and Social Services	MH: Assistive Technology	500.0	-	-	-	500.0
Health and Social Services	MH: Home Modification and Upgrades to Retain Housing	900.0	-	-	-	900.0
Health and Social Services	MH: Deferred Maintenance and Accessibility Improvements	250.0	-	-	-	250.0
Labor and Workforce Development	Alaska Vocational Technical Center Upgrades	12,500.0	-	-	-	12,500.0
Natural Resources	Fairbanks to Seward Multi-Use Recreation Trail Construction	13,200.0	-	-	-	13,200.0
Revenue	MH: AHFC Beneficiary and Special Needs Housing	1,500.0	-	-	-	1,500.0
Transportation and Public Facilities	Craig Harbor	4,400.0	-	-	-	4,400.0
Transportation and Public Facilities	Municipal Harbor Facility Grant Fund	7,320.0	-	-	-	7,320.0
Transportation and Public Facilities	Contingency	-	-	-	70,000.0	70,000.0
Transportation and Public Facilities	Project Acceleration	-	-	-	150,000.0	150,000.0
University of Alaska	UAA Building Energy Performance Upgrades	10,900.0	-	-	-	10,900.0
University of Alaska	Bartlett and Moore Hall Modernization: Restrooms and Sanitation Infrastructure	18,650.0	-	-	-	18,650.0
University of Alaska	UAS Juneau Campus Roof and Fuel Tank Replacements	1,000.0	-	-	-	1,000.0
University of Alaska	UAS Juneau Campus Safety Improvements and Regulatory Compliance	1,000.0	-	-	-	1,000.0
	Totals	107,644.3	4,000.0	0.0	220,000.0	331,644.3