

HOUSE FINANCE COMMITTEE
February 9, 2010
1:36 p.m.

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CALL TO ORDER

Co-Chair Hawker called the House Finance Committee meeting to order at 1:36 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Mike Doogan
Representative Anna Fairclough
Representative Neal Foster
Representative Les Gara
Representative Mike Kelly
Representative Woodie Salmon

MEMBERS ABSENT

Representative Reggie Joule

ALSO PRESENT

Representative Nancy Dahlstrom; Karen Rehfeld, Director, Office of Management and Budget, Office of the Governor; Kim Garner, Director, Division of Finance, Department of Administration; Alison Elgee, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services.

SUMMARY

HB 325 APPROP: DEFERRED MAINTENANCE/REPLACEMENT

HB 325 was SCHEDULED but not HEARD.

HB 326 SUPPLEMENTAL/CAPITAL/OTHER APPROPRIATIONS

HB 325 was HEARD and HELD in Committee for further consideration.

#hb325

HOUSE BILL NO. 325

"An Act making capital appropriations for deferred maintenance projects, equipment replacement, and emergency repairs; and providing for an effective date."

HB 325 was SCHEDULED but not HEARD.

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#hb326

HOUSE BILL NO. 326

"An Act making supplemental appropriations, capital appropriations, and other appropriations; amending appropriations; repealing appropriations; making appropriations to capitalize funds; and providing for an effective date."

Co-Chair Hawker reviewed generalities of the technical changes of the working draft.

Co-Chair Stoltze MOVED to ADOPT CS HB 326(FIN), 26-GH2827\R, Kane, 2/8/10, as a working document. There being NO OBJECTION, it was so ordered.

Co-Chair Hawker spoke to committee plans to review the legislation, beginning with an overview.

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Co-Chair Hawker highlighted the two pages of ratifications at the end of the document and emphasized the importance of discussing the issues.

KAREN REHFELD, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, provided a sectional analysis of HB 326. She pointed out that the largest component of the bill consisted of two sections putting money into savings accounts, including a request to deposit \$1.1 billion into the public education fund in Section 12(a), and a provision

to repay the constitutional budget reserve (CBR) fund in 17(a).

Ms. Rehfeld specified that Section 1 consisted mostly of the operating budget requests, including formula components related to Medicaid and \$35.4 million for the fire suppression supplemental. Agency operating non-formula items total nearly \$32 million.

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Ms. Rehfeld described Section 2 as a summarization of funding sources by agency. She remarked that the Office of Management and Budget (OMB) carefully reviews supplemental requests from departments and asks whether the request could be addressed in the next year's budget. Some are already incorporated into the next year's budget in order to correct funding authorization. In other areas, changes are being considered for budget amendments due February 17, including items from the Office of Public Advocacy, the Public Defender Office, inmate health care, and Medicaid components.

Ms. Rehfeld spoke to Section 3, which includes appropriations for capital projects. She parenthetically noted one capital item in Section 11. Section 4 contains the summary of funding sources.

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Ms. Rehfeld highlighted Section 5 as a new language section. She explained that the state was allowed to utilize a higher reimbursement rate for Federal Medical Assistance Percentage (FMAT) under the American Recovery and Reinvestment Act (ARRA). However, the higher rate comes with requirements: the Medicaid program cannot be changed and the savings cannot be put into a savings fund. Guidance from the U.S. Department of Human Health and Services and discussions with the Alaska Department of Law (DOL) led to inclusion of language in the bill acknowledging higher general fund relief as well as increased costs that the general fund savings will help cover.

Co-Chair Hawker added that the item meant the state would receive \$100 million that it could allocate.

Ms. Rehfeld turned to Section 6, a \$3.3 million request to implement the interest arbitration from a March 19, 2009 decision regarding the Alaska Correctional Officers Association.

Co-Chair Hawker noted appreciation for inclusion of the item in the bill.

Ms. Rehfeld explained Section 7 as \$180,000 for pupil transportation costs for an Alaskan school for the deaf in Anchorage.

Representative Doogan asked why the item was in the supplemental budget. Ms. Rehfeld explained that the item addressed the transportation needs of a deaf student in the Mat-Su area; OMB had not been aware of the issue until after the FY 10 budget was passed. The item would be incorporated into the base for pupil transportation services in the future.

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Representative Austerman highlighted that the item would increase the base for FY 11 and FY 12.

Ms. Rehfeld noted that Section 9 corrected language related to gas pipeline training. She described Section 10, \$28,000 for paying settlements for DOL; she assured the committee that they would be informed of other judgments. She explained that Section 11 would allow the state to purchase wildfire fighting aircraft.

Representative Gara received clarification about an item in Section 8.

Ms. Rehfeld turned to several fund transfers in Section 12: 12(a) is a deposit into the public education fund, 12(b) transfers \$79,000 from the Alaska Industrial Development and Export Authority (AIDEA) revolving loan fund to the small business economic development revolving loan fund, and 12(c) is a \$5 million general fund transfer to the disaster relief fund.

Co-Chair Hawker asked for clarification regarding Section 12(a). Ms. Rehfeld responded that the FY 10 budget was not able to make a deposit into the fund until the revenue

picture improved. She added that the deposit would forward fund education for FY 11.

Co-Chair Hawker emphasized that appropriations would not be duplicated; the item was a response to the failure to get a CBR vote the previous year.

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Representative Gara queried the forward funding amount. Ms. Rehfeld responded that the item incorporates the third year of the three-year funding plan. She noted a base student allocation (BSA) increase of \$100 and that the item includes the intensive student BSA. There is also an increment for implementing district cost factors. All of the components in the FY 11 foundation formula are included in the deposit amount.

Ms. Rehfeld explained that Section 13 consisted of ratification, sometimes called "zero balancing." Ratifications are requests for authorization to cover expenditures that have already occurred and resulted in an over-expenditure of an appropriation. The situation is usually a result of uncollectable federal revenue sources; the ratification provides the state with the authority to close the prior appropriations out.

Ms. Rehfeld emphasized that there is no additional expenditure of cash in the current year and that OMB has worked hard with agencies to clean out the accounts. She acknowledged that the size of some of the ratifications have raised questions. She highlighted larger items, beginning with \$10.3 million for fire suppression. She referred to an annual base appropriation for fire suppression; the state can never fully anticipate the extent of need. For the past decade, there has been a base appropriation, and then as the fire season progresses, estimates are received monthly from the Department of Natural Resources (DNR) of actual costs. The \$35 million request for fire suppression in the FY 10 supplemental bill is based on the DNR estimate of current year costs. The \$10.3 million represents a ratification of expenditures that occurred between the time that the legislature adjourned and the fire season in 2009. She acknowledged the significance of the amount.

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Ms. Rehfeld described another significant ratification amount for the Department of Health and Social Services (DHSS), \$7.3 million for uncollectable revenue for several programs. She reported that DHSS has identified several issues with its revenue accounting and are implementing controls to address the challenges. She noted changes in specific programs to address the appropriate revenue source in the FY 10 supplemental and in the FY 11 budget in order to address the problem. She pointed to clean-up that is part of the ratification process. Approximately \$409,000 of the ratifications in the bill involves the Department of Corrections (DOC), which had underestimated what would be collected from the federal government for housing federal prisoners.

Ms. Rehfeld described Section 14 as a small correction related to DOL to address restitution in juvenile cases. Section 15 relates to shifting funding from the international airport revenue fund to the airport construction fund in order to minimize customer costs. Section 16 is the extension of the appropriation for in-state gas, which is slated to end February 28, 2010; the provision would extend the date to June 30, 2010. The work is on-going. She pointed to a request for \$6.5 million in the FY 11 budget for continuing work on the in-state gasline.

Co-Chair Hawker explained that the project had commenced under Harry Noah's supervision; the Senate had decided to appropriate money only through February and come back for a supplemental. He added that the administration had assured that in-state gasline efforts would continue to move forward.

Ms. Rehfeld noted that work would be continued within the limitations of the appropriation. She emphasized the importance of getting the legislature's approval for the extension.

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Co-Chair Stoltze relayed a story to emphasize the point.

Ms. Rehfeld explained that Section 17 is related to the constitutional budget reserve; 17(a) would allow repayment of \$402 million that has been withdrawn from the fund,

17(b) authorizes drawing from the statutory budget reserve if revenues could not cover expenditures in FY 10; and 17(c) is a fund source switch that manages funds through the general fund.

Co-Chair Hawker underlined that the state would have repaid all constitutional obligations to the CBR at approximately \$5.5 billion. Ms. Rehfeld concurred.

Ms. Rehfeld continued with Section 18, lapse provisions related to capital projects. Section 19 repeals Section 43(c), also known as last year's 17(b) provision, which is consistent with the objective to repay the CBR.

Co-Chair Hawker acknowledged past discussion and emphasized his concurrence that the provision was unnecessary.

Ms. Rehfeld concluded with Section 20, an immediate effective date for Section 7, the pupil transportation appropriation, and Section 21, the effective date of the act.

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Representative Doogan asked about appropriations for uncollectable funds. Ms. Rehfeld responded that the largest component was under school-based claims in the supplemental and the FY 11 request.

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Representative Austerman queried Section 10 regarding funds for DOL for judgments and settlements. He referenced the Carlson case and wanted to know whether the amount would be covered in the current year. Ms. Rehfeld responded that every effort was being made to resolve the Carlson issue. She acknowledged the continuing growth of the interest. She reported that updated information regarding the case would be forwarded to the committee as it came from DOL.

Representative Austerman anticipated daily interest costs of \$20,000 and expressed frustration. Ms. Rehfeld echoed frustrations and stated that the intent was resolution of the issue.

Co-Chair Hawker assured the committee that the issue would be addressed. Representative Austerman reiterated frustrations.

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Representative Gara requested details on the Carlson case. He believed the court was going through a routine request for reconsideration.

Co-Chair Hawker turned to the subject of ratifications, which begin on line 119 (page 23 of 25 of the "FY2010 Supplemental Requests" spreadsheet, copy on file). He noted that the first item related to DNR fire suppression. Ms. Rehfeld clarified that the amounts were late FY 09 money.

Co-Chair Hawker stated that the money was already spent and emphasized that there was no authority for the money to have been spent. The ratifications would sanction the expenditures retroactively.

Ms. Rehfeld pointed out that in some areas the process could not be avoided, particularly related to fire suppression. She explained that when a certifying officer gets a document, there is a budget and an authorization for valid expenditures to be charged against. The difficulty sometimes lies in collecting the revenue.

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KIM GARNERO, DIRECTOR, DIVISION OF FINANCE, DEPARTMENT OF ADMINISTRATION, testified that out of the list of ratifications in the bill, only \$628 was related to expenditure coding problems. The rest of the requested ratifications are for revenues which are now uncollectable. At the time the expenditures were made, the corresponding revenues were expected to be collected. However, the receivables have been deemed uncollectable.

Ms. Garnero explained that the \$481,000 related to access cleanup is an inception-to-date review at all receivables in the state's 25-year-old accounting system to find out which ones are uncollectable. She was pleased to learn that the amount was less than one-half million dollars.

Co-Chair Hawker acknowledged that amounts as small as one cent were listed in the reconciliation. He pointed to line

136 for the DOC Anchorage Correctional Complex; the state expected more money from the federal government than it was able to collect. He stated that the expenditures should not have been made without the resources available make them. He stated that there was not authority.

Co-Chair Hawker asked about appropriation numbers on line 136 and wondered if the issues were from FY 05. Ms. Garnero responded in the affirmative; the receivable was detected as being uncollectable as part of the inception-to-date review of all receivables in the accounting system.

Co-Chair Hawker stressed that the amount was five years old. Ms. Garnero detailed that the state's accounting system is good at tracking expenditures but was weaker when accounting for revenues. Revenues were recorded for items in FY 05 that have stayed there until someone asked if the amount was collectable. She added that the amount is not collectable five years later, and the state has written it off.

Co-Chair Hawker questioned the process and asked why receivables were not reviewed. Ms. Garnero replied that Division of Finance is implementing an annual review of all receivables for agencies, which has not been done in the past as part of the comprehensive annual report.

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Co-Chair Hawker reminded the committee that amounts in the budget are truncated to the thousands; however, in the ratifications section, the amounts are listed down to the penny.

Representative Gara asked for clarification regarding ratification funds. Ms. Rehfeld replied that when the legislature ratifies expenditures, it gives the departments the authority to close out appropriations with shortfalls in the prior year.

Representative Gara asked where the money comes from to fund the ratifications. Ms. Garnero delineated that the accounting system controls expenditures by appropriations; most appropriations are not purely general funds but include some revenue collections. The accounting system controls for the collections with a tolerance, allowing expenditure of funds before they are collected. However,

most of the items have receivables booked, meaning a revenue was billed for some party and the departments expected to be able to collect the revenues. Shortfalls are caused when the revenues are no longer collectable.

Ms. Garnero clarified that there will be an appropriation for the ratification, but no additional spending; there must be an appropriation to drive the uncollected balance to zero.

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Representative Austerman referenced line 131 [DHSS, Medicaid State Programs], \$1,380,000 from FY 04. He asked whether the state has been trying to collect the money for six years or if it never expected to get the funds. Ms. Garnero responded that she could not speak to the item as it was not part of the accounting systems inception-to-date clean-up. She noted that individual departments bill for and collect revenues.

Co-Chair Hawker requested waiting until later in the meeting to speak to DHSS issues. He asked whether the fire suppression ratification was unusually large. Ms. Rehfeld offered to get more history. She referred to the boundary fires in 2004, which had also resulted in ratifications. Co-Chair Hawker wanted the committee to have the underlying facts related to the ratification.

Co-Chair Hawker explained that the committee is accustomed to seeing a limited number of ratifications; there is an unusual amount in the current bill. He acknowledged the significance of the clean-up resulting in the many items, including the largest at \$409,000 for the Anchorage Correctional Complex. Ms. Garnero agreed.

Co-Chair Hawker queried the relationship between the Division of Finance and the agencies. Ms. Garnero replied that she had served as a finance officer in a department; her experience was that the balancing of appropriations to get to revenue collections and expenditure authorizations is intensely done at the end of the fiscal year, and then the process is done. She thought there had been a hole in the central role of the Division of Finance in asking agencies to look back at the receivables recorded in the accounting system and continuing to either collect them or get them written off. She stated that after the end of a

fiscal year, not much can be done unless the department can go back to the billed party and get the money. Often once grants are closed, the department will have uncollectable receivables and will have to ask for authorization through the ratification process.

Co-Chair Hawker questioned the new controls that were being implemented to mitigate the problem. Ms. Garnero responded that the controls will prevent the delay in identifying uncollectable receivables.

Co-Chair Hawker pointed out that when an agency reports the problem in a timely manner, the legislature can communicate with the agencies. He wanted to know how agencies could miscalculate to the extent the committee was seeing. He questioned who was culpable. He noted that he wanted a conversation with DOC and Mr. Peeples [regarding the Anchorage Correctional Complex ratification] before the process was over.

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Representative Kelly reported that the process was different in the private sector.

Co-Chair Hawker verified that the Division of Finance has implemented procedures to rectify the situation. Ms. Garnero confirmed that the division will be annually reconciling recorded receivables with the departments as part of preparing audited financial statements.

Representative Kelly asked if the process would change behavior.

Co-Chair Hawker agreed that the procedure is not practical unless it results in improved control of agency spending.

Ms. Rehfeld added that OMB's effort has been to identify areas with uncollectable revenue and determine whether to replace a funding source with general funds. She referred to requests for funding source changes to address and correct the problem. She underlined that grants are closed after August 31 and departments will be unable to collect after that time; the problem needs to be addressed on the front end of the process.

Representative Kelly agreed that the issue should be looked into.

Co-Chair Hawker concurred.

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Co-Chair Hawker segued to ratifications related to Medicaid School Based Administrative Claims and referred to a DHSS handout, "DHSS Schedule of School Based Services Financial Information, SFYs 2003, 2004, 2005, 2006, 2007, 2008" (copy on file).

Co-Chair Hawker emphasized the significance of the problem. He thought the evidence pointed to a problem in accounting management and control at DHSS related to the program.

Representative Austerman queried the DHSS process related to the Medicaid ratification. He asked how the department had been able to absorb the approximately \$7 million it had spent without being reimbursed. He wondered if the legislature had funded the difference.

ALISON ELGEE, ASSISTANT COMMISSIONER, FINANCE AND MANAGEMENT SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, noted that there were a variety of issues at stake and that she wanted to start with the simpler ones before addressing the school based administration claiming program.

Ms. Elgee explained to Representative Austerman that DHSS had spent money against a legislative appropriation that was comprised of multiple fund sources, where the revenue side of the appropriation did not materialize. She emphasized that nothing was absorbed. The department is currently trying to clean up the books by getting authorization from the legislature to recognize the expenditures as general fund.

Co-Chair Hawker described what would happen to a citizen who wrote a check against a bank account that did not have sufficient funds. He asked how an agency could spend millions of dollars and then come back so many years later to ask for the revenue to cover the expenditures. He asked where the cash came from.

Ms. Elgee spoke specifically to line 131 [Medicaid State Programs], which illustrates what the department is up against in trying to balance expenditures and revenues on an annual basis. She explained that the department spends many hundreds of millions of dollars in the Medicaid program and draws federal funds on a weekly basis based on the expenditures to keep the money in the state treasury as opposed to the federal treasury. The claims for the federal revenue are filed quarterly; the claim for the final quarter of state fiscal year is filed after September 30 of the subsequent fiscal year (the state fiscal year ends on June 30). The claim is filed for all expenses made from April 1 through June 30.

Ms. Elgee detailed that Medicaid has a multitude of various match rates; it is not a straight-forward program. Each component of the program has to be accounted for, expenditures and match rates. The report is large. As a result, the department is closing out its state books before it has made the final claim for many of the federal programs. The problem caused by the timing of the two actions is significant.

Ms. Elgee noted that related to the line 131 ratification, she suspected that the money was expended and that the department expected to be reimbursed from the federal government. She expected that the department had not recognized that the match rate of federal funds to general funds was not aligning with expenditures made until after the state books had been closed.

Ms. Elgee explained that the situation was further complicated by the fact that the department has up to two years to amend federal claims. The numbers move throughout the subsequent quarters as DHSS books additional expenditures against encumbrances and as other close-out activity goes along. There is no clear stopping point for determining what can reasonably be expected.

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Co-Chair Hawker restated the situation: the department has a huge operating cash flow, there is no once-a-year moment during which everything stops and begins fresh, and it has been able to stay ahead of cash requirements with the billing process and procedures. In other words, a check never bounced.

Representative Doogan thought the system was "sloppy" because there was no stopping point to consider the balance. Ms. Elgee replied that there was always enough authorization and appropriations to cover expenses.

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Co-Chair Hawker clarified that Ms. Elgee was considering the appropriations side, while the questions was whether the issue would have shown up if there was a stopping point.

Representative Gara understood the part about money coming in and being wrong. He wanted to know whether department error such as missing application deadlines resulted in missing money. Ms. Elgee replied that his question led the discussion into Medicaid school based administration claiming territory.

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Co-Chair Hawker pointed out that the ratification requests go back to FY 04. He asked for explanation regarding the receivables related to the school based Medicaid services, beginning with a description of the program.

Ms. Elgee informed the committee that the Medicaid school based administrative claiming component is a program designed to allow states to recover a portion of the administrative overhead costs that school districts may attribute to helping serve Medicaid-eligible students. The program is different from the program that allows school districts to claim Medicaid for direct-service costs. For example, a district bringing in a speech therapist for a Medicaid-eligible child is a direct service that Medicaid can be billed for. On the other hand, the school based administrative claiming program is designed to try to recover district administrative support costs that are attributable to having provided the direct service.

Ms. Elgee reported that the DHSS handout shows spending going back to 2003, when ratification was not needed, and shows the program history from FY 04 through FY 08. She emphasized that the ratification requests present uncollectable revenues through the first half of FY 07. She highlighted that DHSS continues to have financial exposure

on the program for the second half of 2007 and all of FY 08.

Co-Chair Hawker pointed out the corresponding note at the bottom of page.

Ms. Elgee described what had happened in the program. The federal government requires that the state department train school district personnel in terms of allowable activities to be claimed under the program, identifies a cost pool attributable to those allowable activities, and identifies the personnel that are in support of the activities. Every quarter, a study is made during a randomly selected week, on randomly selected authorized personnel and participants. The random-moment study tracks individuals throughout the week and the results are extrapolated throughout the entire universe identified for the program. The Medicaid claim is based on the results of the study. The reimbursement has a 50 percent match rate by the federal government.

Ms. Elgee explained that during the early years, the process was followed, the claims were made, and the receivables booked. However, the federal government only participated in the cost of the program in a portion of the claims that were actually made. The federal government deferred the remaining portion of the claims. In December of 2008, the federal personnel met with the state and reported that there were problems with the state program; the claiming plan was good, but it was not being properly run, and the claims were not being developed in a supportable way. The federal personnel came up with several examples, including a janitor in one district that was identified as being part of the cost pool and was surveyed; the federal government could see no correlation between what the janitor did and the services being provided to the Medicaid-eligible children within the school district.

Ms. Elgee summarized that in the early years considered for ratification, a portion of each of the claims was deferred. In the meantime, the state had used the money, which had a history of being shared (after direct program costs were accounted for) 50 percent to the participating school districts and 50 percent to DHSS.

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Ms. Elgee detailed that the department portion was programmed into several department areas; currently the revenues support program operations in the Office of Children's Services in the Division of Public Health and in the department support-services components.

Co-Chair Hawker underlined Ms. Elgee's language regarding a history of taking the federal reimbursement and splitting it 50/50 with participating school districts. He pointed out that during 2003 through 2005 the district portion from the Centers for Medicare and Medicaid Services (CMS) was disbursed through a reimbursable services agreement (RSA) to the Department of Education (DEED); subsequently it was paid directly to the school districts. He asked whether there was ever a written agreement or legislative authority acknowledging the transactions. Ms. Elgee replied that she had been trying to determine the answer and was still researching.

Co-Chair Hawker assumed that the payments had been made without contractual or statutory authority.

Representative Austerman asked whether CMS had directly paid the school districts. Ms. Elgee replied that DHSS had made the payments. She directed attention to a column in the middle of the spreadsheet ["RSA'd DEED" on the DHSS handout] listing RSAs and explained that in certain years the money was sent to DEED for subsequent distribution to school districts; after 2006, the monies were paid directly by DHSS to the districts.

Co-Chair Hawker emphasized that while the money was paid, CMS had deferral or withholding in the amounts listed in the second-to-the-right-hand column [DHSS handout]. Ms. Elgee agreed; the column contained the balance of the claim made for which no cash was forthcoming.

Co-Chair Hawker pointed out that the program not conducted in 2009; he suspected that was related to CMS meeting with DHSS about the problems. Ms. Elgee concurred.

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Representative Austerman referred to the surveys conducted and CMS deciding to defer the money because of problems found during the survey. He expressed concerns that the surveys had shown problems back to 2004 and yet continued

until much later. Ms. Elgee responded that corrective efforts had been made to address the problems in January 2007; a new claiming plan was approved by CMS and adopted to attempt to address prior problems. However, the federal officials said the claiming plan was good, but the state did not follow the plan; errors were made in the program administration itself. She reported that the first red flag was a claim processed on behalf of the state that was significantly larger than claims from other states with larger population bases; she suspected that was the reason behind the deferral of a portion of the early claims.

Representative Austerman wondered why people were not fired for mistakes made during 2004-2006. He questioned what the department was not doing. Ms. Elgee agreed that the concern was a good one. She said that the individual responsible during the period is no longer with the department. She could not speak to what was going on from a management perspective.

Co-Chair Hawker concurred with Representative Austerman's perplexity and frustrations.

Vice-Chair Thomas reported that he had seen a private corporation go bankrupt over similar issues, including "creative accounting" where money was rolled ahead and hidden.

Co-Chair Hawker reported that the term in accounting was "kiting."

Vice-Chair Thomas wondered whether other departments were doing the same thing. Ms. Rehfeld responded that she was not aware of other programs with similar issues. She credited DHSS with coming to OMB right away when the problems began to show up. She pointed out that there were many elements in the ratifications as well as the supplemental request and the FY 11 budget because the revenues were significant components in the department's operations. She stated that the issue needed to be addressed.

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Co-Chair Hawker asserted that her statement was of paramount importance to the committee, as so many places in the budget were affected. He directed attention to the last

two columns on the right of the DHSS handout: the requested ratification or amount of authority needed to clear the books, listed by fiscal year; and the CMS deferral column, or the amount withheld by CMS. He highlighted that the 2004 numbers were the same in both columns. He asked why only \$221,290.00 needed to be ratified for 2005 if CMS withheld \$3.7 million that year. By 2007, the state was asked for a \$3 million ratification when CMS deferred only \$2.8. He queried the differential.

Ms. Elgee replied that there were two reasons for the differential. First, in the context of a zero-balancing exercise, some of the expenditures can be offset with other revenue collected or lapsed balances that were available; that will tend to reduce the ratification necessary for the uncollectable receivables. She pointed out that there was a larger problem than the particular program; the problem lies in the revenue-collection environment for DHSS as a whole. Personnel has been working diligently to clean up the problem, but she believed that in FY 07 (the year that reflects a ratification request larger than what is reflected as a deferral), some revenues were improperly attributed. She emphasized that cleaning up the state accounting records in terms of unraveling who did what related to posting revenues and where they truthfully belonged would take a great deal of time. The department has not invested the time since the bottom line will not change in terms of what is needed for ratification.

Co-Chair Hawker maintained that "where revenues truthfully belonged" and "misposting" begins to imply something "very, very sinister." He asked whether some programs that the legislature had authorized through the budget process to receive full federal funding were in fact not [receiving that funding]. Ms. Elgee responded that she thought that was the case.

Co-Chair Hawker observed that previous legislative action was based on the understanding that certain programs received their full federal funding authority, when in fact the federal funding authority may not have existed.

Ms. Elgee replied that the federal authority existed in the context of the appropriation, but whether the revenue recorded against that authority was attributable to actions on the part of that particular program, or earned specifically by that program, is a question that is being

researched. She believed there was some kind of "mix and match going on to balance out the books."

Co-Chair Hawker emphasized his appreciation for the department's truthfulness and his understanding that the testifiers present were only the messengers.

Ms. Rehfeld pointed out that the Division of Legislative Audit looks carefully at agencies annually, particularly departments like DEED and DHSS with a significant number of federal programs. The division has identified the DHSS revenue issue through audit work. She thought it was good that the challenges are being recognized and addressed.

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Co-Chair Hawker noted that the Division of Legislative Audit has been looking at revenue collectability overall. He reiterated frustration and stated that the situation was unacceptable. He was concerned that the problem pointed to a wider-sweeping one. Legislative auditors have been working on the comprehensive annual financial report, but their findings have not been specific or have indicated a problem of the magnitude identified in current testimony.

Co-Chair Hawker hoped, with the committee's blessing, to request that Legislative Budget and Audit Committee specifically perform an expedited audit of the DHSS program in order to get an independent review and report back to the committee on the scope of the problem and the adequacy of measures already implemented by OMB and DHSS.

Co-Chair Hawker noted that the members present nodded in the affirmative and that there was no negative indication from the committee.

Representative Kelly stated his support and commented that the situation resembled a bank balance with the federal reserve bank; once the balance slips behind, it is almost impossible to recover. He suggested looking back further to perhaps 1998; he wondered if the situation then was better or worse.

Ms. Elgee described the department's increasingly complex environment from the standpoint of funding and federal claiming requirements. At the same time, because of increased automation, the department also has a much higher

level of oversight and scrutiny. She referred to an older, ledger-sheet method of tracking federal funds. The department recognized that the process had to be automated and purchased the same software used by many other states. Unfortunately, the software was implemented at DHSS without a thorough understanding of how it worked.

Ms. Elgee related that the department had contracted the previous year with a consultant who has worked with states on indirect cost-allocation plans and understood the software. He evaluated the DHSS claiming environment and gave an 18-month timeline to make improvements that he thought would put the department back on track. The consultant had described the timeline, completed by June 30, 2010, as very aggressive. The department has recently decided to revise the deadline.

Ms. Elgee reported that significant improvements had been made, including filing federal claiming reports on time for the first time in years, making regular draws, and posting revenues to program operations. She described historical experience with an "impossible environment" to manage against.

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Representative Kelly advised entering the audit with a neutral mind-set. He acknowledged the difficulty of the task, based on his own experience. He asked whether over-claiming was a practice. Ms. Elgee did not believe that to be the case. She thought every effort was made to claim appropriately, although the federal government could disallow certain claims.

Representative Kelly thought a certain amount would be disallowed even if the rules were followed. He asked if the rules were clear. Ms. Elgee answered that the rules were changing frequently. The written rules may not change, but the oversight and perspective brought by the federal auditors may change.

Representative Kelly thought the changing rules could explain the need for mysterious supplemental requests.

Co-Chair Hawker agreed. He noted the independent nature of the Legislative Budget and Audit Committee, of which he was Vice-Chair.

3:18:11 PM

Representative Austerman queried the DHSS handout 2009 line indicating "no program conducted." Ms. Elgee responded that DHSS is in the process of bringing the program back up in a fashion that meets federal requirements and addresses the criticism raised in the federal audit review. She described the process as slow. The first claim had been conducted for the winter quarter with limited participation. Additional school districts have indicated that they would like to participate in the program; DHSS continues to train school district personnel and anticipates larger participation in the winter and spring quarters.

Representative Austerman asked for clarification regarding the process of claiming and reimbursement. Ms. Elgee explained that the amount claimed relates to school district expenses attributable to the CMS program; the school district spends the money. However, when the federal government reimburses the state based on the claim, the state has been sharing back a portion of the revenue to the school districts, and retaining another portion. Much of the retained revenue was programmed into the department's on-going annual operations.

Representative Austerman reviewed the 2003 numbers, clarifying that the districts spent \$12 million and received only \$3.1 million, though the program was a 50/50 match. Ms. Elgee agreed.

Representative Fairclough asked whether the federal government had issued similar audit recommendations to other states. She wondered whether there was a resource the state could access to determine if there were inconsistencies shared by other states or whether the state's program was in error. Ms. Elgee believed both were true. She thought federal oversight has tightened; anecdotally through the Oregon consultant, the department has heard that the Oregon claiming process has been greatly reduced because of federal scrutiny and disallowed claims. In addition, the federal review is very specific to how Alaska has operated its program.

3:23:05 PM

Representative Fairclough stated concerns about disallowing federal reimbursement, which could cause fiscal issues if not identified quickly.

Co-Chair Hawker asked about the Payment Error Rate Measurement (PERM) program. Ms. Elgee responded that the PERM program was a success. The program looks at Medicaid processing and whether the state is paying claims appropriately. The department was part of a federal review along with 16 other states last year; Alaska had the lowest error rate of states reviewed, while other states' error rate was over 8 percent.

Co-Chair Hawker pointed out that the change was from a 47 percent error rate in the preliminary testing.

Representative Doogan questioned the "No program was conducted" year on the handout. He wondered who paid for the programs. Ms. Elgee pointed out that Alaska funds its public education system through the public school foundation formula; the expenses are covered through that process. The particular program allows the state to receive some reimbursement from the federal government for expenses already financed.

Representative Doogan conjectured that the school districts would have expected that some portion would have been repaid through the state by the federal government. He asked who pays the costs. Ms. Elgee responded that DHSS had informed the districts that it would not be conducting the program, so the districts had expectation of reimbursement that did not materialize.

[3:27:21 PM](#)

Co-Chair Hawker wondered how the loss of funding affected schools and wondered why the committee not heard from school district personnel.

Representative Gara asked about possible upcoming shortfalls to both the districts and the department. Ms. Elgee responded that DHSS has approximately \$2.2 million built into its on-going operations. Recognizing that the program would not be run, the funding was covered the previous legislative session through a FY 09 supplemental. The department has requested similar funding for FY 10 and an increment for the program areas in FY 11 to recognize

the on-going operations as general fund instead of being supported by revenues recovered by the program. If the program continues to operate as it has in the past with a sharing approach of whatever is claimed, the other 50 percent of the revenue collected on behalf of the state would be available for appropriation for the public school foundation fund, as one example. The federal government made clear in the review that it wants a direct correlation between the revenues earned and school district financing.

Co-Chair Hawker noted that the state may not have been doing that in the past.

#

ADJOURNMENT

The meeting was adjourned at 3:30 PM.