

HOUSE FINANCE COMMITTEE
March 7, 2018
1:36 p.m.

1:36:32 PM

CALL TO ORDER

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

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Duane Mayes, Director, Senior and Disabilities Services, Department of Health and Social Services; Shawnda O'Brien, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services; Joan Brown, Staff, Representative Paul Seaton; Gene Therriault, Government Liaison, Alaska Gasline Development Corporation.

SUMMARY

HB 285 APPROP: MENTAL HEALTH BUDGET

HB 285 was HEARD and HELD in committee for further consideration.

HB 286 APPROP: OPERATING BUDGET/LOANS/FUNDS

HB 286 was HEARD and HELD in committee for further consideration.

AMENDMENTS

Co-Chair Seaton reviewed the agenda for the meeting.

#hb285

#hb286

HOUSE BILL NO. 285

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date."

HOUSE BILL NO. 286

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

[1:37:17 PM](#)

^AMENDMENTS

[1:37:21 PM](#)

Representative Ortiz WITHDREW Amendment H HSS 22 (copy on file) [see discussion in minutes dated March 6, 2018]. There being NO OBJECTION, it was so ordered.

Representative Ortiz MOVED to ADOPT Replacement Amendment H HSS 22 (copy on file):

Health & Social Services
Appropriation: Senior and Disabilities Svcs
Allocation: Senior/Disabilities Svcs Admin
Title: Companion Services
Wordage Type: Intent

Linkage: Appropriation - Senior and Disabilities Svcs
Offered by: Representative Ortiz

Wordage

It is the intent of the legislature that the State of Alaska proceed expeditiously to establish companion services under Section 1915(c) of the Social Security Act to complement and support the services provided through the Medicare/Medicaid waiver programs. The Department of Health and Social Services shall submit a report to co-chairs of the Finance Committees and the Legislative Finance Division on the status of the service no later than January 31, 2019.

Explanation

The Department indicates the process of establishing a "companion service" category under Section 1915(c) is lengthy and can stretch from one to two years. With the reduction in services under the Day Habilitation program it is vital that the State pursue the application process aggressively. Families and communities have been heavily impacted by the 12 hour per week cap on Day Habilitation services and until companion services are available to complement and support Day Habilitation services, these families struggle to meet the needs of this vulnerable population.

There being NO OBJECTION, Replacement H HSS 22 was ADOPTED.

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Representative Ortiz explained he had withdrawn the original Amendment H HSS 21 the previous day.

Representative Ortiz MOVED to ADOPT Replacement Amendment H HSS 21 (copy on file):

Health & Social Services

Appropriation: Senior and Disabilities Svcs

Allocation: Senior/Disabilities Svcs Admin

Title: Service Delivery Models

Wordage Type: Intent

Linkage: Appropriation - Senior and Disabilities Svcs

Offered by: Representative Ortiz

Wordage

It is the intent of the legislature that the Department of Health & Social Services re-examine service delivery models to ensure eligible senior and disabled populations receive appropriate services irrespective of where they live in Alaska. The Department of Health and Social Services shall submit a report to co-chairs of the Finance Committees and the Legislative Finance Division on the status of the service no later than February 15, 2019.

Explanation

Service delivery models that work in larger communities do not necessarily work in Alaska's smaller communities. It is important to reassess service needs and delivery models to serve individuals wherever they live.

Representative Pruitt OBJECTED for discussion. He wondered if the Department of Health and Social Services (DHSS) anticipated costs associated with the amendment. He requested to hear from the department.

Representative Wilson thought Representative Ortiz may want to explain the replacement amendment first.

Representative Ortiz explained the replacement amendment included some report back language and eliminated reference to population densities from any particular community (the word "community" had been removed). The amendment also included a report date.

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DUANE MAYES, DIRECTOR, SENIOR AND DISABILITIES SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, asked Representative Pruitt to repeat the question.

Representative Pruitt complied. He noted that the amendment only included intent language and wondered if it would result in a cost to the department or would be absorbed within the department's normal scope of work.

Mr. Mayes replied he believed DHSS could absorb any associated costs. He reported there were several initiatives currently under way. He had been presenting to other [legislative] committees on some authorities as a part of SB 74 [Medicaid reform legislation passed in 2016]

- the department's projection was to go live in May, which would decrease some of the work the department was currently doing [as the deadline approached].

Representative Pruitt WITHDREW his OBJECTION.

Representative Guttenberg OBJECTED for discussion. He asked if any part of the study work would be recoverable through Medicaid waivers.

Mr. Mayes answered that he believed DHSS already did the work daily. He elaborated the department worked to find ways to better serve rural communities and streamline processes. The division had been flat-funded for some time and had not brought on additional positions; therefore, the division had to be smarter about what it did. He reiterated his belief the department already did the work specified in the amendment daily.

Representative Guttenberg WITHDREW his OBJECTION.

There being NO further OBJECTION, Replacement Amendment H HSS 22 was ADOPTED.

[1:43:26 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment H HSS 23 (copy on file):

Departmental Support Services
Commissioner's Office
H HSS 23
Amend Department Transfer Language and Add Legislative Intent Language in HB 286
Offered by Representative Seaton

Wordage:

At the discretion of the Commissioner of the Department of Health and Social Services, up to \$20,000,000 may be transferred between all appropriations in the Department of Health and Social Services, except that no transfer may be made to or from the Medicaid Services appropriation.

It is the intent of the legislature that the Department of Health and Social Services submit a report of transfers between appropriations that

occurred during the fiscal year ending June 30, 2019, to the Legislative Finance Division by September 30, 2019. It is the intent of the legislature that the operating budgets for the fiscal years ending June 30, 2020, and June 30, 2021, be prepared to reflect the actual or anticipated transfers between appropriations for the fiscal year ending June 30, 2019.

Explanation:

30-GH25640.8

This amendment revises conditional language that allows the Department of Health and Social Services to transfer funding across appropriation lines. It changes the amount from \$25 million to \$20 million and excludes the Medicaid Services appropriation from the transfer authority. It also adds legislative intent for the department to submit a report of the transfers that occur during FY19 to the Legislative Finance Division by September 30, 2019. Lastly, it adds legislative intent that the operating budgets for FY20 and FY21 reflect the FY19 actual or anticipated transfers between appropriations for budget clarity.

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton explained the amendment with a prepared statement:

This amendment revises conditional language that allows the Department of Health and Social Services to transfer funding across appropriation lines. It changes the amount from \$25 million to \$20 million and it excludes the Medicaid Services appropriation from the transfer authority. It also adds legislative intent for the department to submit a report of the transfers that occurred during FY 19 to the Legislative Finance Division by September 30, 2019. Lastly, it adds legislative intent that the operating budget for FY 20 and 21 reflect the FY 19 actual or anticipated transfers between appropriations for budget clarity.

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Representative Tilton spoke in opposition to the amendment. She explained that the intent of the budget language, which had been added in the past, had been to ensure Medicaid

providers were being paid. She elaborated that there had been a problem with the Medicaid Management Information System (MMIS) and providers had not been paid. The ability for the department to transfer funding across appropriations was meant to be temporary. She remarked that the amendment would exclude Medicaid Services from the transfer authority. She noted the department was required to report any transfers to the legislature. She asked DHSS if it had used the transfer authority in the last fiscal year. She requested detail.

SHAWNDA O'BRIEN, ASSISTANT COMMISSIONER, FINANCE AND MANAGEMENT SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, asked for clarification on the fiscal year.

Representative Tilton asked for both FY 17 and FY 18.

Ms. O'Brien answered that the transfer authority had not been used in the current fiscal year [FY 18]. She detailed the department did not typically see a need in the first six months of a fiscal year (sometimes the first nine months). Typically, as DHSS made projections and it saw how spending was taking place, it evaluated whether there was a need to move authority. She elaborated that DHSS only had authority to move general funds in FY 17, which had limited the department's ability to maximize potential in other areas where it may have had excess federal authority or other things that would have allowed more alignment internally. In FY 17 the department had transferred \$15 million in general funds to cover a GF shortfall in Medicaid.

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Vice-Chair Gara noted there were a number of programs people automatically qualified for under state or federal law including public benefits, adult temporary assistance, child care, and other income-based services. He elaborated that DHSS tried to project the number of people who would qualify for the benefits. He remarked that people may qualify for one program and not another. He spoke to the daily rate the department paid to foster care providers. He asked if the areas he mentioned were examples of places the department utilized the authority to transfer funds.

Ms. O'Brien agreed there were some situations that were unforeseeable due to caseloads or unknown circumstances.

The department had been monitoring its senior and disabilities general relief program (assisted living) because of some things going on with the Alaska Psychiatric Institute (API) and the closure of Beans Cafe in Anchorage. She explained it would be an area DHSS could use the transfer authority to offset what may have been a supplemental budget request.

Representative Wilson asked about the highest amount the department had utilized to match funds or take care of programs.

Ms. O'Brien answered that FY 17 was the first year the department had used the General Fund (GF) transfer authority since she had been in her current position. The department was monitoring a couple of places in FY 18 and had not made supplemental requests because it anticipated having the ability to address the needs internally. Typically, the department budgeted close to what it needed; in most years prior to FY 15 DHSS had sufficient authority to address most of the needs. Reductions in recent years made it harder to manage within the budget - there were some circumstances that took place that were out of the department's control, which DHSS managed internally. The department was still pretty good at budgeting closely - the transfer authority was less than 1 percent of its total budget.

Representative Wilson remarked that the department could not use the funds for Medicaid. She wondered if the percent would change significantly when considering the portion of the budget the authorization could be used for. She asked what the money had been used for in FY 17.

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Ms. O'Brien answered that in FY 17 the funds had been used to offset overspending in Medicaid Services. The department had not transferred the authority into the Medicaid Services component; however, it had created an interagency receipt authority to offset the costs using another component where expenditures had taken place.

Representative Wilson remarked that although the legislature had excluded Medicaid from the transfer authorization, the department still had a way to do it. She surmised the limiting language appeared to be irrelevant.

Ms. O'Brien answered that in FY 17 DHSS had found a way to leverage the ability to reduce what would have been an additional cost in the supplemental bill.

Representative Wilson remarked that the department was still able to use the transfer authority for Medicaid even though the language specified it could not be used for that purpose. She did not know whether the legislature had a problem with the issue or not - whether the \$20 million went through the supplemental or the transfer authority was a policy call and represented the same pot of money. She believed the transfer authority had started because of the Medicaid issue - when the federal dollars would come in and the number of people who would qualify was never known. She wondered why Medicaid could not use the money.

Co-Chair Seaton answered that the goal was to avoid giving DHSS the impression the transfer authority meant it should not budget tightly going forward. The legislature wanted to know the department's anticipated costs and the past history of where the costs were. He wanted to receive a report showing where the transfers had been made and whether DHSS anticipated it would need the money for the same reason the following year. He elaborated that if the funds were needed the following year, the legislature wanted the funding to be moved to that specific line item in the budget. The department should have the ability to use the authority because the preference was to avoid supplementals. Yet, the authority should not be so loose that DHSS did not adjust its budget for anticipated needs.

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Representative Wilson agreed it was important to know where the money was being spent. She had recently learned that money got spent in places the legislature was unaware of until it saw budget actuals. She observed that the money had been spent for Medicaid anyway through a roundabout method to take care of clients - she was not faulting the department because it was trying to take care of individuals in need of care. She reasoned that allowing the transfer authority for Medicaid could have reduced the supplemental and may have meant a fast track supplemental would not have been necessary to ensure providers were paid. She thought the language was not doing what was

intended if the department was finding a way to use the funds for Medicaid.

Co-Chair Seaton replied that if the department was able to move a small amount of money among the line items in order to prevent a supplemental budget the following year. The preference would be to know about the cost ahead of time and ensure the department's budget got adjusted for anticipated need in the appropriate locations.

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Representative Wilson thought she may be misunderstanding. She surmised it sounded like it was okay for the department to use the funds for foster care or for the Office of Children's Services, but not for Medicaid. However, in reality, DHSS was using the transfer authority for Medicaid via interagency receipts. She clarified she had no problem with the use of the funds. She explained she preferred the department to tell the legislature the funds had been spent on Medicaid versus interagency receipts because it was more transparent. She agreed with the goal of avoiding supplemental budgets. She did not think it made sense to include language that the authority could be spent on anything but Medicaid. She thought it would be much clearer to know the department had spent the money on Medicaid versus interagency receipts. She thought the language in the amendment was unnecessary. She believed if the purpose was to exclude Medicaid the language needed to be tightened to exclude use interagency receipts for Medicaid purposes. She understood the department was in a tight spot because Medicaid was not capped - if a person qualified, the state was responsible for paying it (whether through the operating budget or a supplemental).

Co-Chair Seaton noted there were people who were concerned about transfers to Medicaid. He was amenable to an amendment that would remove the exclusion for Medicaid.

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AT EASE

[2:15:12 PM](#)

RECONVENED

Representative Wilson MOVED to ADOPT conceptual Amendment 1 to Amendment H HSS 23 to delete language "to or" from line

4 [after the word "made" and prior to the word "from"]. The amended amendment would read as follows:

...the Department of Health and Social Services, except that no transfer may be made from the Medicaid Services appropriation.

Co-Chair Seaton pointed to the location in the amendment.

Representative Wilson explained her discomfort with giving any department the ability to transfer funding back and forth. She explained that the legislature had asked the department for a report on any transfer activity. She detailed that no report had been provided for FY 17 because no transfers had taken place. She continued that there were issues in DHSS due to growth in Medicaid and Medicaid expansion. She referenced a \$90 million cost. She reasoned the issue was not a department problem, it was statute and federal regulations the legislature had yet to address. The department was merely doing what the legislature had mandated - if a person was eligible for Medicaid or Medicaid expansion, the department was required to provide whatever services it had. She had offered the conceptual amendment because it was her understanding DHSS was already [allowing transfer authorization for Medicaid] in a roundabout way. Additionally, there was a \$90 million supplemental.

Representative Wilson believed allowing the department to transfer funds to Medicaid would mean a supplemental or fast track supplemental may not be necessary. She stated the legislature would pay for the services unless it wanted to tackle Medicaid reform in the last 40 days of session. She believed that would not happen. She wanted to ensure the legislature would look closely at where the money was spent. She hoped that what the legislature appropriated was sufficient (barring something unforeseeable) and the transfer authority would not be utilized.

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Representative Guttenberg asked if there were any other programs that were not able to transfer money out. He wondered if there were any other places where something was jeopardized if money was moved in or out.

Ms. O'Brien answered that currently the department could transfer funding authority across any of its funding sources. She detailed if DHSS had a shortfall in federal authority and needed the funds someplace else in the department, it could transfer the authority and receive the funds. The amendment would not restrict the department - it would only restrict DHSS from moving anything out of Medicaid Services.

There being NO OBJECTION, Conceptual Amendment 1 to Amendment H HSS 23 was ADOPTED.

Representative Wilson WITHDREW her OBJECTION to Amendment H HSS 23 as amended. There being NO further OBJECTION, Amendment H HSS 23 was ADOPTED as AMENDED.

2:20:09 PM

Co-Chair Seaton MOVED to ADOPT Amendment L H SAP 23 (copy on file):

Language Amendments

L H SAP 23 - Amend section 27, the retroactivity provision

Offered by Representative Seaton

See 30-GH25640.10

This amendment adds a new subsection (b) to section 27, Retroactivity, for the FY18-FY19 appropriation made in sec. 19(1) to the Alaska Gasline Development Corporation, ensuring that the appropriation takes effect in FY18.

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton read the amendment (see above). The appropriation would take effect in FY 18 in case the budget was not signed before July 1 [2018]. The subsection was always included in appropriation bills with provisions that took place in the current fiscal year. He noted that upcoming Amendment H SAP 27 would change the current Section 19(1), but even if it was adopted the retroactivity provision would be technical.

Representative Pruitt wanted to ensure they understood what the amendment did. He believed that if the legislature

could not complete a budget before July 1, the amendment meant the Alaska Gasline Development Corporation (AGDC) would not be prevented from signing an agreement in June.

Co-Chair Seaton agreed.

Representative Pruitt did not see it as a concern. He reasoned the amendment was precautionary in case "things go sideways" [with the budget].

Co-Chair Seaton agreed and explained the amendment was technical to go with any supplemental budget; therefore, the supplemental would be signed by the governor in the year the legislature intended the appropriation to be used for.

Representative Pruitt surmised the language was needed because they were addressing the overall operating budget, not a fast track supplemental. He elaborated that the item addressed by the amendment was unique - most supplemental items had been pulled out already; therefore, the language for the specific item needed to remain.

Co-Chair Seaton replied in the affirmative.

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Representative Wilson pointed to page 67, Section 19(1) of the bill. She read from the language in the bill:

The amount of statutory designated program receipts received by the Alaska Gasline Development Corporation during the fiscal years ending June 30, 2018 and June 30, 2019, is appropriated to the Alaska Liquefied Natural Gas Project Fund.

Representative Wilson did not know what the statutory designated program receipts were and where they currently resided. She reasoned the funds did not appear to be in the Alaska Liquefied Natural Gas Project Fund.

Co-Chair Seaton explained that it was the only supplemental item remaining in the operating budget. The same kind of language was used for the supplemental budget. He elaborated that anything supplemental needed to apply to the current fiscal year. He noted that if a budget was not signed until after July 1, the appropriation would not

apply to FY 18. The language made sure the supplemental items the legislature approved would be applied to FY 18, not FY 19.

Representative Wilson asked for the amount of the statutory designated program receipts. She wondered if the amount was open-ended. She questioned whether the amount included funds AGDC may receive from China or other. Alternatively, she wondered if it only pertained to the amount in the supplemental.

Co-Chair Seaton answered that an amendment (Amendment H SAP 27) by Representative Pruitt also involved the supplemental budget.

JOAN BROWN, STAFF, REPRESENTATIVE PAUL SEATON, answered that Representative Wilson's understanding was accurate. The amendment was a technical, legal provision the co-chair wanted included in all budget bills with any type of supplemental appropriation. She believed they would take up Amendment H SAP 27 next, which included an FY 18 appropriation.

[2:29:09 PM](#)

Representative Wilson remarked that the amendment potentially applied to two amounts - the amount in the supplemental and any statutory designated program receipts AGDC may find.

Ms. Brown corrected that the amendment only applied to Section 19(1). She explained that because the section applied to the fiscal year ending June 30, 2018, the provision was a supplemental provision. The amounts were split in the next amendment (Amendment H SAP 27) between FY 18 and FY 19.

Representative Wilson WITHDREW her OBJECTION. There being NO further OBJECTION, Amendment H SAP 23 was ADOPTED.

[2:30:06 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment L H SAP 24 (copy on file):

Language Amendments

L H SAP 24 - Restore FY19 inflation-proofing of the Alaska permanent fund
Offered by Representative Seaton

See 30-GH2564025

This adds a new section 8(e), the updated FY19 inflation proofing appropriation, which transfers an estimated \$942 million from the earnings reserve account to the principal of the Alaska permanent fund to offset the effects of inflation.

Representative Pruitt OBJECTED for discussion. He appreciated the amendment. He explained that he and Representative Thompson had been vocal about the importance of inflation proofing the corpus of the Permanent Fund. He noted the amendment would move \$942 million from the earnings reserve account (ERA) to the corpus to ensure the value of the fund would continue to grow for future generations.

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AT EASE

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RECONVENED

Vice-Chair Gara supported the amendment. He hoped everyone would agree to inflation proof the Permanent Fund. He stated that the number was higher than it had been in other years, but the fund had not been inflation proofed since 2016.

Representative Wilson stated that it was only for one year, but there was nothing preventing the legislature from providing additional funding to cover the lack of inflation proofing in recent years (once oil prices and production increased). It was her intent to get the fund back to the proper level. She remarked that everyone wanted to see the fund grow and prosper.

Co-Chair Seaton noted that the value of the corpus had changed, and they wanted to make sure the right amount went into the fund - the number had changed by \$1 million. The amount in the amendment had been changed to \$942 million instead of the original estimate of \$943 million.

Representative Pruitt thanked Representative Wilson and Representative Tilton for their support. He believed the amendment was important. He WITHDREW his OBJECTION.

There being NO further OBJECTION, Amendment L H SAP 24 was ADOPTED.

2:34:10 PM

Representative Pruitt MOVED to ADOPT Amendment L H SAP 27 (copy on file):

Language Amendments

L H SAP 27 - Deletes unlimited SDPR authority for AGDC. Offered by Representative Pruitt

Limits SDPR authority for AGDC to \$500,000.0 for FY18, and \$500,000.0 for FY19. Removes AGDC SDPR authority from the LB&A RPL process.

Co-Chair Seaton OBJECTED for discussion.

Representative Pruitt explained the amendment pertained to AGDC. The current budget language allowed for an open-ended amount to be accepted by AGDC for a natural gas project. He elaborated that statutory designated program receipts would go into the Alaska Liquid Natural Gas Fund. He was concerned about ensuring the legislature had an opportunity to consider whether it was comfortable going forward with the project. He found the open-ended language concerning. The amendment included language that allowed for two separate amounts in two years. The first was the supplemental (he referenced the earlier discussion on Amendment L H SAP 23) that allowed for \$500 million to be accepted in FY 18. The second portion allowed for \$500 million to be accepted in FY 19. He acknowledged the large size of the amounts and explained the increments would allow the project to move to the next stage. He underscored the goal was not to stop the project. The amount in the amendment was sufficient for AGDC to take the next step. He noted the phase was typically referred to as the FEED [front end engineering and design] stage. However, the process moving forward had been changed and the stage gates were not the same as in the past. He reiterated that the amendment would allow for more than enough money to move forward.

Representative Pruitt explained the amendment specified that any additional funding would go through the legislative appropriation process within the next year. The amendment would ensure the legislature would still have a part in the conversation going forward.

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Co-Chair Seaton spoke to the issue AGDC's ability to accept more without legislative approval. He asked to hear from the corporation.

GENE THERRIAULT, GOVERNMENT LIAISON, ALASKA GASLINE DEVELOPMENT CORPORATION, stated that as discussed, the amendment dealt with two components. One component authorized a specific amount of money in the current fiscal year and the next fiscal year, which differed from the governor's open-ended budget that would allow the funds to come in over a two-year period.

Mr. Therriault explained that the governor's budget had come out in December when there had been half of FY 18 remaining - as time had gone by the window for potential money to come in [during FY 18] had narrowed. The corporation appreciated the healthy sum included in the amendment. He remarked on the large size of the project and the large sum needed for its advancement. He elaborated that AGDC hoped there was an opportunity to attract outside funding sources to help with the current process in anticipation of the bigger deal coming together. He stated that with the end of FY 18 approaching, breaking the funds into two \$500 million pots [between FY 18 and FY 19] would only leave \$500 million in FY 19. The corporation thought the current process could cost between \$700 million and \$800 million. The governor's language had provided flexibility over a two-year period, whereas there was some concern the amendment meant they may bump into the cap. He stated it would be helpful if there could be some consideration of raising the amount in both years or the second year when it was more likely the money would come in.

Mr. Therriault addressed that the amendment would remove the Legislative Budget and Audit Committee's (LB&A) ability to consider a statutory designated program receipt increment exceeding the allowable amount. He was concerned about the message it sent to a potential partner who may

come in with a dollar amount outside of the specified appropriation limit. He furthered that the legislature would have to convene in special session during the first half of FY 19 in order to receive the funds. He mentioned many legislators would be busy with campaigns during the fall. Alternatively, if the LB&A language was left in, AGDC could take the dollar amount exceeding the appropriation limit to LB&A to address the issue.

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Vice-Chair Gara stated that his only concern was about the project moving forward without legislative approval. Under statute passed by the legislature, legislative approval was required for any obligations of the state; therefore, AGDC would not have the ability to obligate the state with or without the amendment. He considered a funding increment of \$1 billion and reasoned that no one could build the gasline for \$1 billion. Even if the amendment cap was \$1 billion, he did not see a gasline happening, he imagined it would allow AGDC to bring in investment dollars for very preliminary parts of a gasline planning process. He asked if his assumption was accurate.

Mr. Therriault answered in the affirmative. He discussed that when AGDC had been created the legislature had passed AS 31.25.240 specifying the corporation could not obligate the state. If and when a project went forward, as the corporation partnered with others or statutory designated program receipt funds came in, the corporation could not deploy funds in a way that created an obligation for the state. If the corporation were to issue bonds and a capital reserve fund was created it would require AGDC to receive authorization from the legislature. There were a number of statutory points where AGDC had to come back for authorization from the legislature. In the corporation's last semi-monthly report distributed to the legislature, it had answered questions from Senator Cathy Giessel and Senator Anna MacKinnon. He specified that question 6 had asked AGDC to go through a list of anticipated agreements and to highlight which still required legislative approval under the new possible structure. A couple of the agreements would require legislative approval. He addressed a concern that an open-ended statutory designated program receipt scenario meant someone could write a \$40 billion check and the project turned into a runaway train. He

explained that was not what AGDC intended and it would not be allowed.

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Co-Chair Seaton spoke to the concern about the amount of money and whether \$500 million bumped against the cap. He detailed that he and Representative Pruitt had talked about the issue. He MOVED to ADOPT conceptual Amendment 1 to Amendment L H SAP 27 to increase the \$500 million cap in FY 18 to \$1 billion and from \$500 million to \$1 billion in FY 19.

Representative Wilson OBJECTED for discussion.

Representative Pruitt recognized AGDC's concern about the ability to get the money prior to the end of FY 18. He asked Mr. Therriault if he anticipated any statutory designated program receipt money coming in that AGDC would need to accept by June 30.

Mr. Therriault answered that the chance was low, but not outside the realm of possibility. He reported that discussions were fluid. The corporation would not want to be precluded if the chance arose.

Representative Pruitt believed the intent was to allow the \$1 billion to be fluid over the FY 18 and FY 19 timeframe. He was amenable to allowing AGDC the opportunity to receive up to \$1 billion in FY 19.

Co-Chair Seaton clarified that the amendment allowed an FY 18 appropriation of receipt authority up to \$1 billion. If the \$1 billion was not completed in FY 18, the FY 19 authority was up to \$1 billion. He explained that the amount was not transferrable from FY 18 to FY 19. For example, [if no money was used in FY 18] \$2 billion could not be spent in FY 19. The intent was to enable AGDC to go into negotiations without being limited to an amount below a potential commitment.

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Representative Wilson provided a scenario where AGDC brought in \$700 million in FY 18. She asked for verification that the remaining \$300 million would not roll

over into FY 19. She surmised the corporation would be limited to \$1 billion in FY 19.

Co-Chair Seaton agreed.

Representative Wilson asked who would give \$1 billion for the project that would not have the result of obligating the state.

Mr. Therriault answered that the funds could come from one of the potential overseas partners/buyers discussed in the media. Funds could also come from an EPC [engineering, procurement, and construction] contractor. The corporation was speaking with EPC contractors, potential buyers, and potential financiers. Individuals traveling overseas had reported significant excitement and interest in the project. The funds could come from any one of those types of investors.

Representative Wilson surmised that no one would give funds without an expectation of receiving something in return. She wondered if AGDC would be obligated and not the state. She reasoned if someone gave money there would have to be a contract somewhere. She wondered if the contracts were only with AGDC or other.

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Mr. Therriault answered it would be a contract between the entity bringing in the money and ADGC. He furthered that AGDC's liability as a corporate entity in the state was limited to the corporate entity.

Representative Grenn spoke in support of the conceptual amendment and the amendment. He believed the work by Representative Pruitt and Co-Chair Seaton in collaboration with Mr. Therriault showed the importance and momentum of the issue. He believed the limit was responsible.

Representative Wilson WITDREW her OBJECTION to conceptual Amendment 1. There being NO further OBJECTION, conceptual Amendment 1 to Amendment L H SAP 27 was ADOPTED.

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Representative Guttenberg asked Mr. Therriault to review LB&A authority and what it meant to remove it [as under the proposed amendment].

Mr. Therriault referred to standard budgetary language allowing LB&A to consider program receipt dollars in excess of the budgeted amount. Funds were allowed to come in under AS 37.07.080(h), the process where an entity went to LB&A for approval of extra funds. The committee could choose to convene and approve the request. The administration had the authority to receive the money if LB&A chose not to meet; however, if LB&A met and turned the request down, anyone bringing funds to the project would think twice about following through if they did not see legislative support for a proposal.

Representative Wilson clarified that she could not speak for other legislators, but her campaign had nothing to do with her job as a legislator. She believed her colleagues would be present if there was need to convene to discuss the project [during a special session]. She was concerned about transparency to the public. She stressed the amendment would allow AGDC to take in \$2 billion, which was a substantial amount of money. She elaborated that the state would not be obligated, but AGDC would be and the gas would belong to every Alaskan. She understood there had been concerns about how the gas would be utilized, including substantial concerns from Fairbanks that it would be bypassed, and gas would be sent overseas instead. She understood that \$2 billion was not enough to build a gasline, but it was a large amount. She wanted to know how far along "could we possibly get" in terms of obligation. She asked what would happen if Fairbanks and North Pole were bypassed. She wanted to ensure Alaskans were taken care of first.

Mr. Therriault answered that the funds would be used to cover engineering work, contractual structuring of a deal, leading up to (but not beyond) a final investment decision. He elaborated that any obligation of the state and other items specified in statute would require legislative approval. He noted that fewer agreements than the previous project structure would require legislative approval. He believed that if there was a fear about the whole project going forward, \$2 billion was not enough money to get to that stage. The allocation would be enough to continue through the regulatory process and structuring contractual

agreements, up to the point where AGDC would be prepared to consider a final investment decision, but not actually pulling the construction trigger.

[2:55:13 PM](#)

Representative Wilson stated that since AGDC was not considered a state entity, she asked if there would be any reporting to the legislature on where any incoming money had come from and where it would be spent. Alternatively, she wondered if the information would be private.

Mr. Therriault replied that he believed it would be information AGDC was excited to share; it would be included in the corporation's semi-monthly report to the legislature.

[2:55:50 PM](#)

AT EASE

[2:58:17 PM](#)

RECONVENED

Co-Chair Seaton pointed to a Legislative Legal Services opinion dated March 6, 2018 in members' packets (copy on file). He and Representative Pruitt had wanted to ensure the amendment did not conflict with any statute. The memorandum confirmed the legality of placing limitation on further investment. He believed increasing the cap to \$1 billion removed the likelihood of a problem. He recalled that when AGDC and the governor's office had been negotiating on Memorandums of Understanding people had asked where the money was. He remembered that people had stated the negotiations lacked meaning because there was no money. He noted that it had come to a point where the legislature wanted to restrict the ability to take money - he believed the level should be high enough to communicate the legislature's support for the project and that it wanted to see skin in the game from people AGDC was negotiating with.

Co-Chair Seaton believed the amendment provided the ability to move forward in FY 18 and FY 19. He provided a scenario where a deal costing \$20 billion arose and expressed that the legislature would quickly call itself into special session to approve the appropriation. The endeavor with AGDC had been done in a way to insulate the process of the

corporation from political whims. He appreciated the amendment and believed it satisfied ensuring the project could move forward, while maintaining the legislature's ability to review the deal.

3:01:48 PM

Representative Wilson did not believe there was anyone who did not appreciate the project, but she wanted to ensure Alaskans came first. She stated that some may think \$1 billion did not sound like a substantial amount, but it did to her. She did not want Alaskans to be forgotten during the course of the project. She stressed the issue was not about how much the state could sell its gas for, but to ensure areas that had been hurting for a long time economically because of energy costs, were not forgotten. She stated that when people invested they expected something in return. She reasoned no one would give AGDC \$500 million to \$1 billion without a contract designating they were to recoup the money. She was uncomfortable with the amount, but she understood the project was not small. She wanted Alaskans to know the documents would be public, so they could see who was investing and to understand Alaskans came first.

Co-Chair Seaton WITHDREW his OBJECTION.

There being NO further OBJECTION, Amendment H SAP 27 was ADOPTED as AMENDED.

Representative Ortiz MOVED to RESCIND action on the adoption of Amendment H GOV 2 [the amendment was adopted in the previous committee meeting, see minutes dated March 6, 2018 for detail] (copy on file):

H GOV 2

Offered by Representative Wilson

FY17 Actuals were \$0 and the FY 19 Governor's request is \$550.0. A decrement \$100.0 will result in a FY 19 budget request of \$400.0 for what is described as "agency support as needed to meet high priority needs in the contingency fund".

Co-Chair Seaton pointed to the amendment on page 25 of the Legislative Finance Division operating budget transaction detail [amendment packet] (copy on file).

There being NO OBJECTION, the adoption of Amendment H GOV 2 was RESCINDED.

[3:03:39 PM](#)

Representative Ortiz MOVED to ADOPT Amendment H GOV 2 (copy on file):

H GOV 2

Offered by Representative Wilson

FY17 Actuals were \$0 and the FY 19 Governor's request is \$550.0. A decrement \$100.0 will result in a FY 19 budget request of \$400.0 for what is described as "agency support as needed to meet high priority needs in the contingency fund".

Representative Kawasaki and Vice-Chair Gara OBJECTED.

[3:04:45 PM](#)

AT EASE

[3:05:20 PM](#)

RECONVENED

Representative Wilson reported that she had more information to share regarding Amendment H GOV 2. She had researched back to 2010 to determine what had been used from the account. She detailed in 2010 \$294,300 had been withdrawn for personal services of \$172,600 and services of \$121,700, which she did not believe constituted an emergency. In 2011, the balance had been \$800,000.

Representative Ortiz asked how much had been budgeted in that particular year.

Representative Wilson replied that in FY 10 \$800,000 had been in the budget and \$294,300 had been expended (personal services of \$172,600 and services of \$121,700). In FY 11 the amount had been \$800,000 and \$5,700 had been spent in services. In FY 12 and FY 13 the amount was \$800,000 and nothing had been spent. In FY 14, the amount had been \$800,000 and \$49,600 had been spent (the details on what the funds had been used for were not available). In FY 15, the amount had been \$650,000 - at the time former Governor Sean Parnell had reduced his own budget by \$150,000 in the contingency line. She elaborated that a total of \$194,700 had been spent in FY 15, including \$67,300 on state travel,

\$127,300 on services, and \$200 on commodities. In FY 16, Governor Bill Walker had reduced the contingency line by \$50,000, for a total contingency budget of \$600,000. She detailed that \$89,100 had been spent in FY 16 on financial services agency support as needed to meet high priority needs. She did not know what the high priority needs had been for \$89,100. In FY 17 there had been a \$50,000 unallocated reduction, which she believed had come from the Senate. The contingency budget was down to \$550,000 and no expenditures had been made in FY 17 or FY 18.

Representative Wilson noted the committee had heard about three expenditures the previous day related to transitional costs, redistricting, or the gasline, but she had been unable to find any information about the items. Her staff had spoken with David Teal [director of the Legislative Finance Division] to ensure her numbers were accurate. She had yet to find any case from FY 10 to present where the fund had been used for emergency purposes. Her amendment would decrease the fund by \$100,000, which would leave \$400,000 available. She stressed the remaining funds exceeded expenditures in any year since FY 10. She believed the pertinent question was whether members wanted a slush fund or not.

[3:08:36 PM](#)

Representative Ortiz asked if there had ever been any specific action taken by the legislature to reduce the governor's budget.

Representative Wilson believed the \$50,000 unallocated reduction in 2017 had come from the Senate. She detailed the information she found specified that former Governor Parnell had made a reduction in FY 15 and that Governor Walker had made a reduction in FY 16. She disagreed with any claim that the governor did not touch the legislature's budget and vice versa. She had no problem with a contingency fund for emergencies, but since FY 10 none of the funds had been used for emergencies. She appreciated the committee's budget process in the past two years because of its transparency and the ability for everyone to participate. She stressed the fund was supposed to be for emergencies, but she had been unable to locate any instance since FY 10 where the funds had been used for that purpose. She a rejection of the amendment indicated that legislators

did not want to touch the governor's budget so that he would not touch the legislature's budget.

Representative Wilson thought funds should be removed from the budget when they were not spent the way they were intended. She did not believe the contingency fund was being used for emergencies. She detailed that in FY 15 the fund had been used for the following items: \$36,600 for legal and judiciary services, \$5,300 for telecommunications, \$21,400 for advertising and promos, \$3,300 for equipment and machinery, \$1,700 for information technology telecommunications, and \$400 on communication sales interagency services. She reiterated that the money was not being utilized as intended. The amendment would leave the majority of the funds intact in case of an emergency.

[3:11:37 PM](#)

Representative Guttenberg spoke against the amendment. He explained the amendment would not prevent the fund from being used as it had been in the examples provided by Representative Wilson. He stressed the amounts had all been under \$400,000. He pointed out there had been an earthquake in early January that could have been potentially devastating. He reasoned that \$500,000 would disappear immediately if needed for a similar event. He stressed the importance of giving the state the ability to respond to emergencies. He questioned how the legislature would convene to address an emergency if the Anchorage airport was destroyed. He believed the amount in the fund was reasonable. He stressed the importance of emergency management and the ability to act immediately in the event of a natural disaster. He continued that the money rolled over year to year. He did not want there to be any delay in deploying the funds in the event of an emergency. He noted that Fairbanks had experienced disasters. He thought about Southeast, Southcentral, the recent earthquake, volcanoes, the 1989 Exxon Valdez oil spill, and more. He reiterated the importance of a contingency fund.

[3:13:56 PM](#)

Co-Chair Seaton clarified that the fund was a contingency fund, not only an emergency fund. The fund could be tapped for many different purposes by the state's chief executive.

He underscored that the contingency fund was meant for the unexpected.

Representative Thompson spoke in support of the amendment. He did not believe an additional \$150,000 would mean anything in the face of a devastating earthquake. He underscored that the state had emergency response funds and the National Guard. He reasoned the federal government would respond immediately in the event of a natural disaster in Alaska. He did not believe the amount in the fund would even touch responding to a natural disaster. He stressed that the remaining \$400,000 exceeded spending from the fund in the past eight years. He did not think it made sense to argue about the amount. He thought the reduction was responsible. He wondered why the committee would want to add more money to the budget when it was not necessary.

Vice-Chair Gara did not like the message the amendment sent. He stated that the fund had contained at least \$600,000 when former Governor Parnell had been in office and no one had tried to cut the funds or speculated that the governor had abused the money. When factoring in the amendment reduction the fund balance would be 50 percent less than it had been during the Parnell Administration. He discussed the fund was intended for high priority issues. He remarked that the Office of Management and Budget (OMB) was supposed to be doing work on healthcare cost containment in 2017 but had gotten wrapped up in a number of other things. He stated that if OMB decided to do work on healthcare cost containment and consultants were needed, he was amenable to using the funds for that purpose. He did not like the message the amendment sent and did not want the current governor treated differently than past governors. He stated that as a Democrat he had never tried to "do that" to Republican governors and the Republican led legislature at the time had not tried to reduce funds to the governor.

Co-Chair Seaton asked members to stick to the budget and its implications and not what others' intent may be.

[3:17:34 PM](#)

Representative Pruitt testified in support of the amendment. He referenced the amendment sponsor's testimony that the fund had not really been used [historically]. He wanted to hear from the administration if there was

something important it wanted to use the funds on. He recalled testimony from the previous day by the administration and noted they had not specified there was anything important [on the horizon]. He had not heard a strong enough argument about why the cut should not be made to a fund that had not been used. He did not support appropriating money without knowing what it could be used for. He thought members should support the amendment or the committee should hear from the administration about why they needed the money and what it expected to use the funds for.

Co-Chair Seaton underscored that the point of a contingency fund was for purposes that were unknown. He stressed if there were known items needing funding they would be budgeted instead of being funded with contingency funds.

Representative Wilson clarified she was not arguing against Governor Walker - the issue was not about who the governor was. She emphasized the amendment was about the numbers. She stated that the money was not being spent and the governor's office did not know what the money had been used for. She had asked the administration the previous day what the funds had been used for. She stated three items had been identified, none of which had been in the budget. She had tried to determine where money had come from for transition, redistricting, and the gasline. She stressed that it had not come from the contingency fund. She believed the contingency fund was an "emergency-type" fund. She continued that fund did not necessarily need to be used for that purpose, but it had been allocated to the governor's office with no restrictions. She could not believe the fund had been used for advertising and promotions in the past.

Representative Wilson continued that she appreciated the need for funds in the event of an emergency. She explained it was the purpose of a separate amendment [Amendment H SAP 25] that would allocate over \$6 million to emergency response. She could not find any other comparable fund with no parameters. She stated that earlier the committee had argued over \$20 million that required the submittal of a spending report to the legislature; most of the money was to avoid a supplemental. She stressed that no one had come to her office to explain why the money was needed. She hoped that an explanation had been given to the co-chair. She underscored that the funds did not return to the GF if

they were unexpended - the funds went into the capital fund. She did not know why.

Representative Wilson explained there would be a gap in the budget and the public would be charged for the \$150,000 because it would be in the budget. The legislature did not know whether the funds would be spent. She would have preferred to eliminate the fund balance, but she understood that some of the funds had been utilized in the past. The amendment would not cut into anything that had been utilized. She would have offered a cut to the fund under previous administrations if she had found it. She was not willing to tell her constituents the legislature was considering taxes when there was money in the budget that may or may not be used for an unknown purpose.

[3:22:43 PM](#)

The OBJECTION was MAINTAINED.

A roll call vote was taken on the motion.

IN FAVOR: Pruitt, Thompson, Tilton, Wilson, Grenn

OPPOSED: Gara, Guttenberg, Ortiz, Seaton, Foster

Representative Kawasaki was absent from the vote.

The MOTION to adopt Amendment H GOV 2 FAILED (5/5).

[3:23:46 PM](#)

AT EASE

[3:24:34 PM](#)

RECONVENED

HB 285 was HEARD and HELD in committee for further consideration.

HB 286 was HEARD and HELD in committee for further consideration.

Co-Chair Seaton reviewed the schedule for the following day.

#

ADJOURNMENT

3:24:55 PM

The meeting was adjourned at 3:24 p.m.