

SENATE FINANCE COMMITTEE  
SECOND SPECIAL SESSION  
July 9, 2019  
9:02 a.m.

[9:02:45 AM](#)

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair  
Senator Bert Stedman, Co-Chair  
Senator Click Bishop  
Senator Lyman Hoffman  
Senator Donny Olson  
Senator Mike Shower (via teleconference)  
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Peter Micciche  
Senator David Wilson

ALSO PRESENT

David Teal, Director, Legislative Finance Division; Senator Gary Stevens; Senator Chris Birch; Senator Scott Kawasaki; Representative Sara Hannan; Representative Bart LeBon; Senator Cathy Giessel; Representative Dan Ortiz; Representative Andy Josephson.

SUMMARY

^LEGISLATIVE FINANCE: FISCAL OVERVIEW: BUDGET and FISCAL REVIEW and UPDATES

[9:06:04 AM](#)

Co-Chair Stedman reviewed the agenda for the day. He discussed that the governor had signed the operating budget that had passed the legislature, but he had made vetoes that substantially adjusted the financial position. The committee would hear from the Legislative Finance Division

(LFD) during the current meeting. He relayed that during the afternoon meeting the committee would hear from Legislative Budget and Audit on the sweeping of funds at the end of every fiscal year into the Constitutional Budget Reserve (CBR) as constitutionally required if there was debt incurred by the CBR. He shared that the committee had planned to hear from the Office of Management and Budget (OMB) during the week, but they were unavailable. He detailed that the committee would begin the process of compiling a piece of legislation that may include the Permanent Fund Dividend (PFD) and other budget issues. He noted there may not be numerous committee meetings in the coming weeks. He remarked that the issues had been well addressed over the previous four or five months.

Co-Chair Stedman noted that Senator Shower was online.

[9:07:59 AM](#)

AT EASE

[9:08:08 AM](#)

RECONVENED

DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, provided a PowerPoint presentation titled "FY 20 Budget Update," dated July 9, 2019 (copy on file). He informed the committee that he was unable to respond to the impact of particular vetoes - he did not have the information on what the impacts would be. He began with a table on slide 2 titled "FY 20 Fiscal Situation as of July 9, 2019." The first column showed the budget adopted by the legislature. He pointed out that agency operations of \$3.8 billion, statewide items of \$554 million, and transfers of \$42 million, were all included in the operating budget. Other appropriations in the column included the capital budget and fiscal notes.

Mr. Teal explained that the capital budget included \$172 million in projects directly funded from the CBR. He noted that taking funding from the CBR required a three-quarter vote, which had failed. Subsequently, there was currently no capital budget. The assumption in the fiscal summary was that all \$172 million of the projects funded from the CBR would be funded from the General Fund as unrestricted general funds (UGF). He highlighted that all numbers on the slide were UGF only. He explained that the desired outcome was a balanced budget and there could only be a surplus or

deficit in UGF. There was no such thing as a federal surplus or deficit at the state level. The same applied to "other" funds and designated general funds (DGF).

[9:10:37 AM](#)

Co-Chair Stedman remarked that many Alaskans may be tuning into the budget process for the first time; therefore, he asked Mr. Teal to avoid using acronyms. He asked for a definition of UGF and why they should be paying attention to that versus all other funds.

Mr. Teal stated that UGF stood for unrestricted general funds and reflected the money that could be appropriated at any time for any purpose. Once an agency was appropriated UGF, it had the ability to spend the funds. He detailed that other funds, DGF, federal funds, and other non-general funds, could be spent only if the revenue appeared. He explained it was the reason there could not be a deficit in anything other than UGF and why the fiscal summary focused on UGF. He noted that the capital projects previously funded by the CBR had not been funded because the [supermajority] vote had failed. He relayed that at some point the capital budget would be added to the special session "call" and the unfunded projects would be replaced with UGF.

[9:12:31 AM](#)

Co-Chair Stedman announced that the governor had signed the capital budget that morning, and that there may be a briefing on that budget in the afternoon. He remarked that it may or may not be added to the special session call.

Mr. Teal clarified that even if the governor signed the budget without making any vetoes, the \$172 million for capital projects funded by the CBR did not go to the governor for signature. He remarked that it was a very miniscule capital budget. He remarked that the capital budget also included fiscal notes - the estimated cost of implementing bills - that were typically attached to the operating budget. He explained that the fiscal notes had been attached to the capital budget in the current year. He clarified that where the notes were attached was not important - it was important that they were attached and theoretically that money was appropriated from bills in that way. He noted that the "crime bill" [HB 49] was

interesting because all \$30.8 million should have been funded via fiscal notes. He elaborated that those fiscal notes were funded from the Power Cost Equalization (PCE) fund. He had been told by staff that OMB Director Donna Arduin had stated on the radio that the PCE fund would be swept. He had not heard firsthand, but he was operating under the assumption that PCE and some other funds would be swept. If the PCE fund was swept, the crime bill would have no funding available for implementation.

[9:15:30 AM](#)

Co-Chair Stedman asked Mr. Teal to explain what it meant to "sweep" the PCE fund.

Mr. Teal replied that the Senate Finance Committee would meet in the afternoon to address and explain the sweep of the CBR. He explained that "sweeping" the PCE fund would mean moving the entire fund balance of approximately \$1 billion (along with some other funds) into the CBR. He explained it was a constitutional provision (Article IX, Section 17(d)) specifying that anytime money was taken from the CBR (billions had been taken over time), the money was to be replaced. He detailed that paying back the CBR meant that any money left in the General Fund or sub-funds at the end of the fiscal year available for appropriation, was swept into the CBR. When the money was swept on June 30 it was simply gone. He reported that the legislature typically reversed that sweep, but the sweep did not occur in the current year due to a failed three-quarter vote. Reversing the sweep entailed taking money from the CBR just as if it were being appropriated for any other purpose; therefore, the action required a supermajority vote. He remarked that, if the PCE fund was swept into the CBR, all \$980 million in the fund would be unavailable for FY 20 appropriations.

[9:18:14 AM](#)

Senator Wielechowski referenced Mr. Teal's statement that the governor may sweep the PCE fund. He wondered where the authority resided for the governor to decide whether or not to sweep accounts or not.

Mr. Teal communicated his preference to address the question later on slide 5.

Co-Chair Stedman added that the subject matter would be addressed in more detail that afternoon. He provided additional information about the afternoon meeting.

Senator Olson shared that he had done a radio report on PCE earlier in the day. He asked about the current balance of the PCE fund. He wondered if the balance was \$970 million minus the one-third that went to the crime bill [HB 49 passed the legislature in 2019].

Co-Chair Stedman requested a broader answer regarding the timing mechanics of an FY 20 appropriation out of PCE or any other account that would be swept. He asked for the timing of the sweep as well.

Mr. Teal replied that it was probably best to leave the question until reaching slide 5 that addressed the CBR sweep and reverse sweep.

Senator Olson queried the mechanism to reverse the sweep to put the money back into PCE.

[9:21:03 AM](#)

Co-Chair Stedman replied that it was an appropriation and moving money from the CBR required a three-quarter vote of both bodies and a signature by the governor. He held the questions until later in the presentation. He noted that the issue was not as clear as he or some others would like.

Co-Chair von Imhof referenced slide 2 and observed that the second column pertained to vetoes. The slide also included assumptions that some of the reverse sweeps would not occur, such as crime, which would create a deficit of \$9.8 million. She asked if Mr. Teal would address how the reverse sweeps could potentially affect the bottom line.

Mr. Teal replied that the sweep or reverse sweep did not affect the bottom line on slide 2. He explained that it simply left FY 20 programs unfunded. He elaborated that it did not spend or take money; the money was just unavailable because it had been moved to the CBR and could not be spent. He clarified that the sweep did not change the deficit.

Co-Chair von Imhof thanked Mr. Teal for the clarification. She noted that he had created an assumption about the crime

bill because it had been a high profile topic. In addition to the vetoes, she wanted to discuss (in the afternoon meeting) what else may not be funded if the reverse sweep did not occur.

[9:23:29 AM](#)

Co-Chair Stedman agreed that the information would be laid out for committee members and the public in the afternoon meeting. He intended to address items that were funded and items that were not funded. He noted there may be some additive items from the [governor's] signing of the capital budget.

Mr. Teal shared that he had been planning to discuss the bottom line on slide 2 showing a \$4.6 billion budget, but based on the questions he thought it may be worth digressing to discuss why the fiscal notes for the crime bill had been funded with PCE funds. He could not answer the question with certainty, but he described the gist of the situation. There had been rumors that the governor intended to expand the list of sweepable funds, which would include PCE. Consequently, there had been some concern about the possibility that the PCE fund would be swept. The legislature had decided that if it funded something important - like the crime bill - with funds that may be swept, it would encourage the governor to leave the sweep list at status quo.

Mr. Teal explained that funding the crime bill theoretically put pressure or leverage on the governor to avoid sweeping PCE or other funds. He had no idea whether the strategy, which had occurred during the budget process, would be successful. He noted that the statement from Ms. Arduin had come much later. He stated that apparently the administration still intended to sweep the funds, which left crime bill funding an open question. He relayed that slide 2 assumed that PCE funding for the crime bill would be replaced with general funds, which would result in a budget of \$4.6 billion.

Co-Chair Stedman asked for verification that there was currently no funding for the crime package that had been signed the previous day.

[9:26:39 AM](#)

Mr. Teal clarified that if the PCE fund was swept, there was no funding for the crime bill. However, if the governor decided to leave the list of sweepable funds untouched, the crime bill was funded. He explained it was not anything the legislature could vote on or do anything about; the decision was for the governor to make.

Co-Chair Stedman relayed that the issue would be discussed further during the afternoon meeting.

Senator Hoffman shared that he had requested to hear from specialists [in the afternoon meeting] on the PCE fund. He had a legal opinion from Megan Wallace the director of Legislative Legal Services regarding the PCE fund and whether it was sweepable or not. The paper addressed the Hickel v. Cowper case. He noted it could be interpreted that the fund was not sweepable. He read an excerpt from the legal opinion dated May 17, 2019 (copy on file):

Under this interpretation it seems clear that money held by a public corporation of the state is, like money in a trust fund, not "available" until appropriate and, therefore, protected from the sweep. On the face of this holding, it might legitimately be concluded that the PCE endowment fund is not subject to the "sweep."

Senator Hoffman shared that he would make copies of the opinion for members. He elaborated that Ms. Wallace went on to say there were other interpretations that could be held, but the opinion above was the strongest in her view.

Co-Chair Stedman relayed that the legal opinion would be copied and distributed to committee members after the meeting. He noted that Ms. Wallace would address the committee during the afternoon meeting along with several other legal opinions.

[9:29:40 AM](#)

Mr. Teal relayed that the state currently had a governor and attorney general who had publicly disagreed with court interpretations of law and the constitution. The governor was not necessarily acting in one way because it was what had happened in the past. Additionally, the governor was not necessarily relying on the legal opinions from Legislative Legal Services. The governor was relying on the

Department of Law. He observed that the administration did not seem to be shy about reinterpreting laws and policies. He stated that "we simply don't know." He continued that LFD had asked for lists of accounts that would be swept, but the administration had communicated it would not release the list to LFD. He believed Co-Chair Stedman had also requested the list. The administration had reported it would take several weeks to compile the list.

Mr. Teal continued to address slide 2. The budget adopted by the legislature was \$4.6 billion UGF, comprised primarily of oil revenue. He relayed it was not unusual that the state's traditional funding was roughly 50 percent of its expenditures; it had been that way for a number of years. The fact that revenue equaled about half the state's expenditures went a long way towards explaining why the CBR was virtually empty and it had contained roughly \$15 billion several years earlier. The state did not have the revenue to support the current level of expenditures.

Mr. Teal explained that the preceding year, the legislature had supplemented traditional oil revenue with the percent of market value (POMV) payout from the Permanent Fund Earnings Reserve Account (ERA) to the General Fund. He elaborated the POMV formula was set in statute and was \$2.9 billion in FY 20. The POMV draw resulted in total revenue of \$5.2 billion and a surplus of \$610 million before PFDs. The governor had vetoed approximately \$380 million UGF, which when added to the existing surplus resulted in a total surplus of approximately \$1 billion. However, the governor had also vetoed \$1 billion in revenue by reducing the payout from the ERA to the General Fund. He stated it was a valid veto and resulted in a deficit of about \$10 billion. He stated that the budget was constitutionally required to balance. He highlighted that previous Governor Bill Walker had vetoed a budget on the grounds that it was not fully funded.

[9:34:11 AM](#)

Co-Chair Stedman pointed to an error on slide 2. He believed the POMV revenue figure under the "FY20 Budget" column should be \$1.9 billion instead of \$3.9 billion. Additionally, he wondered if the \$1 billion POMV figure under the "Vetoed" column should be shown as a negative number.

Mr. Teal apologized and agreed that the number [in the "FY20 Budget" column] should be \$1.933 billion and the \$1 billion [in the "vetoes" column] should be negative.

Senator Wielechowski queried the impact of the vetoes on federal funds. He asked if any matching or direct federal funds had been lost.

Mr. Teal replied that he did not know the precise number of federal funds that were lost. He noted the information was easier to see in the capital budget. He shared that the match rates change substantially in the operating budget.

Co-Chair Stedman interjected that the short answer to Senator Wielechowski's was yes. He would work on getting an impact list for the operating and capital budgets to provide to committee members.

[9:36:03 AM](#)

Co-Chair von Imhof reported that specific to the capital budget, the federal matching funds number was about \$105 million UGF (or CBR funds in the case of the current year). She would take a look to see what the signing had or had not vetoed. Separately, she referenced Mr. Teal's mention of a \$9.8 million deficit [shown on slide 2]. She referred to Mr. Teal's statement that former Governor Walker had vetoed a budget that had a deficit. She stated that the call for \$10 million was easily correctible with the assumptions that DOR provided with oil at \$65 per barrel. She noted that the price had been above that figure and was not often far below the amount. She reasoned that depending on what oil did between the present day and January, the [\$10 million deficit] could easily be rectified. She pointed out that the situation was a moving target annually - there was always some type of budget surplus or deficit throughout the year. She stated it was nothing new; it was something the legislature had to deal with all of the time.

Co-Chair Stedman asked Mr. Teal to discuss "headroom" or a margin of extra funds available to insulate the state from reasonable financial and oil market swings.

Mr. Teal agreed with Co-Chair von Imhof that oil prices were volatile; therefore, actual oil revenue was unknown. He explained that a point in time was used. Given the last official forecast, the state may have a deficit of \$9.8

million. He explained that if oil prices increased, the deficit could be erased; however, if prices went down, the deficit could increase. The normal method the legislature used to address the problem, was to pass a CBR draw with a supermajority vote. He elaborated that the legislature includes a provision in the budget specifying that if oil prices came in lower than expected, money would automatically be taken from the CBR to make up the difference.

Mr. Teal highlighted that use of the CBR had not been approved in the current year; therefore, Alaska was looking much more like other states were. Other states looked at the official forecast when the budget was compiled and over time the legislative finance and departments of revenue looked closely at revenue to ensure it was tracking. He explained that if revenue was not tracking, the legislature often came back in special session to make additional cuts. He had seen the situation play out in other states much like a subcommittee where oil was down \$200 million, and the state had to find \$200 million in cuts from programs halfway through the year. Some states did increase revenue, but it was very difficult of Alaska to do so. He explained that Alaska did not have existing taxes and implementing new taxes took longer to set up.

Mr. Teal continued that although the state may end up with a bigger deficit or no deficit as oil fluctuated annually, the normal means of addressing the issue had not been used in the current year.

[9:40:59 AM](#)

Co-Chair Stedman reported his intention to let Mr. Teal get through a slide before questions were taken.

Mr. Teal advanced to slide 3 and relayed that the budget may be balanced in its current state. He discussed there was not currently a [funded] capital budget - the assumption was the legislature would replace the \$172 million on slide 2 with UGF. He pointed out that it may not happen, either by legislative action or veto. He continued that \$31 million for crime bill funding may be available if the PCE fund was not swept into the CBR. He noted that no one knew whether the fund would be swept. Additionally, there was an \$18.7 million error in the Medicaid veto that may be corrected by the legislature. He explained that when

the governor vetoed the Adult Preventative Dental program, he had vetoed general funds instead of federal funds. He elaborated that the governor had intended to veto \$9 million in general funds and \$18.7 million in federal funds. However, the federal funds had been left alone (even though the state would not receive the funds because they required a state match) and general funds had been eliminated. He reported that the governor had vetoed an extra \$18.7 million in general funds.

Mr. Teal furthered that the \$31 million for the crime bill, if paid from PCE, would reduce the deficit. He relayed that if the \$18.7 million veto of general funds was rectified by appropriating general funds back and removing federal funds, the deficit would increase. He highlighted that if all of the actions on slide 3 were taken it would result in a surplus of about \$2 million to \$3 million. He characterized the surplus as a very tight budget that left no safety valve or headroom if revenue fell short of projections. Additionally, the budget would leave no money for supplemental appropriations.

Mr. Teal remarked that it was a large wildfire year, which would take supplementals. The legislature had addressed the 2018 earthquake in 2019, but it may require several million dollars more. Medicaid had also been vetoed strongly. He reported it was easy to start talking about potential supplementals of a couple hundred million dollars. He noted there was not way to address that issue. He characterized the situation as risky and high pressure. He noted that oil prices may go up and the state may wind up with \$300 million in unexpected revenue that would allow the funding of the supplemental requests without worrying about a deficit.

[9:45:17 AM](#)

Co-Chair Stedman asked Mr. Teal to elaborate on the \$18.7 million error. He referenced Mr. Teal's statement that the governor had inadvertently vetoed \$18.7 million from general funds. He asked what other impacts the shortage of general funds would have on the budget.

Mr. Teal answered that LFD had simply adjusted the vetoes column [on slide 2] and increased the governor's vetoes by \$18.7 million. The slide showed vetoes of \$379 million. He

explained that the governor's veto report showing UGF funds would be \$18.7 million less.

Mr. Teal noted that the numbers on slide 2 did not include dividends. He remarked that dividends were the primary focus of the current special session. He addressed slide 4 titled "What Does This Mean for Dividends?" He explained that the budget was balanced and there was no UGF available to supplement dividends; any payment of dividends from the General Fund would result in a deficit. He discussed that the governor vetoed \$1 billion of the POMV payout from the ERA to the General Fund, which left \$1 billion in the ERA to pay dividends. He acknowledged there was much more available in the ERA; however, the payout from the ERA was limited by statute to 5.25 percent. He elaborated that spending more than \$1 billion would exceed the statutory payout. He shared that the \$1 billion would pay a PFD of about \$1,500. He was not prepared to address any speculation such as paying for the dividend out of the CBR, a second round of dividends in the coming year, or changing the [dividend] formula.

[9:48:49 AM](#)

Co-Chair Stedman asked for more detail about the ERA.

Mr. Teal replied that the ERA contained the earnings of the Permanent Fund that were set aside and available for appropriation at any time, for any purpose with a simple majority vote. The only issue with taking money from the ERA was the statutory 5.25 percent POMV withdrawal limit. There were also fiscal issues with taking funds from the ERA. He explained that every dollar spent from the ERA, whether spent on current dividends or anything else, reduced future dividends. He explained that dividends were based on the earnings of the fund and anything that reduced the value of the entire fund, reduced the earnings of the entire fund, which reduces dividends. The statutory limit on the payout had been implemented for sustainability. He noted that legally, the legislature could draw as much as it wanted from the ERA; however, if it took more than a sustainable amount - which had been determined to be 5.25 percent, dropping to 5 percent in the next budget cycle - the draws would be unsustainable and the Permanent Fund would lose value. Exceeding the draw limit would mean paying out more than the fund could afford to pay out and keep the inflation adjusted value of the fund steady.

Co-Chair Stedman added that the fund would lose value over time in perpetuity.

[9:51:26 AM](#)

Mr. Teal highlighted a table on slide 5 titled "FY20 Potential Impacts Resulting from Not Reversing the CBR Sweep." The focus during the special session had been on dividends and veto overrides. He thought the focus was probably detrimental to another issue. He explained that the CBR was created as a shock absorber that was supposed to have money flowing out when revenue came in unexpectedly low and it was supposed to be repaid by sweeping money back in at the end of every fiscal year when there was more money than anticipated. He detailed that at the time the CBR was created, the state's revenue stream was oil. He discussed the volatility of oil that resulted in extra money in some years and less money in other years. When the state received extra money, it went into the CBR and when there was a shortage, money was withdrawn.

Mr. Teal understood that there would be a discussion on the accounting and legal aspects of the CBR sweep and reverse sweep during the afternoon meeting. He would provide a budget perspective. He explained that the constitution mandated sweeping all of the money from the General Fund and its sub-funds into the CBR on June 30. The reverse sweep, which required a supermajority vote of the legislature, put all of the money back where it came from. He shared that failing to reverse the sweep was considered a "nightmare" from an accounting perspective. He elaborated it meant there were appropriations with no money to back them. He believed it was right to be concerned about accounting issues, but that was not the main point. The main point was to try to make the money available for spending, consistent with the budget; it was where the reverse sweep became important.

Mr. Teal explained that if the reverse sweep did not occur, appropriations from the accounts that were swept had no money backing them. He looked at slide 5 and addressed category 1 showing significant impacts resulting from not reversing the CBR sweep. He noted there were three categories, but he had not included the second two. He highlighted that the impact information shown on slide 5 was a draft because LFD did not have a list of sweepable

funds. He noted his earlier mention that there were rumors of a greatly expanded sweep. He did not know the veracity of the rumors, but he thought it was fairly reasonable to expect the sweep would be expanded. There was nothing technical driving the expanded sweep. He relayed that there was a longstanding list developed by accountants within the Division of Finance that specified what was swept. He shared that OMB would not release the list of funds to be swept at the end of FY 19. He relayed that any expansion of the list was a policy decision that was solely in the governor's hands.

[9:56:39 AM](#)

Mr. Teal advanced to slide 6 titled "Regarding the Sweep to the CBR." He used the PCE fund to explain what happened if a fund was swept. He explained that the PCE fund would be swept on June 30 and even though \$60 million was set to be appropriated from PCE, the money no longer existed, and the appropriation had no money to back it. He detailed that PCE and the Higher Education endowments had not been swept in prior years.

Mr. Teal moved back to slide 5 and highlighted columns showing total spending in the FY 20 budget, the FY 18 amount swept into the CBR, and the estimated June 30, 2019 sweep. He noted that some of the items were fairly large such as the vessel replacement fund estimated sweep of \$21 million. He expounded that sweeping the balance of the vessel replacement fund before the FY 20 capital project became effective would create a \$3 million hole because only \$3 million was appropriated from the fund in FY 20. He elaborated that there may have been plans to spend the other \$18 million in the next couple of years.

Mr. Teal reiterated that the FY 20 hole was only the \$3 million appropriated for FY 20. He explained that the hole was not necessarily equal to the amount being swept. The total sweep was something in excess of \$1.6 billion based on the list LFD had created on slide 5. The list included several funds that had not been swept the previous year including PCE, the Veterans' endowment, and the Higher Education endowment. He relayed that PCE and the Higher Education endowment accounted for approximately \$1.2 billion and the appropriations from those funds would not be available in FY 20.

10:00:09 AM

Mr. Teal looked at the column showing the estimated budget hole on slide 5 and noted that PCE and the Higher Education endowments made up \$85 million of the \$111 million total. He stated that if the funds were swept and removed, there was no FY 20 funding and there would be no money for PCE in the coming year. He reminded the committee that PCE was the funding source for the crime bill, meaning there would be no money for the crime bill implementation. He detailed that if the Higher Education fund was swept, there would be no money for the Washington, Wyoming, Alaska, Montana, and Idaho (WWAMI) program or post-secondary scholarships and grants.

Mr. Teal believed it was important to consider the items and he found it unfortunate it appeared the sweep would not follow precedent and that changes would occur without public or legislative knowledge or input. He explained it was not simply a matter of students finding out in late August that their WWAMI funds or scholarship did not exist. He questioned how many students would have to decide not to go to school in the current year. Additionally, the situation left the legislature unable to weigh the consequences of the reverse sweep vote. He observed there was much focus on obtaining a veto override vote and he believed there should be just as much focus on getting a reverse sweep vote in order for the money available in the coming year to be consistent with the money appropriated by the legislature and signed by the governor.

Mr. Teal elaborated that it was not possible to look at the budget and rest easy because WWAMI, PCE, grants, and scholarships had escaped the vetoes. He explained that in addition to the vetoes, the lack of a reverse sweep could essentially end programs in FY 20. He highlighted that PCE and the Higher Education fund alone impacted \$85 million and the money in people's pockets. He noted that the University had a cut of \$130 million, which did not include the several million it received in tuition and grant money from people who would no longer be receiving the grant money and would be unable to attend.

Mr. Teal considered legislators' questions about the impact on people and federal matching funds. He explained that for federal funds with a matching requirement it was more complicated than just saying "if we cut this, then you lose

an equal percent of federal money." He continued that there could be several layers to the vetoes and the sweepable funds.

10:04:52 AM

Co-Chair von Imhof stated that she would hold her questions until the afternoon meeting. She commended Mr. Teal for his testimony regarding the PCE fund and Higher Education fund. She stressed that while WWAMI had not been vetoed, the public should be aware that it still may not be funded without the reverse sweep. She noted that WWAMI was one of many items in the same boat.

Senator Bishop looked at slide 5 and highlighted the State Training Employment Program (STEP) and the Technical Vocational Education Program (TVEP) that were paid for solely by working Alaskans. He thought there could be some challenges in that area.

Co-Chair Stedman remarked that the issue could be directed to the auditor during the afternoon meeting.

Senator Olson noted that the reverse sweep was typically included in the operating budget signed by the governor. He asked if the legislature was at fault for not including the language in the budget.

Mr. Teal answered that typically the governor would want a reverse sweep. He equated the absence of a reverse sweep to throwing sand in the gears of government. He explained that different things happened to different funds. The FY 20 budget included over \$8 million for STEP.

Co-Chair Stedman asked Mr. Teal to state the full name of the STEP program.

Mr. Teal replied that STEP stood for State Training Employment Program. He explained that the program was a diversion of unemployment insurance contributions paid by employees.

10:07:47 AM

Mr. Teal believed Senator Bishop's point was to question why the governor would sweep money that employees contribute to the unemployment insurance fund. He detailed

that the fund had been specifically designed to educate and train unemployed Alaskans. He advised the legislature to ask the governor why he would want to sweep the funds. He reiterated his earlier statement that not reversing the sweep was like throwing sand in the gears of government. He stated that a person may not like designated funds in general, but he did not know the governor's reason for not supporting a reverse sweep. He explained that most governors supported the reverse sweep because without a reverse sweep, money available for the programs was inconsistent with the appropriations in the budget.

Mr. Teal noted that LFD had highlighted funds in gray [on slide 5] that had not been swept in the past that were likely to be added to the sweep in the current year. He stated that whether an item was replenishable was an important consideration in the reverse sweep. For example, the estimated sweep for STEP was \$3.5 million and the hole in the budget was less than \$500 million. He explained that money came into STEP during the year. He detailed that at the beginning of the year STEP may have no money to hand out grants to train or educate unemployed people. However, contributions came in during the year, which were available to spend. He continued that some programs brought in more during a year than was appropriated; those programs would be fine at the end of the year. He detailed there were some accounting oddities they would have to get over at the beginning of the year, but accounting could be cleared up by the end of the year.

Mr. Teal noted the same thing may be true for the Alaska Marine Highway System (AMHS) fund - the money was swept, but ticket sales could replace the money. He explained that general funds could be substituted at the beginning of the year and replaced later on. It was the reason the absence of a reverse sweep was an accounting nightmare.

Mr. Teal highlighted that there were other funds that were non-replenishable. He cited the PCE endowment as an example. He detailed that the fund earned money based on earnings from the endowment. He explained that if the balance was swept, funds were not replenishable. Once PCE was swept, it was gone forever. He stated there was much more to the list on slide 5 than the total shown. The issue was complex. He could speak more in detail during the afternoon meeting.

[10:11:56 AM](#)

Co-Chair Stedman relayed his intent to have Mr. Teal give a brief review during the afternoon meeting on the capital budget the governor had signed earlier in the day.

Senator Olson reiterated his earlier question. He asked if the legislature was at fault for not including the reverse sweep in the budget.

Mr. Teal replied in the negative. He clarified that the reverse sweep had been included in the budget. He reminded members that it required a supermajority vote to reverse the sweep; that vote had failed. There was another opportunity, assuming the legislature considered a capital budget again, to put the reverse sweep vote in the capital budget. He explained that perhaps the vote would come out differently if people understood the consequences of failing to reverse the sweep.

[10:12:54 AM](#)

Co-Chair Stedman stated it was a possibility. He highlighted that there would be several appropriation bills between the present day and the next May. He stated that the accounting would only worsen the later the sweep was done, if it was done at all.

Senator Wielechowski remarked that failing to fund PCE would impact thousands of Alaskans. He elaborated that the crime bill would impact thousands of Alaskans, WWAMI would impact dozens to hundreds of people, and postsecondary scholarships would impact hundreds to thousands of Alaskans. The impacts would begin in August. He asked if Mr. Teal had stated that the governor had the ability to reverse sweep the items himself.

Mr. Teal responded that the reverse sweep required a supermajority vote of the legislature. The governor's policy decision pertained to what was subject to the sweep. He noted that the funds shown in gray on slide 5 including PCE, Veterans', and Higher Education, had not been swept in the past. He explained it was the governor's policy decision to sweep the funds; if he did not sweep the funds, the programs would continue without need for a reverse

sweep. He stressed that there were only rumors about what the governor would sweep.

Senator Wielechowski planned to ask Legislative Legal Services additional questions [during the afternoon meeting]. He asked for verification that even if the legislature passed the reverse sweep, the governor could choose not to sweep the funds back into their subaccounts.

[10:14:54 AM](#)

Mr. Teal replied in the negative. He clarified that the reverse sweep was fairly simple language. He explained that exactly what was swept was not specified, but everything that got swept was put back where it came from. The language meant that even if the governor made a policy decision to sweep the PCE fund and Higher Education fund, passing the reverse sweep would put the money back into the funds. He noted that the governor could veto a reverse sweep; however, a vote that already had a supermajority would theoretically be the same vote as a veto override. He reiterated that it was possible the governor could veto a veto override and say that he did not want the reverse sweep at present. He highlighted Co-Chair Stedman's statement that the legislature had until May to reverse the sweep. He agreed but highlighted the example of a student using a grant scholarship or WWAMI funds paying for their education. He underscored that if the money was not available for the student in August through January, they would miss the school year. He explained that reversing the sweep [after that time] would not change the scenario.

[10:16:24 AM](#)

Senator Hoffman shared that when the constitutional provisions had been discussed regarding the CBR, he had been the chair of the House Finance Committee that had reviewed specifics in detail. He did not recall the dialogue where the decision about what was swept and what was not swept was at the governor's discretion. He found it a bit disturbing to be placed in a situation where governors in the past had deemed the items to be nonsweepable. He noted that the legal opinion he had mentioned earlier specified that PCE was established by the Alaska Energy Authority (AEA), a separate and independent public corporation. The opinion cited the Hickel v. Cowper case where the only amount actually appropriated was

counted as available for the purposes of applying the formula under Article IX, Section 17(b). The only portion appropriated by the legislature was \$83 million for PCE. He stressed that the legislature had not appropriated the endowment itself. He thought it would be interesting to hear what the legislature's legal counsel said during the afternoon meeting and whether the issue would need to be finalized by the court and not left to the discretion of whoever was governor at any given time. He emphasized that as a member of the legislature who had voted on the constitutional change, it was not his interpretation.

Co-Chair Stedman responded that the committee would address the issue during the afternoon meeting. He noted that being subject to the political whims of whoever was the governor was "quite the can of worms."

10:19:04 AM

Senator Wielechowski had been told that in prior budgets there had been a provision giving DOR the ability to use the CBR for general cashflow needs. He thought it had not been included in the current budget. He asked Mr. Teal if the situation created any cashflow issues.

Mr. Teal answered that the provision was in the budget and did not require a supermajority vote. He stated it was a quirk of the constitution that the CBR had to have an investment purpose. He explained that early in the year when oil revenue had not yet come in and money went out to school districts and others, there was a cashflow issue. The issue was typically taken care of by borrowing from the CBR via a memorandum of understanding. As long as the money was repaid with interest during the year it was considered borrowing and not a withdrawal. There would be other ways to handle the cashflow if the provision was not passed, but he believed it was included in the budget for the current year.

Co-Chair Stedman highlighted the existence of a report that went through the cash draw scenario the state would face if there was a deficit. The document included a pecking order of accounts. He intended to have the document in front of the committee in the coming winter for review. He believed legislators may want to have a discussion about some of the items. He noted that another backup account was the ERA. He

would provide Senator Wielechowski with a copy of the information.

[10:21:52 AM](#)

Senator Hoffman asked if Mr. Teal planned to review slide 6.

Co-Chair Stedman responded that Mr. Teal had already reviewed the slide. He referenced the Oil and Hazardous fund at the top of slide 5 and recalled there was a minimum balance requirement and a 1 cent and 4 cent tax on the flow of oil through the pipeline. He asked Mr. Teal for a high level description of the fund. He did not want to inadvertently trigger a tax increase issue.

Mr. Teal replied that there was a one cent per barrel tax on oil passing through the pipeline. The tax was triggered when the balance of the Oil and Hazardous [Substance Release] Prevention and Response Fund reached \$50 million or below. He relayed that the balance had been under \$50 million for a couple of years and he expected it to remain that way. Due to the balance, the tax was already "on" and the legislature would not be causing a tax increase by sweeping the balance.

Co-Chair Stedman asked about a 4 cent tax.

[10:23:33 AM](#)

Mr. Teal replied that the 4 cent tax was affected by the sweep, but there was no tax that would be triggered by a balance.

Senator Hoffman asked for verification that the SBR account had been swept and was no longer available.

Mr. Teal replied in the affirmative. He elaborated that the SBR had a balance of about \$172 million. He detailed that the account had typically been relied on for supplemental funds. For example, if a supermajority vote to take funds from the CBR was not obtained to fill a deficit caused by a lack in oil revenues, there was \$172 million in the SBR that could be accessed with a simple majority. He reported that the money was sweepable and unless there was a reverse sweep, the funds would not be available at present or in the future.

Co-Chair Stedman highlighted that the SBR had once contained several billion that was amassed ten years earlier. He noted that the SBR and CBR were the two primary savings accounts.

Co-Chair Stedman thanked the meeting participants and relayed the committee would meet in the afternoon.

#

ADJOURNMENT

10:25:20 AM

The meeting was adjourned at 10:25 a.m.