

HOUSE FINANCE COMMITTEE
March 16, 2022
2:42 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 2:42 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Bryce Edgmon
Representative DeLena Johnson
Representative Andy Josephson
Representative Bart LeBon
Representative Sara Rasmussen
Representative Steve Thompson
Representative Adam Wool

MEMBERS ABSENT

None

ALSO PRESENT

Brodie Anderson, Staff, Representative Neal Foster; Neil Steininger, Director, Office of Management and Budget, Office of the Governor.

PRESENT VIA TELECONFERENCE

Marie Marx, Attorney, Legislative Legal Services.

SUMMARY

HB 281 APPROP: OPERATING BUDGET/LOANS/FUNDS

HB 281 was HEARD and HELD in committee for further consideration.

HB 282 APPROP: MENTAL HEALTH BUDGET

HB 282 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the agenda for the afternoon.

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AT EASE

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RECONVENED

Co-Chair Foster continued that the committee would be reviewing the committee substitute for HB 281.

#hb281

#hb282

HOUSE BILL NO. 281

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making reappropriations; 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."

HOUSE BILL NO. 282

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

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Co-Chair Merrick MOVED to ADOPT proposed committee substitute for HB 281, Work Draft 32-GH2686\R (Marx, 3/15/22).

Co-Chair Foster OBJECTED for discussion.

Co-Chair Foster invited his staff to the table to review the changes in the bill.

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BRODIE ANDERSON, STAFF, REPRESENTATIVE NEAL FOSTER, orientated members to the documents in front of them and explained the documents were numbered 1 through 6 (copies on file):

Document 1	UGF Summary
Document 2	All Funds Summary
Document 3	Transaction Compare HCS 2 from HCS 1
Document 4	Supplemental Summary
Document 5	Supplemental Transaction Compared to HCS 2 from Gov
Document 6	Fiscal Summary

Mr. Anderson indicated that Alexei Painter with the Legislative Finance Division would walk through document 6. He reported that the committee substitute (CS) version R reflected numbers from the spring revenue forecast and the addition of \$3.6 billion of new revenue. The CS had been delayed until after the spring forecast had been released in order to respond to the increased revenue. He explained that HB 281 included changes from version N, introduced on March 3, 2022, and the changes were reflected in the current version R. The most significant changes were the governor's supplemental items and the increase in new revenue spending related to forward funding of education. He noted that these changes would be discussed later in the meeting.

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Mr. Anderson asked members to refer to document 2, All Funds Summary. He directed members' attention to halfway down page 1 which showed the summaries for agency operations. The total change, seen in columns 4 and 5, was a decrement of \$390.7 thousand. Further down the page, the total for statewide items showed an increase of \$1.36 billion. He explained that the majority of the increase was due to the forward funding of education.

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Mr. Anderson asked members to turn to page 2 of document 2 and drew attention to the funding summary. This section showed the totals for all funds presented in the budget,

from CS 1 [SB 162(FIN) version W] to CS 2 [CS for HB 281 version R]. There was no change in federal funding. There was a reduction in the \$390.7 thousand in other funds and an increase of \$28.1 million in designated general funds. Finally, there was an increase of \$1.3 billion of unrestricted general funds.

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Mr. Anderson directed members' attention to version R of HB 281 (copy on file) and stated that he would walk members through the changes. The first change was on page 1 lines 3 through 5, which reflected a title change and added a single capital item, which he noted would be explained later in the walkthrough in more detail. The second title change was the addition of the Constitutional Budget Reserve (CBR) and reflected in lines 4 through 5. There were also changes in Section 1, which was known as the numbers section. The first change begun on page 3 on lines 27 through 29 and showed a decrement of \$186.6 thousand to the Office of Information Technology. The Health and Social Services (HSS) subcommittee denied all increments related to Executive Order (EO) 121, which was the funding of a Department of Technology officer under the Department of Administration, and it was removed to be consistent with the will of the subcommittee.

Mr. Anderson continued to page 17, lines 28 through 29, which reflected a decrement of \$204.1 thousand to the Office of Management and Budget. He explained that the decrement pertained to the Administrative Service Director position, which was housed within the governor's office. The position was removed to be consistent with the actions of the HSS subcommittee. He turned to Section 3 on page 53 and directed attention to line 16. The item showed an increase of \$21.8 million in the higher education fund which offset an unrestricted general fund (UGF) reduction on page 52, line 6. He explained that the standard practice had been to fund Alaska scholarships with monies from the higher education fund when available, but CS 1 repopulated the fund, therefore Version R [CS 2] removed the mechanics of the spending from the higher education fund.

Co-Chair Foster shared his understanding that the higher education fund had been refilled and that change was represented in the dollar amounts.

Representative Carpenter asked Mr. Anderson to repeat the location of the change.

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Mr. Anderson relayed that the item appeared on page 52, line 6, which detailed UGF changes. He turned to the supplemental budget documents beginning on page 59, Section 7. He drew attention to documents 4 and 5. The two documents included all the actions that were taken to include supplemental items requested by the governor. He indicated that page 2 of document 4 showed the UGF totals. He turned to document 5 and stated that it showed all items requested by the governor and all items that had been included in CS 2. He concluded that it was a direct comparison between the governor's request and what was now in CS 2.

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Representative Josephson asked where the supplemental budget summary and action were located within the documents.

Mr. Anderson responded that the summaries started on page 59 in Section 7 and ended on page 67.

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Mr. Anderson moved to Section 10 of the bill on page 68. It reflected a supplemental capital item, which was combined with the two supplemental operating budget requests. It completed the Department of Health and Social Services' (DHSS) requests to address the cyber-attack that happened in the department.

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Mr. Anderson moved to page 71 where the language section began. He referred to lines 1 through 3 which referred to the funding for fiscal year (FY) 22 and FY 23 of the Alaska Court System. The funding intended to address the backlog of trial court cases due to the COVID-19 pandemic. He remained on page 71 on line 19 and continued through page 72, line 15. The section addressed the change in the process of federal funding allocation in the Department of Transportation and Public Facilities (DOT). The change

needed to be included in the supplemental language section because the Alaska Marine Highway System (AMHS) was included in the language section of the 2021 supplemental.

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Mr. Anderson moved to page 73 of the bill, lines 13 through 19, which referenced a capital item that assisted the Alaska Longshore Division (ALD) that was impacted by the pandemic. The item was funded by Covid State and Local Fiscal Recovery Funds (CSLFRF) to assist ALD because the employers of the longshoremens were not eligible for employment relief. In 2020, relief was provided through the Coronavirus Aid, Relief, and Economic Security (CARES) Act but it was not an ongoing appropriation. The item intended to help Alaska workers and was turned into a capital budget item through the advice from Legislative Legal Services. It would be used to maintain the health insurance component for employees and their families.

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Mr. Anderson moved to page 89, line 27, through page 90, line 20. He indicated that it related to debt and other obligations, and directed attention to subsection D. He explained that CS 2 before members included additional debt obligations for municipalities, ports, harbors, and other projects. He noted that seven additional projects were included. The debt obligations were authorized by HB 528 in Chapter 115 of session law from 2002, which obligated the state to fully reimburse those debts.

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Mr. Anderson moved to fund capitalization beginning on page 98 of the CS, lines 3 through 6. He stated that the items were in direct response to the increased revenues in the spring revenue forecast. The CS added \$150 million in oil tax credits to the previous \$199 million projection, totaling \$349 million. He reiterated that this was due to the spring revenue forecast as well as the formula used to generate oil tax credits.

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Mr. Anderson continued on lines 11 through 15 of page 98 and indicated that the section proposed forward funding the

education formula by depositing \$1.2 billion into the public education fund.

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Representative Wool asked for clarification that the amount [\$1.2 billion] did not reflect a proposed increase to the Base Student Allocation (BSA). He asked if the number would reflect an increase in BSA in the FY 23 budget.

Mr. Anderson responded that the increase was not reflected.

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Representative Josephson indicated that forward funding was unimpeachable in that it was backed by dollars instead of just intention.

Mr. Anderson replied that it mandated that \$1.2 billion be placed into a fund that could be spent at a later time.

Representative Wool noted that there was an additional supplemental \$50 million included in the bill that would act as a backstop if the BSA bill [HB 272] did not pass. He asked whether the \$50 million would be automatically removed if the BSA legislation passed.

Mr. Anderson indicated that the \$50 million would be removed if the BSA legislation or a similar bill were to pass.

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Co-Chair Foster explained that the \$1.25 billion would be used for forward funding of education and was not necessarily an increase to the budget. Once the Senate completed its version of the budget, the conference committee process would begin and all the bills that had been passed would be rolled into the conference committee versions of the bills. If the BSA bill passed, then \$57 million would be added to the FY 23 budget. He noted that it was a two-year component, and that \$71 million would be added for the purpose of forward funding in FY 24. He reiterated that these choices would be cemented during the conference committee process.

Representative LeBon asked if the forward funding dollar amount had to remain unchanged in future budgets in order to be exempt from a governor's veto.

Mr. Anderson thought either Marie Marx from Legislative Legal Services or Alexei Painter from the Legislative Finance Division could answer the question.

Representative LeBon shared his understanding that a legislature had to accept the forward funding dollar amount unchanged to ensure there would not be a reduction in funding in the future.

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MARIE MARX, ATTORNEY, LEGISLATIVE LEGAL SERVICES (via teleconference), explained that the forward funding of education, which included a delayed effective date, was different than what was proposed in HB 281. Under HB 281, the funding would come from existing money with no delayed effective date. These existing funds would be used by the legislature to forward fund education. The money would be transferred to the public education fund on July 1, 2022, and would consist of existing funds.

Co-Chair Foster invited Mr. Anderson to continue.

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Mr. Anderson drew attention to page 105 of the bill, lines 4 through 12. He indicated that the section detailed the reverse sweep provision for the CBR. He noted that because CS 1 put funds back into the account after the FY 21 sweep, a reverse sweep would be required if the legislature wanted those funds to remain in those accounts.

Co-Chair Foster relayed that there were 15 sweepable funds and the section stated that the legislature did not want the funds swept.

Mr. Anderson concluded his review of the changes.

Co-Chair Foster had 10 notable items he had compiled into a summary. The items included forward funding of education and paying for scholarships. The scholarships would be paid for with monies from the higher education fund since the fund was being refilled. He explained that the municipal

bonds were similar to school bond debts. The state had partnered with communities starting in 2002 for various projects which were normally put into the budget. He shared his understanding that the governor had vetoed similar projects in the last few years. He noted that all positions had been pulled from the Division of Family Services due to the split of the Department of Health and Social Services into the Department of Health and the Department of Family and Community Services. Due to the increase in oil prices, the formula that determined oil and gas tax credits dictated that the credits would come at an additional cost. The reverse sweep would also come in to play for all the funds that had been refilled. He reiterated Mr. Anderson's earlier statement that longshoremen were included in the governor's supplemental to allow them to receive pandemic relief benefits. Finally, the funds for the cyber-attack were in the supplemental.

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Representative Josephson considered the [state] attorney general's memo on the effective date. He shared his understanding of the memo that if the governor were to sign the operating budget prior to midnight on June 30, 2022, the items in the budget would need to be funded from funds that would be swept. He asked for further information.

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Mr. Anderson noted Representative Josephson was referencing the reverse sweep. He deferred to Marie Marx.

Ms. Marx understood Representative Josephson was referencing the attorney general's memo on the effective date for the FY 22 appropriations. She deferred to the executive branch on its position but assumed that the position would be the same. If the appropriations were passed, the question was on whether the appropriations could be spent without being subject to the sweep on June 30, 2022. It was unclear whether the funds would be available for appropriations. It was the administration's perspective that as long as the bill was passed by the legislature and signed by the governor, nothing else would need to be done to make the appropriations "validly committed." She relayed that prior to the sweep, it was the attorney general's view that the FY 22 appropriations

could be spent. She noted that she did not know if the same would be true for FY 23.

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Representative Josephson indicated that there was no information stating that the administration's position had changed. He shared his understanding that as long as an effective date was adopted before June 30, 2022, and the governor signed the bill prior to July 1, 2022, the monies could be swept. This meant that all programs would still be funded for FY 23 at least as an annual appropriation. He asked if his understanding was correct.

Ms. Marx responded that the attorney general had made a distinction between an effective date and whether funds were validly committed. The majority of FY 22 appropriations had an effective date of July 1, 2021, but the question was whether the funds were validly committed prior to that date. She believed that the attorney general's opinion was that no further action needed to be taken for the funds to be effective. She reiterated that as long as the bill had been passed by the legislature and signed by the governor, it was the attorney general's opinion that the funds were validly committed even though the appropriations were not effective until July 1, 2021, according to the express language of the appropriation bill. She noted that the opinion of Legislative Legal Services on the matter differed from the attorney general's opinion.

Representative Johnson asked if the administration could comment.

Co-Chair Foster invited Mr. Steininger to the table.

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NEIL STEININGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, responded that Ms. Marx's summary of the attorney general's opinion was accurate. He stated that if an appropriations bill was signed into law by the governor prior to June 30, appropriations could be considered validly committed from sweepable funds. Since the opinion had been released, he had also looked at the Governmental Accounting Standards Board's rules on what could be considered an "assigned balance," particularly in

regard to an organization having an effective date. According to the board, once a bill was signed into law it could be considered an assigned balance, and the effective date would dictate when spending could begin.

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Representative Carpenter had a question regarding the energy relief payment. He suggested that only the people eligible for a Permanent Fund Dividend (PFD) payment would also be eligible for the energy relief payment.

Co-Chair Foster agreed and indicated that issue had not been fully vetted. He thought there would still be an opportunity to make any necessary changes. He asked Mr. Anderson for more details on the process.

Mr. Anderson indicated that the criteria for the energy relief check would be established based on the same criteria used by the Department of Revenue to determine PFD eligibility. This information was included in CS 1 and CS 2.

Co-Chair Foster WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 32-GH2686\R was ADOPTED.

Co-Chair Foster indicated he intended to take up amendments beginning on Monday, March 21, 2022. Amendments for HB 281 and HB 282 were due to his office by Friday, March 18, 2022 at 5:00 p.m. He hoped to release an amendment packet by Sunday, March 20, 2022.

HB 281 and HB 282 were HEARD and HELD in committee for further consideration.

ADJOURNMENT

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