

HOUSE FINANCE COMMITTEE
March 21, 2022
2:08 p.m.

2:08:55 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 2:08 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; Alexei Painter, Director, Legislative Finance Division; Cori Mills, Deputy Attorney General, Office of the Attorney General, Department of Law; Neil Steininger, Director, Office of Management and Budget, Office of the Governor.

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 meeting. He discussed the amendment process. The committee would consider the language, supplemental, supplemental capital, and capital amendments.

#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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^AMENDMENTS

[2:10:45 PM](#)

Co-Chair Foster MOVED to ADOPT Amendment L1, 32-GH2686\R.33 (Marx, 3/19/22) (copy on file) [Note: due to the length of the amendment it is not included here. See copy on file for details].

Co-Chair Merrick OBJECTED for discussion.

Co-Chair Foster asked his staff to explain the somewhat technical amendment.

BRODIE ANDERSON, STAFF, REPRESENTATIVE NEAL FOSTER, explained that the technical amendment including the

governor's supplemental operating language items intended to be included in HB 281 version R, referred to as "House Committee Substitute 2 (HCS2)." He explained the items had been inadvertently excluded from the bill. He highlighted that Section 15 pertaining to the Department of Administration (DOA) extended authority for labor negotiations and arbitration support through FY 25. Section 17(a) pertaining to the Department of Health and Social Services (DHSS) provided FY 22 authority for \$7.4 million of the remaining Coronavirus Aid, Relief, and Economic Security (CARES) Act relief funding. Section 17(b) added \$20 million more in Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) funding to the \$20 million appropriation made the previous year. He relayed that beginning in FY 23 the authority needed to be transferred to DHSS. Section 18 pertained to the Department of Law (DOL) and funded judgements and settlements, excluding the Alaska Psychiatric Institute (API) settlement *Blanford v Dunleavy*. He noted an amendment associated with the settlement was included later in the amendment packet.

Mr. Anderson continued to review Amendment L1. Section 20 pertained to the Office of the Governor and added \$4.3 million to the Division of Elections and included a scope change for elections worker wages. The amendment included \$50 million for the Disaster Relief Fund comprised of \$34 million requested by the governor and an additional \$16 million for funding of unanticipated costs associated with recent disasters. Additionally, the amendment extended spending authority for \$7 million provided to Alaska Seafood Marketing Institute (ASMI) the previous year through FY 24. The remainder of the amendment was conforming language.

Co-Chair Foster noted the items had been included in the reports given to committee members but had not been in the HCS2.

Mr. Anderson agreed.

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Representative Josephson observed that the \$40 million on page 1 of the amendment was identical to an increment shown on page 6. He asked for verification the funds were being rerouted to a new department.

Mr. Anderson replied affirmatively. He clarified that DHSS had been divided into two departments [in 2022]. He explained that for FY 22 budget items the department was still DHSS, but in FY 23 it became the Department of Health.

Representative Josephson referenced the [API] settlement dollars previously mentioned by Mr. Anderson. He asked if the committee substitutes did not list the settlements.

Mr. Anderson answered that it was a supplemental language section that did not get included [in the committee substitute], but it was included in the reports.

[2:15:57 PM](#)

Representative Carpenter asked about \$792,000 provided in Section 15 to be spent through June 30, 2025. He asked if there was a history of forward or advance funding.

Mr. Anderson deferred the question to the Legislative Finance Division (LFD).

ALEXEI PAINTER, DIRECTOR, LEGISLATIVE FINANCE DIVISION, relayed that the item originally been an FY 15 multiyear appropriation extending through FY 22. He explained that the department [DOA] had not yet concluded the work. The governor's budget had extended the funding authority through FY 23. He clarified that the item had been extended a little farther [in HCS2] to avoid the need to extend it again the following year if the funds were not all expended.

Representative Carpenter referenced federal Coronavirus relief spending in Section 17. He thought the funds had to be spent by FY 24. He observed that the section extended the funds through June 30, 2025. He asked if that meant it still applied to FY 24 and was expendable.

Mr. Painter answered that the funds had to be spent by December 31, 2024 (halfway through FY 25). He explained that by providing the extension through FY 25, the department would be able to spend the funds through half of the fiscal year. He explained that to enable spending in FY 25, the entire year had to be included in the budget. He noted the language could specify the funds were to be expended by December 31, 2024.

Representative Carpenter looked at an increment on page 2, line 24, appropriating \$50 million to the Disaster Relief Fund. He asked fund balance had been prior to the COVID-19 pandemic.

Mr. Painter replied that he did not have the number on hand. He noted that the Disaster Relief Fund had not been used for the COVID-19 crisis. He clarified the current disaster funded with the appropriation was primarily the 2018 Anchorage earthquake in the amount of \$26 million in addition to other receipts. He explained that while the Disaster Relief Fund had been used for some COVID-19 related things, the majority of the funding for COVID-19 had been federal. The negative fund balance was due to the Anchorage earthquake.

Representative Carpenter asked about the fund's average historic balance.

Mr. Painter answered a common amount was a deposit of \$5 million per year in addition to whatever was needed to catch up on past disasters. He explained that occasionally when there had been a lapsing fund balance, there had been a decision to deposit extra money in the account to ensure enough funding for any disasters.

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Co-Chair Foster recognized Representative Rasmussen had joined the meeting.

Representative Thompson asked about the [Disaster Relief] fund balance. He asked if there was action taken annually.

Mr. Painter replied that generally the legislature included an annual deposit of around \$5 million in operating budget. The legislature included funding in the supplemental when funds were needed to catch up due to disasters. He stated that generally it was necessary to appropriate money to the fund annually.

Representative Thompson asked if there were personnel with the job of tracking the funds. He did not understand why the balance was not known.

Mr. Painter answered that the current balance needed \$26 million for the Anchorage earthquake to avoid being in the negative. He clarified that the current balance was negative, awaiting the supplemental funds. The extra deposit was to provide space for disaster expenses that had not yet been spent.

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Representative LeBon asked if the \$50 million was a deposit into the state treasury. He asked if it went to a designated account and if it was sweepable.

Mr. Painter replied that he did not know off the top of his head whether the funds went into the General Fund. He clarified that the funding was not sweepable because it could be spent without further appropriation by the Department of Military and Veterans Affairs. He noted the funding was a mix of federal and general funds.

Co-Chair Merrick WITHDREW her OBJECTION.

There being NO further OBJECTION, Amendment L1 was ADOPTED.

[2:22:41 PM](#)

Representative Johnson MOVED to ADOPT Amendment L2, 32-GH2686\R.24 (Marx, 3/19/22) (copy on file) [Note: due to the length of the amendment it is not included here. See copy on file for details].

Co-Chair Foster OBJECTED for discussion.

Representative Johnson explained the amendment would put \$495,000 back in the budget for the Blanford and Bellville v Dunleavy settlement made by the state related to two API doctors. She explained there could be a lasting repercussion if the state did not pay its settlement fee. She detailed there was a common misconception that the case had only been against the governor and his former chief of staff. She clarified the case had been brought against the state and the damages were owed by the state. She elaborated there was another misconception that if the state did not pay the damages owed, the governor and chief of staff would have to pay for the expenses personally. She clarified that it was not true. She relayed an issue of qualified immunity had been appealed and was dropped as

part of the settlement. She stated there was no assurance the 9th circuit court would have followed the trial court; it was not a decided issue. She remarked that being sued was part of the price of doing business and being an elected official of the state. She continued that the \$495,000 should be restored to ensure the state could handle the litigation. She stated that anyone could be named in a suit.

Co-Chair Foster stated that the individuals who would come up short were the doctors, which he did not want to happen. He highlighted his understanding that the ACLU supported paying the funds. He noted there had been questions posed about whether the funding could be paid in the operating budget the following year. He did not know enough about it, but it would give more time for the discussion to occur. He asked whether the department wanted to comment.

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CORI MILLS, DEPUTY ATTORNEY GENERAL, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LAW, shared her concern with waiting a year would be ending up with the same issue for the state. She believed the ACLU would object to waiting as the plaintiffs would not be assured to receive their payment because the next legislature could make the same exact decision. The department's concern was whether plaintiffs would be willing to sit down with DOL to try to settle a case where the state was the defendant if plaintiffs had no surety the settlement would be paid.

Representative Josephson was not certain how he would vote on the issue. He highlighted that a federal judge appointed by former President George [H.W.] Bush found the governor and his chief of staff as personally liable. He detailed that the House Judiciary Committee chair had relayed in subcommittee that he could not find another example in history of a governor being held personally liable in the same way. Additionally, the state could argue there was joint and several liability and the other defendants should participate in that. He referenced a statement made by the amendment sponsor that paying the settlement was the price of doing business. He clarified that the judge had made the opposite finding that it was an egregious effort to get sworn allegiance from people who did not have an executive branch policy making obligation (i.e., a psychiatrist).

Representative Josephson thought Legislative Legal Services left the issue up to the legislature as a policy call. He noted that in the settlement document, although the state and other plaintiffs did not admit wrongdoing, there was language specifying that the state and executive officers should not have done what they did. He stated there were arguments for voting in favor and against the amendment.

Co-Chair Foster MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Johnson, LeBon, Rasmussen, Thompson, Wool, Josephson, Ortiz, Merrick, Foster
OPPOSED: Edgmon

The MOTION PASSED (10/1). There being NO further OBJECTION, Amendment L2 was ADOPTED.

[2:31:18 PM](#)

Representative Carpenter MOVED to ADOPT Amendment L3, 32-GH2686\R.16 (Wallace/Marx, 3/17/22) (copy on file) (Marx, 3/19/22) (copy on file) [Note: due to the length of the amendment it is not included here. See copy on file for details].

Representative Josephson OBJECTED.

Representative Carpenter explained the amendment pertained to Section 18, page 72, line 24 of the bill and related to the supplemental fund transfers to the designated general fund (DGF) accounts and the Higher Education Investment Fund that were swept in the last budget cycle. He did not believe it was an appropriate use of the state's funds at present. The amendment would remove the funding from the budget to fund the accounts. There were still questions about whether the funds would be swept into the Constitutional Budget Reserve (CBR). He was not certain the legislature should put money into the accounts that may be swept into the CBR when there were other things that could be funded with the money. He stated his understanding that programs funded from the accounts were fully funded and there was not a need to put funding into the accounts at present.

Representative Rasmussen believed that as long as the Alaska Performance Scholarship was in place, the money needed to be in the Higher Education Investment Fund. She highlighted the legislature had heard about existing workforce shortages from most departments and industries. She believed predictability and stability in the funding was necessary. She found it encouraging that the state was looking to expand the Washington, Wyoming, Alaska, Montana, and Idaho (WWAMI) program. She believed legislative support and funding for the programs was needed. She was opposed to the amendment.

Representative Wool agreed that the Higher Education Investment Fund needed to be funded and to maintain a balance. He remarked that his colleague to the left [Representative Josephson] had introduced a bill to ensure the fund was not swept in the future. He hoped the bill moved forward. He stated the remaining funds were repopulated by fees charged during the year. He was apprehensive because there were numerous funds, and he did not know the mechanics of them all. He wanted to maintain the Higher Education Investment Fund balance. He stated that some of the other funds like the Tobacco Cessation Fund were repopulated with fees annually.

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Representative Josephson aligned himself with the two previous speakers. He stated there was another bill on vessel replacement that would put the fund out of the realm of sweepability. He highlighted that a Hickel v Cowper decision specifying contributions made from individual people should not be sweepable. He provided an example about a person who smoked marijuana who understood that some of the cost would go towards marijuana cessation programs. He explained that if the funding was swept, it did not meet the citizens' expectation. He believed if the topic was litigated, Hickel v Cowper would say there were issues with taking money from people, telling them how it was going to be spent, and then not spending it for the specified purpose. He was against the amendment.

Co-Chair Foster apologized to Representative Johnson for not giving her a chance to provide closing remarks on the previous amendment.

Representative Carpenter provided wrap up on the amendment. He highlighted that the bill protecting the Higher Education Investment Fund had not passed yet and it was necessary to operate off of current statute. He stated there was no current protection for the Higher Education Investment Fund. He stated it was likely that the funding in the budget would be swept if the aforementioned legislation did not pass. He referenced Representative Rasmussen's concerns voiced about surety of legislative support moving forward. He saw the issue as valuable as educators wanted to know from year-to-year about program funding. He saw it as a direct conflict with the state's constitutional requirement related to the dedication of funds. He pointed out that the state was unable to provide complete funding surety to any organization from year-to-year because the legislature had to make budget decisions from year-to-year, with the exception of forward funding. He was concerned the committee was trying to say one thing and the constitution was prohibiting the action.

Representative Carpenter continued to provide wrap up on Amendment L3. He shared that he had supported the WWAMI program and associated funding. He clarified that the WWAMI program had been funded in another way and had been funded in the past budget cycle as were any of the other programs paid for out of the accounts the bill section would specifically fund. He remarked that the same programs would be funded in the current bill by receipts coming into accounts. He remarked it was the administration's decision to fully fund the programs regardless of a sweep. He stated they did not need a fund continuing to build a balance, the bills would be paid from the fund with incoming receipts. He asked why the legislature would want to put money into an account merely to grow money if the funds could be paid with receipts.

Representative Carpenter stated that an account with a large balance became a target down the road by various spending opportunities. He reasoned that an account funded by receipts paid for programs in the current year, it was doing what it was intended to do. He stated there was no need to put additional money in the account.

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Representative Josephson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Johnson, Carpenter

OPPOSED: Josephson, LeBon, Ortiz, Rasmussen, Thompson,
Wool, Merrick, Foster

The MOTION to adopt Amendment L3 FAILED (9/2).

[2:43:28 PM](#)

Representative Carpenter WITHDREW Amendment L4, 32-GH2686\R.14 (Marx, 3/17/22) (copy on file). [Note: it was clarified at 2:44 p.m. that the amendment would possibly be offered at a later time.]

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AT EASE

[2:44:00 PM](#)

RECONVENED

Co-Chair Foster asked for clarity on the amendment sponsor's intent.

Representative Carpenter set aside the amendment to possibly offer it at a later time.

[2:44:29 PM](#)

Representative Carpenter MOVED to ADOPT Amendment L5, 32-GH2686\R.8 (Marx, 3/17/22) (copy on file) [Note: due to the length of the amendment it is not included here. See copy on file for details].

Vice-Chair Ortiz OBJECTED for discussion.

Representative Carpenter explained the amendment would insert a new section (Section 20) into the bill and would appropriate \$250 million in supplemental income from the previous fiscal year into the CBR to set some of the extra earnings from oil into the savings account.

Co-Chair Foster stated his understanding of the amendment. He stated that currently the bill set aside all excess money to be put into the Statutory Budget Reserve (SBR). He clarified that the SBR required a majority vote whereas the CBR required a three-quarter vote. He informed the

committee that the current bill put \$2.3 billion into savings in the SBR (prior to the adoption of any amendments).

Representative LeBon clarified that taking money out of the CBR would require support from 30 House members, while the SBR would require support from 21 members.

Co-Chair Foster agreed. He stated that Representative Carpenter's amendment would put \$250 million into the CBR, which would require a three-quarter vote to access.

Representative Rasmussen was inclined to support the amendment. She stated that bringing along broader group of legislators on spending was likely to the benefit of the state as it represented the voices of more constituents. She stated the fact that the return on the CBR and SBR was lower compared to the Permanent Fund and Higher Education Investment Fund gave her pause. She was not certain it was the best use of state dollars. She thought it would be beneficial to discuss putting the funds into a higher interest investment account. She wondered about putting the topic on the ballot. She pointed out that the constitutional question was on the ballot in the coming fall. She had not heard from her constituents concerned with putting money directly into the CBR. She had heard from quite a few who would like to see some of the money saved. She believed there were many paths forward. She was undecided on the amendment and would listen to the debate.

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Co-Chair Merrick appreciated the comments about the higher threshold to access the CBR as a method to protect the funding. She asked Mr. Painter how much money had previously been in the CBR and how much had been spent down.

Mr. Painter answered that the state currently owed about \$12 billion to \$13 billion to the CBR as a result of borrowing, which was the amount that had been spent via the three-quarter vote.

Representative Edgmon asked what happened if projected oil prices did not materialize. He asked if the amendment included a provision that would allow for money not to be

deposited into the CBR and used for other purposes that may be a higher use.

Mr. Painter replied in the negative. He noted the item was supplemental. He pointed out that state was three-quarters of the way through the [fiscal] year and oil prices would have to be near zero to not be able to pay the \$250 million unless there were additional significant appropriations in FY 22 that would reduce the surplus size. The amendment did not include any prioritization of appropriations in FY 22.

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Representative Edgmon appreciated the intent behind the amendment to put money into savings. He was concerned about the opportunity cost of not being able to use the funds for something like K-12 forward funding. He noted that the public education fund earned more and did not require a three-quarter vote. He stated that it would be a huge political fight to access the money if it was needed in the future. He was a strong supporter of putting money into savings, but he liked putting the money into the K-12 account to earn more money and be available for education. He thought it could take pressure off of the FY 24 operating budget.

Representative Josephson asked about the value of the word "supplemental" in the amendment.

Mr. Painter answered that it made the appropriation effective in the current fiscal year. He relayed that based on HCS2 and the spring revenue forecast, there was a post-transfer surplus of approximately \$1.5 billion in FY 22 and ~\$800 million in FY 23. He explained that making the item a supplemental gave more breathing room in FY 22, particularly because the fiscal year was close to over and the associated revenue forecast was a bit more certain.

Representative Josephson considered a scenario where the amount owed to the CBR was \$13 billion. He stated his understanding that if the legislature put the proposed funding into the CBR and wanted to spend \$100,000 out of it, the amount would be owed back to the CBR the moment it was withdrawn.

Mr. Painter agreed.

Representative Josephson pointed out that the state owed the funds back immediately after taking funds from the CBR.

Mr. Painter agreed. He clarified that any appropriations out of the CBR generated a repayment responsibility.

Representative Josephson asked for verification there was no interest accruing to anyone and no penalty for not putting \$12 billion or \$13 billion back.

Mr. Painter agreed. He stated there was no interest between the General Fund and CBR.

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Representative Wool asked how much had been swept from the Higher Education Investment Fund to the CBR the previous year.

Mr. Painter replied that \$395 million had been swept from the Higher Education Investment Fund. The total value of the sweep was \$437 million.

Representative Wool stated that because of the failure [to achieve a three-quarter vote], \$437 million swept into the CBR. He stated that the previous amendment that had failed would have deleted the populating of the Higher Education Investment Fund. He surmised that if the Higher Education Investment Fund was funded, the reverse sweep failed, and Representative Josephson's bill to protect the fund did not pass, close to \$400 million would be swept into the CBR "whether we like it or not."

Mr. Painter agreed.

Representative Wool did not support the amendment.

Representative Carpenter provided closing remarks. He thought Representative Wool's comments indicated the Higher Education Investment Fund could be swept and yet the committee had just avoided the opportunity to make sure it would not be swept. He stated that in essence, the committee was saying it wanted to have the money in the Higher Education Investment Fund go into the CBR and it valued having savings in the CBR. He was not certain he understood the logic. He stated that Amendment L5 was a supplemental pertaining to the current year's budget [FY

22]. He referenced Mr. Painter's testimony about a \$1.5 billion realized surplus for FY 22 and an \$800 million projected surplus for FY 23. He stated the amendment was a policy call to set a priority to save a portion of the surplus. He did not know what kind of a surplus there would be in the current year. He remarked that the current bill would put savings into the SBR; however, based on the amendments, he was uncertain about what kind of surplus there would be. He thought there was a high level of support for increased spending. He stated that when he was asked about priorities for surplus revenue, he immediately thought about what debts could be paid and how much could be saved. He emphasized the amendment proposed saving \$250 million out of \$1.5 billion, which he believed was a reasonable portion.

Representative Carpenter stated the amendment would set funding aside for the future. He stated that counting on \$2.3 billion was an unrealized number. He stressed that the legislature did not know whether it would be the amount available at the end of FY 23. He indicated putting the funds in savings was a responsibility. He noted that Co-Chair Merrick highlighted that the state had spent from the CBR; it was possible to do. He underscored the requirement to pay back the funding to the CBR was constitutional in order to force the legislature to save money.

Vice-Chair Ortiz MAINTAINED the OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Ortiz, Rasmussen, Thompson, Carpenter, Johnson, Merrick

OPPOSED: Josephson, LeBon, Wool, Edgmon, Foster

The MOTION PASSED (6/5). There being NO further OBJECTION, Amendment L5 was ADOPTED.

[Note: action on Amendment L5 was rescinded on 3/24/22 at approximately 1:53 p.m. Another vote was taken, and the amendment did not pass. See separate minutes dated 3/24/22 1:30 p.m.]

[3:00:24 PM](#)

Co-Chair Foster MOVED to ADOPT Amendment L6, 32-GH2686\R.20 (Marx, 3/18/22) (copy on file):

Page 78, lines 1-4:

Delete all material and insert:

"(d) The amount authorized under AS 37.13.145(b) for transfer by the Alaska Permanent Fund Corporation on June 30, 2022, estimated to be \$2,764,400,000, is appropriated from the general fund to the dividend fund (AS 43.23.045(a)) for the payment of permanent fund dividends and for administrative and associated costs for the fiscal year ending June 30, 2023."

Representative Rasmussen OBJECTED for discussion.

Co-Chair Foster explained the amendment would pay a full PFD. He elaborated that statute designated that a Permanent Fund Dividend (PFD) shall be paid. He detailed that according to the statutory formula the current payout would be about \$4,200 per Alaskan. He stated that until the formula was changed, he proposed paying the full amount. He shared there were numerous lower income residents in his district who were impacted unequally and disproportionately. He explained that many individuals had vocalized reducing the PFD was a regressive tax. He highlighted inflation taking place (including high cost of energy, food, and supplies) and believed if there was any time to stick with the full statutory PFD it was the present time.

Representative Josephson asked about the funding source from the General Fund. He asked if the funds would come from the SBR under the current HCS2.

Co-Chair Foster agreed. He stated it was generally the case for anything that would be added to the budget in the amendment process unless it was specified as DGF. He clarified the UGF would come from the SBR.

Representative Rasmussen directed a question to Mr. Painter. She asked if the ~\$2.8 billion included the money already transferred for dividend payments. She believed it had been stated there was a surplus of roughly \$1.5 billion surplus for FY 22. She asked how much would have to be drawn from the Permanent Fund Earnings Reserve Account (ERA).

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Mr. Painter responded that the amendment replaced the FY 23 PFD currently in the bill estimated at \$1,250 for a total of \$840 million from the General Fund. The amendment would replace the amount with an amount estimated to be \$2.76 billion from the General Fund to pay a statutory dividend.

Representative Rasmussen noted the committee had just passed an amendment to put \$250 million into the CBR. She asked about the combined actions of the two amendments. She asked where the funding would come from.

Mr. Painter answered that Amendment L6 would increase expenditures from the General Fund in FY 23 by just under \$2 billion. There was currently an estimated \$800 million surplus in FY 23. He explained that HCS2 included language that would reduce forward funding of K-12 dollar-for-dollar if there was a deficit. He elaborated that the first thing to happen when paying the extra \$2 billion would be a reduction to K-12 forward funding. When combining the two [amendments mentioned by Representative Rasmussen] the impact would be to take away forward funding and the projected surplus in FY 23, but it would not create a deficit.

Representative Josephson asked for verification that the amendment would leave the energy relief payment in the bill.

Mr. Painter agreed.

Representative Rasmussen asked for the amount of the energy rebate.

Mr. Painter responded that the energy rebate totaled ~\$840 million and would pay \$1,300 per person.

Representative Wool highlighted the \$2.8 billion in Amendment L6 and \$800 million in the supplemental energy check, which totaled \$3.5 billion. He pointed out the cost was almost as much or more than the percent of market value (POMV) draw in the past few years. He stated the POMV draw had previously supplied about 60 to 70 percent of Alaska's state revenue. He recognized the state was having a "bumper crop of a year" with the high oil prices; however, the stock market, responsible for growing the Permanent Fund,

was not having a great year. He did not believe spending \$3.5 billion in individual checks to Alaskans was the best path forward, especially because the future was unknown. He reasoned that \$800 million for the PFD checks and \$800 million for energy checks at \$1.6 billion was more than any other department received. He noted that forward funding of education was about \$1.2 billion. He supported the \$1.6 billion and stated the amount was generous. He did not support the amendment.

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Representative Thompson asked if the POMV could pay the dividends if there was a surplus.

Mr. Painter replied affirmatively. He highlighted that under Amendment L6, the POMV would go into the General Fund and the PFD would be paid from the General Fund.

Representative LeBon was concerned about the overreach of paying out money the state may not have. He wanted to be cautious about spending, including the PFD amount. He thought the PFD in the current HCS2 of approximately \$2,500 was affordable (combining the PFD and energy rebate). He pointed out it had not been long ago where there had been suggestions it was acceptable to overdraw the ERA because that state had been having such a good year. He hoped the investment earnings of the Permanent Fund had a great year, but it was not currently looking that way. He wondered why it would be a good idea to pay out a larger PFD when investment earnings were not as robust. He underscored that about a year earlier the legislature had been looking at the price of oil and balancing the budget and the potential need to draw more aggressively from the ERA than SB 26 [POMV draw legislation passed in 2018]. He was opposed to the amendment and cautioned against being overly aggressive with PFD payments when there was still much unknown in the economy and financial markets.

Vice-Chair Ortiz associated himself with the comments made by the prior speaker.

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Representative Rasmussen moved to ADOPT conceptual Amendment 1 to Amendment L6 to insert contingency language

that would eliminate the energy rebate if Amendment L6 passed.

Co-Chair Foster did not object to the proposed conceptual amendment.

Representative Josephson OBJECTED.

Representative Wool stated the energy rebate was a check equal to about 25 percent of the POMV draw. The money would be given to individual Alaskans to offset their increased expenses due to the increase in oil prices. He supported paying the amount out for the stated purpose. He stated that if they removed the label and called it a full PFD with no energy rebate, it changed the intent of the energy rebate. He stated the current budget included 25 percent for energy and 25 percent for the PFD, which was equivalent to a 50/50 amount for the PFD. He elaborated that it had been stated as a one-time payment due to high oil prices and extra revenue resulting from high oil prices. He supported the original language and did not want to eliminate the energy check. He objected to the conceptual amendment.

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Representative Carpenter remarked that the current CS included a PFD and energy relief payment both in the amounts of \$800 million to be paid out of the dividend fund. He reasoned the legislature could call the payments whatever it wanted, but the payments were being paid out of the dividend fund. He thought the more important question was a point brought up by Representative LeBon about why the committee would choose to adopt the amendment, which was \$1.2 billion more than in the current CS.

Representative Carpenter highlighted a couple of reasons why the committee may consider doing so. He referenced the importance of having money in the fund available for WWAMI program decision making. He pointed out that recovery from the pandemic had not yet occurred. He highlighted unprecedented inflation in certain sectors. He thought about the economy and people working in the economy that did not contribute much to the state budget. He pointed out that those individuals may need some assistance, just as much as the government needed assistance. He stated that combatting inflation and helping with economic recovery

were valuable things to people in his district and throughout the state. He stressed it was just as valuable as ensuring there were government programs. He was frustrated to be talking about the difference between \$2,500 PFDs or \$4,400 PFDs, which were annual payments. He thought they should really be talking about how to get \$2,500 or \$4,500 paychecks. He wanted a stimulated economy. He remarked that the more spent on state services put a burden on bill payers (i.e., the PFD and oil tax economy). He found it logical to see a large chunk of change go to the private sector during the current trying times. He stated that families needed support just as much as the government.

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Representative Josephson MAINTAINED his OBJECTION.

Co-Chair Foster clarified that the conceptual amendment would add contingency language to Amendment L6 that would eliminate the energy relief payment.

[3:16:23 PM](#)

AT EASE

[3:18:04 PM](#)

RECONVENED

Co-Chair Foster asked Mr. Painter to provide clarification on the amendment.

Mr. Painter stated the conceptual amendment would add the language "remove Section 47 of the bill" to bottom of Amendment L6. He clarified that Section 47 was the energy relief payment in HCS2.

Co-Chair Foster asked Representative Rasmussen if it captured the spirit of her amendment.

Representative Rasmussen agreed. She stated the conceptual amendment would ensure the budget did not severely overdraw the POMV should Amendment L6 pass. She remarked that the prior debate veered from the intent of the conceptual amendment.

Co-Chair Foster noted the objection had been maintained by Representative Josephson.

A roll call vote was taken on the motion to adopt conceptual Amendment 1 to Amendment L6.

IN FAVOR: Rasmussen, Thompson, Carpenter, Johnson, LeBon, Merrick

OPPOSED: Ortiz, Wool, Edgmon, Josephson, Foster

The MOTION PASSED (6/5). There being NO further OBJECTION, conceptual Amendment 1 to Amendment L6 was ADOPTED.

[3:19:57 PM](#)

Representative Wool stated his understanding that Amendment L6 as amended eliminated the fuel energy supplement in the budget intended to help people during a time of high energy prices and high oil revenue and would replace it with a full statutory PFD of \$2.8 billion. He stated the current budget included \$1.6 billion for the PFD and energy payments compared to the amendment that would cost \$2.8 billion. He highlighted it was \$1.2 billion higher than the original budget. He did not support adding \$1.2 billion to the budget. He noted it was the same amount included in the budget for forward funding of education. He supported the forward funding. He did not support going up to \$2.8 billion.

Representative Rasmussen requested to hear from Mr. Painter.

Co-Chair Foster restated Representative Wool's totals. He clarified that the amendment included \$2.8 billion minus the energy rebate of \$800 million. He calculated that the amendment would be higher than the current budget by \$400 million.

Representative Wool stated that if the amendment passed there would be a PFD check of \$2.8 billion with no energy rebate. He clarified that a total of \$2.8 billion would go out in checks. He stated that the current budget included \$1.6 billion and was lower by \$1.2 billion. He stressed the amendment would add \$1.2 billion to the budget. He stated the \$1.2 billion was currently the amount in the budget funding education. He did not support adding \$1.2 billion. He thought \$1.6 billion for PFDs was more than the state had paid in a long time and he could live with it.

Co-Chair Foster believed the math was correct. He asked for clarification from Mr. Painter.

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Mr. Painter answered that the statutory PFD was estimated to be \$2.76 billion. The combined PFD and energy relief was currently \$1.68 billion. The difference was about \$1.1 billion.

Representative Rasmussen asked if the state had enough revenue to fully fund the amendment and education.

Mr. Painter answered there was a projected \$832 million surplus after forward funding. The amendment would decrease forward funding by about \$250 million based on the spring forecast.

Representative LeBon offered that the committee may need to retreat on the CBR deposit previously adopted in order to balance the books.

Representative Edgmon shared that there were a couple of school board members in the room from his district. He discussed the current budget structure in HCS2 and acknowledged a prior amendment that directed \$250 million to the CBR. He explained the budget had been structured to provide a balance between essential services, put money into a K-12 account to forward fund education the following year, and include a PFD with a relief component of \$2,500 (compared to \$1,114 the previous year). He supported some small schools, as did the co-chair, and some medium sized schools. He viewed a budget as being a document of compromise and balance by definition. He was concerned that Amendment L6 took the whole balance aspect away. He underscored they were dealing with projected revenues.

Representative Edgmon shared an explanation he used when talking to constituents about the budget that it was not prudent to buy a new pickup just based on a positive projected fish season. He was concerned the amendment action could be hazardous to basic state services. He understood that the PFD was critical to many Alaskans. He pointed out that what oil prices would be in the future was not known and they could be half of what they were at present. He supported a balanced budget approach. He reiterated that the current budget doubled the PFD from the

last calendar year with the inclusion of the energy relief component, which he believed was a good approach. He did not support the amendment.

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Vice-Chair Ortiz associated himself with the comments of the previous speaker. He stated that the amendment did not reflect prudent fiscal planning. He emphasized the amendment was based on revenue projections instead of actual revenue. He remarked that the state was constitutionally obligated to take care of providing for an adequate education for all Alaskans. He stated it was nice if the other things could be funded, but the legislature did not know whether it could do so. He did not support passing the amendment.

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Representative Josephson remarked that the amendment complied with statute, which the supreme court had specified the legislature could disregard as the appropriating body. He believed it was illustrative of the problem with funding a full dividend that it took "us back to the last seven years." He was worried about unlearning some things. He highlighted that the committee had learned from its fiscal analyst the previous week that the FY 23 projections were more dubious than the FY 22 projections because they were farther out in the future. He opposed the amendment.

Representative Rasmussen referenced Mr. Painter's earlier testimony that the budget's forward funding language included a provision to decrease the funding if it was not available. She asked if the CBR transfer of \$250 million [adopted in an earlier amendment] took precedence over the forward funding.

Mr. Painter answered that the CBR transfer was effective in FY 22 and would not enter the calculation for FY 23.

Representative Rasmussen highlighted that it would ultimately fall on Alaskans when there were shortages. She understood how education provided for the good of everyone in the state, but she also understood there were some areas in government that did not need all of the funding they received. She stressed that individual Alaskans did not

have that luxury. She underscored that single mothers did not have someone guaranteeing their paycheck for the next year. She pointed to high grocery costs. She thought the statute should be changed and the legislature should follow the statute. She understood the current statute was not sustainable. She hoped the legislature would continue its efforts to find a balance to a more sustainable dividend. She supported the amendment.

[3:32:47 PM](#)

Representative Carpenter supported comments made earlier by Vice-Chair Ortiz and believed they were illustrative of the challenge at hand. He restated Vice-Chair Ortiz's remarks that the revenue was projected and not known. He stated that some legislators had been wanting to have a conversation about fixing the structural imbalance in order to always deal with known revenue as opposed to projected revenue. He highlighted that the more the state relied on oil revenue and Permanent Fund earnings revenue it was putting all its eggs in the projected revenue basket. He stated the crux of the problem went to the structural imbalance that included a statute on the books. He stressed that the people back home did not care what the justices ruled. He stated that the people expected the legislature to follow the law. He clarified that the current conversation was not about shorting education. He pointed out there may not be enough money to forward fund education, but education would not be short funded. There was a structural imbalance that the legislature continually did not want to address year after year. He wanted to continue having a long-term conversation about how to address the structural imbalance, including how to follow the law and meet obligations. He stated that if the amendment was not passed, they were shorting Alaskans.

[3:35:42 PM](#)

Co-Chair Merrick stated that the amendment called for a statutory PFD. She remarked that the administration had previously supported a statutory PFD and had shifted support to a 50/50 PFD. She asked why there had been a shift away from the statutory PFD.

NEIL STEININGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, answered that the governor had put forward constitutional amendments to address the PFD and

remove it from the annual discussion of budget priorities. He stated that when looking at the governor's ten-year plan and projection of the state's fiscal reality, the administration believed a 50/50 PFD was fair. He stated it was a fair split of the POMV draw and was affordable in the long-term under the state's fiscal reality. He stated the fairness was essential to any dividend plan going forward. He believed the people would accept the idea if put forward on the ballot in the form of a constitutional amendment.

Representative Thompson asked what happened if the legislature changed the PFD formula prior to adjournment.

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Representative Edgmon thought the response was pretty straight forward based on the Wielechowski decision the legislature's power to appropriate rose above whatever may exist in statute. He elaborated that the governor would have to sign the bill. Additionally, there would be an effective date attached. He reasoned if the effective date was 90 days, the operating budget may go into effect before the bill. He stated they really did not know. He looked to Mr. Painter for verification that the legislature's power to appropriate rose above any bill that would be passed.

Mr. Painter added that the appropriation as written (in Amendment L6) specified the amount authorized under AS 37.13.145(b). He explained that if the statute was modified it could change the amount paid under the appropriation; however, he would recommend a fiscal note to be attached to the other piece of legislation for clarity specifying it would replace the appropriation.

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Representative Thompson provided a hypothetical scenario where the legislature passed separate legislation with a 75/25 PFD [split between government services and the PFD respectively]. He highlighted the action would have a substantial impact on the current discussion about a 50/50 split.

Mr. Painter replied affirmatively. He detailed that if the legislature passed a bill specifying the amount authorized under AS 37.13.145(b) was one-quarter of the POMV draw,

\$840 million would go out [for distribution] instead of \$2.76 billion.

Representative LeBon referenced the original statutory formula passed in the 1980s. The formula contained a lookback feature and took the earnings of the Permanent Fund and allowed for a percentage to be deposited into the PFD account. He stated the funds were shared between PFD payments and potentially government services. He stated that the intent of the statute was to share roughly 50/50 between PFD payouts and state services (e.g., education, public safety, health). He explained that over the years the PFD portion had been deposited into the PFD account (with some inflation proofing), but the government draw had been nonexistent. He expounded that legislatures over the years had appropriated extra money into the Permanent Fund that did not have to be appropriated. He stressed it was not an accident that the Permanent Fund was currently worth \$80 billion. He underscored there had been an intention on the part of past legislatures to build the fund up over 40 years and to sacrifice spending decisions in order to do so.

Representative LeBon continued that in the past, the state had been enjoying pipeline throughput of up to 2 million barrels per day, but it had presently been on decline for 30 years. He highlighted that at present, less than 25 percent of the pipeline was filled. He stated that sometimes price volatility played in the state's favor, but it could not be counted on all of the time. He pointed out that one year earlier there had been near panic about paying for state services and hoping to get a \$1,200 PFD. He stated, "wow, do things change quickly." He underscored that Amendment L6 was a bad amendment that should go down. He suggested the committee members should be the adults in the room and make certain that PFD and energy rebate checks balanced with essential state services that constituents wanted. He stressed that constituents wanted public safety, education, and health and social services. He emphasized committee members should be making amendments to cut state spending if they believed otherwise. He did not see serious cuts being proposed by the committee.

[3:43:34 PM](#)

Representative Wool supported Representative LeBon's statements. He referenced Representative LeBon's statement

that the Permanent Fund was worth \$80 billion He pointed out that it had been worth \$83 billion in the recent past. He underscored the volatility of world markets and oil. He did not support passing the amendment. He stressed that that Permanent Fund was in the state constitution, but the PFD was not. He stressed that education is in the constitution. He noted there were educators in the building the current week and districts were hurting. He remarked that energy prices had a major impact on school districts. He stated the districts would not receive an energy check. He supported education as a priority. He cited the Wielechowski decision and stated the legislature legally had the discretion to appropriate what it saw fit.

Representative Rasmussen asked Mr. Painter if the amendment forced the legislature to overdraw the POMV under SB 26.

Mr. Painter replied, "No, it does not."

Representative Rasmussen stated that if the amendment passed, the budget still funded two years of education and met the constitutional requirement. She believed the way the amendment was written gave the legislature time to change the formula if it chose to do so. She reasoned that the amount could be \$2.8 billion or \$1.35 billion or \$1.4 billion if the legislature changed to a 50/50 split. She did not see the amendment hurting the \$80 billion investment. She pointed out that the amendment did not overdraw the POMV, education was funded for two full years, and it met the legislature's statutory obligation that had not been met in recent years. She supported the amendment.

Representative Edgmon stated there were a lot of predications built into the statement made by the previous speaker. He noted that one of the predications was that oil prices remained at a high. He explained that if oil prices plummeted after PFD checks were distributed there would be unknowable downstream impacts. He saw a strong risk associated with putting all of the money out and taking a chance there may not be sufficient funds to pay for essential services. He could not support the amendment.

[3:48:21 PM](#)

Representative Wool remarked that Representative Rasmussen had stated the budget could still forward fund education at \$1.2 billion if the amendment passed and paid a full PFD.

He stated it was his understanding that was not the case. He would not support the amendment either way.

Mr. Painter estimated the budget could pay about three-quarters of the forward funding. He noted it assumed the governor's capital budget level in FY 23.

Representative Wool pointed out that the oil forecast the committee was using had been made with a five-day window of oil prices for the futures market. He noted the prices used were higher than they had been in quite some time. He was a no vote on the amendment.

Representative Josephson referred to Mr. Painter's previous statement that with the amendment, the legislature would be looking more at the governor's \$150 million capital budget, and less at the \$300 million or \$400 million that had been discussed by the two legislative chambers.

Mr. Painter replied affirmatively. He explained that his prior statement that the budget could include roughly three-quarters for the forward funding [of education] assumed the governor's capital budget level. He stated that if the capital budget in FY 23 were higher, it would eat into the forward funding. He suggested the legislature could also make capital projects effective in FY 22, but it was outside the scope of what had been discussed.

[3:50:39 PM](#)

Co-Chair Foster provided wrap up on the amendment. He appreciated all of the comments made by committee members and believed they were all fair and good. He recognized some of the comments that there were numerous assumptions built into the amendment including that oil prices were having a banner year and may not remain that way forever. He referenced comments about what would happen if there was a large crash in the state's revenue and whether a full PFD could still be paid. He highlighted a comment asking where the proposed cuts to the budget were. Additionally, there had been questions about whether the amendment would potentially reduce funding for education, which was a constitutional obligation. He highlighted that the PFD statute was on the books and if the legislature did not deal with it in the current year, it would continue to be an amendment in the following years. He thought the

legislature needed to focus on rewriting the formula if legislators wanted to pay a smaller PFD.

Representative Josephson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Rasmussen, Carpenter, Johnson, Foster
OPPOSED: LeBon, Ortiz, Thompson, Wool, Edgmon, Josephson, Merrick

The MOTION to adopt Amendment L6 FAILED (4/7).

Co-Chair Foster relayed that the committee would meet again the following morning to continue amendments.

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

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

Representative Thompson asked about the schedule for the week.

Co-Chair Foster answered that he hoped to be finished with amendments on Wednesday.

ADJOURNMENT

[3:54:00 PM](#)

The meeting was adjourned at 3:54 p.m.