

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

August 23, 2021

12:10 p.m.

**MEMBERS PRESENT**

Representative Ivy Spohnholz, Chair  
Representative Adam Wool  
Representative Andy Josephson  
Representative Calvin Schrage  
Representative Andi Story  
Representative Mike Prax  
Representative David Eastman

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 3004

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

- HEARD & HELD

PRESENTATION(S): COMPREHENSIVE FISCAL PLAN WORKING GROUP REPORT

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB3004

SHORT TITLE: APPROP: REVERSE OPERATING APPROP. VETOES

SPONSOR(S): WAYS & MEANS

08/20/21	(H)	READ THE FIRST TIME - REFERRALS
08/20/21	(H)	W&M, FIN
08/23/21	(H)	W&M AT 11:00 AM DAVIS 106

**WITNESS REGISTER**

ALEXEI PAINTER, Director  
Legislative Finance Division  
Juneau, Alaska

**POSITION STATEMENT:** Presented a PowerPoint titled "Update on Fiscal Summary, Governor's Vetoes, and Reverse Sweep; Comparison of HB 3003 and 3004," dated 8/23/21.

MEGAN WALLACE, Director  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions and provided information during the hearing on HB 3004.

#### **ACTION NARRATIVE**

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**CHAIR IVY SPOHNHOLZ** called the House Special Committee on Ways and Means meeting to order at 12:10 p.m. Representatives Eastman, Prax, Story, Schrage, and Spohnholz were present at the call to order. Representatives Josephson and Wool arrived as the meeting was in progress. Also present were Representatives Drummond and Ortiz.

#### **HB3004-APPROP: REVERSE OPERATING APPROP. VETOES**

[Contains discussion of HB 3003.]

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CHAIR SPOHNHOLZ announced that the only order of business would be HOUSE BILL NO. 3004, "An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; making capital appropriations and 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."

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ALEXEI PAINTER, Director, Legislative Finance Division, presented a PowerPoint titled "Update on Fiscal Summary, Governor's Vetoes, and Reverse Sweep; Comparison of HB 3003 and 3004." He began his presentation with slide 4, "Short Fiscal

Summary - FY21/FY22 Budget," which displayed a summary of the enacted budget after vetoes. He drew attention to line 7, Agency Operations, which he said considers the effect of SB 55, which shifted retirement funding from the Statewide Items line to Agency Operations. He noted that the \$100 million reduction exists even after adding \$73 million to the Agency Operations undesignated general fund (UGF) under SB 55, and the Statewide Items reduction is largely due to SB 55.

MR. PAINTER pointed out the Capital Budget on line 10, noting that the full capital budget was not passed the prior year because of the abbreviated legislative session due to the COVID-19 pandemic; this year's capital budget is larger than recent years due, in part, to the last abbreviated session as well as additional projects. He then noted the governor's veto of all but \$8.5 million from the Permanent Fund dividend, which covers administrative costs but not payment of the actual dividends.

MR. PAINTER concluded slide 4 with the note that there is a surplus of \$220.6 million before fund transfers, which total \$250 million from the American Rescue Plan Act of 2021 as well as "some use" of the statutory budget reserve. After fund transfers, he said, the surplus totals \$536.6 million.

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REPRESENTATIVE STORY asked for information on the reduced percent of market value (POMV) draw, as noted on line 3 of the slide.

MR. PAINTER explained SB 26 established the first POMV draw, and the first three years used a higher draw percentage of 5.25 percent, which decreased to 5 percent starting in FY 2022.

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MR. PAINTER presented slide 5, "Projected FY22 Fund Balances - With Reverse Sweep," which displayed a version of the fund balance if a reserve sweep exists; he noted that there is currently no reserve sweep. The constitutional budget reserve (CBR) fund of -\$536.6 million represents a deposit, he said, as surpluses go into CBR; the CBR balance at the end of the year is expected to be approximately \$1 billion, with \$330 million in the statutory budget reserve fund, which represents vetoes by the governor. The designated funds tracked in this report, he said, are projected to total \$1.675 billion at the end of FY 2022, assuming a reverse sweep.

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MR. PAINTER presented slide 6, "Projected FY22 Fund Balances - Without Reverse Sweep," which displayed a version of the fund balance if there is no reverse sweep, which is the current situation. He said this version assumes that the only fund that changes, resulting from how the sweep was conducted in FY 2020, is the power cost equalization (PCE) endowment fund. There would exist a larger balance in the CBR, a smaller balance in the designated funds, and no starting balance in the other funds undesignated reserves, because those amounts would be swept into the CBR.

CHAIR SPOHNHOLZ asked whether the three-quarter vote threshold would apply whether or not the reverse sweep exists.

MR. PAINTER replied in the affirmative.

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MR. PAINTER presented slide 8, "Summary of Governor's Vetoes." There were \$64.5 million in vetoes of legislative addition, of which approximately \$57 million is undesignated general fund (UGF). He noted that some of the vetoes were for items funded by the legislature at the statutory level, which were then vetoed, such as community assistance. Partial veto of legislative addition totals approximately \$11.6 million, and was largely comprised of vetoes to the Alaska Marine Highway System. The category of veto to match governor's proposed reduction, totaling approximately \$38 million, is comprised of items cut from the budget passed by the legislature and includes Medicaid and the Alaska Legal Services Corporation. The vetoes of funding from a difference source than proposed by the governor, totaling approximately \$1 million; this category is largely comprised of the veto of funds to the Alaska Mental Health Trust. The vetoes in the category of other operating items were largely in the area of the permanent fund dividend (PFD); the legislature had proposed a smaller amount than proposed by the governor, who then vetoed all but \$8.5 million. The governor also vetoed approximately \$2 million in legislative per diem, he said. The public school trust fund, he said, had been over-appropriated by the legislature, so the governor vetoed some of the funds in order to be consistent with the statutory formula.

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REPRESENTATIVE JOSEPHSON sought to clarify whether Mr. Painter had stated that the legislature "inadvertently overfunded" the education appropriation.

MR. PAINTER explained that the governor vetoed funding from the public school trust fund, which is a dedicated fund in the statehood compact. The trust fund is currently an endowment with a draw limited to a percentage of market value (POMV), and the legislature inadvertently appropriated more than the limit. The statute specifies that the POMV draw is to pay for the education formula as well as management fees, he said, so management fees were vetoed by the governor with the expectation that the UGF would make up the difference in funding.

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REPRESENTATIVE STORY commented that many items and services that were cut were in areas in which the legislature worked to improve Alaskans' quality of life.

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MR. PAINTER resumed his explanation of slide 8 with the capital projects category of vetoes, which totaled approximately \$331 million. He noted the vetoed federal funds, which were from DOT&PF's budget designated to project acceleration, which would provide flexibility. He clarified that the veto doesn't necessarily mean Alaska loses \$220 million in federal funds, but that DOT&PF may have less flexibility than they would have without the veto.

CHAIR SPOHNHOLZ pointed out that details on all vetoed items was available on slides 27-31. Services such as public broadcasting, emergency response system, children's services, community assistance, Medicaid, and behavioral health treatment were legislative additions, she said, but were vetoed by the governor.

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REPRESENTATIVE PRAX asked where to find the presentation.

[12:28:58 PM](#)

REPRESENTATIVE STORY inquired about the increased cost of materials and flexibility in the face of the vetoes.

MR. PAINTER replied that he can't offer insight into the governor's reasoning for any particular veto.

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MR. PAINTER presented slide 10, "CBR Sweep Mechanism," which read as follows [original punctuation provided]:

The CBR sweep provision was established in Article IX, Section 17 of the Alaska Constitution:

(d) Repayment requirement - "If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law."

MR. PAINTER noted that the legislature currently owes the CBR fund approximately \$11 billion from appropriations from the fund that have not been repaid. He then presented slide 11, titled "Reverse Sweep," which read as follows [original punctuation provided]:

- The "reverse sweep" is an appropriation from the CBR that returns swept funds back to the original subfund or account. The "reverse sweep" is an appropriation under art. IX, sec. 17(c), and requires a 3/4 vote to pass.
- The sweep is effective at the end of a fiscal year (June 30) and the reverse sweep is effective on the first day of the following fiscal year (July 1).

MR. PAINTER noted that the language doesn't actually reverse the sweep from the CBR fund, only from the funds and accounts under it.

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REPRESENTATIVE JOSEPHSON asked whether or not the funds in the general CBR fund are swept.

MR. PAINTER replied that the general funds that are not part of sub-funds are swept, and that sweep is typically not reversed.

REPRESENTATIVE JOSEPHSON hypothesized about an amendment to HB 3003 to spend general fund dollars, and he asked why the money specified in the amendment shouldn't be deemed "swept and unavailable."

MR. PAINTER explained that if general fund dollars are to be spent in FY 2022, it's FY 2022 revenue into the fund that's being spent. If there is a post-transfer surplus in the fund, he said, it can be spent; however, FY 2021 dollars cannot be spent without a three-quarters vote.

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MR. PAINTER advanced to slide 12, "State Implementing Sweep was Found Unconstitutional," which read as follows [original punctuation provided]:

- AS 37.10.420 was intended to implement the sweep.
- The Supreme Court in *Hickel v. Cowper* found this statute unconstitutional in 1994.
- Since then, the executive branch has had to implement the sweep without statutory guidance. The list of sweepable funds has been driven by legal interpretations of *Hickel v. Cowper*.
- The legislature could pass a new statute that attempts to define which funds are sweepable, but absent this or a court case the administration's interpretation is operative.

CHAIR SPOHNHOLZ called on Ms. Wallace to provide further explanation of the 1994 legal decision that found the statute unconstitutional.

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MEGAN WALLACE, Director, Legislative Legal Services, Legislative Affairs Agency, explained that discussion in the case centered on article IX, section 17(b), which is the provision within the CBR constitutional amendment that dictates when the legislature can access the funds with a simple majority vote, as well as defining what it means have an amount available for an appropriation. The statutes passed by the legislature had attempted to define the amounts; the court struck down the legislature's definition. In another statute, she said, the

same definition was used; because the definitions were the same, she said, subsection(b) was struck down by the Alaska Supreme Court.

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MR. PAINTER presented slide 13, "How the Sweep Works," which read as follows [original punctuation provided]:

- The Department of Administration's Division of Finance (DOF) accountants calculate the sweep while preparing the Annual Comprehensive Financial Report (ACFR). The sweep represents unreserved, undesignated fund balances of the general fund subfunds.
- DOF accountants calculate the sweep in September as the ACFR is prepared yet the amount of the sweep is posted in the financial records as of the end of the fiscal year (June 30th).
- After the ACFR is prepared (historically by the end of October), the ACFR is audited by the legislative auditor. The sweep amount is adjusted as necessary.

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MR. PAINTER progressed to slide 14, titled "Changes in Interpretation for FY19 Sweep," which read as follows [original punctuation provided]:

- Starting with the FY19 sweep, the administration expanded the scope of the sweep to include additional funds.
- Most significantly, the sweep was expanded to include the Power Cost Equalization (PCE) Fund and the Higher Education Investment Fund.
- While this added only a few new funds, it greatly increased the affected balances: in FY20, those two funds accounted for \$1.4 billion out of the \$1.5 billion swept to the CBR.

MR. PAINTER presented slide 15, "Impact of Litigation on Sweep Interpretation," which read [original punctuation provided]:



- The Alaska Federation of Natives brought a lawsuit against the administration challenging the sweepability of the PCE Fund.

- On August 11, a Superior Court ruled in favor of the plaintiffs, finding that PCE should not be subject to the sweep because, although it was available for appropriation, it was not part of the general fund.

- The Superior Court decision also indicates that other funds that are statutorily established outside the general fund should not be swept, although this is not directly ordered.

- LFD is reviewing the sweepable funds list to determine whether other funds should be reclassified, although it is up to the administration to reclassify them in the absence of further litigation.

- Most notably, the Statutory Budget Reserve likely should not be subject to the sweep under this ruling based on statutory language that places the fund as a "separate fund in the state treasury" rather than in the general fund (see footnote 77 of the decision). This fund has long been considered sweepable.

- The Higher Education Fund was established in the general fund and would not be affected by this ruling.

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CHAIR SPOHNHOLZ asked Ms. Wallace to discuss the sweep how much discretion the administration has regarding what is sweepable, as well as how the sweep has historically been defined.

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MS. WALLACE explained that the PCE fund had not been swept during previous administrations; under the Dunleavy Administration, however, former Attorney General Kevin Clarkson determined the fund was sweepable. She pointed out that Hickel v. Cowper, 874 P.2d 922 (1994), is the only Alaska Supreme Court decision on the topic, so there is not much legal guidance to make determinations about appropriations. The more recent Anchorage Superior Court decision found that the PCE fund was

not part of the general fund, and the legislature has the constitutional authority to create funds outside of the general fund. The language specifically says that the legislature has expressly created many funds and accounts in the general fund for various purposes, she said, and noted several examples of separate funds; the Anchorage Superior Court decision provided further explanation regarding which funds are sweepable.

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CHAIR SPOHNHOLZ emphasized the importance of considering policy and fiduciary responsibilities, and she noted that the Higher Education Investment Fund (HEIF) is now sweepable. The failure of the reverse sweep, she said, now means that funds in HEIF, which have outperformed the CBR, are now swept into the CBR. In 2017, she said, the HEIF earned over 12 percent in interest, while CBR earned approximately 1.83 percent; the sweep of HEIF into CBR means the investment from the general fund in higher education will be increased.

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REPRESENTATIVE EASTMAN asked whether management of CBR is at the legislature's discretion, and whether there are any proposals to improvement the management.

CHAIR SPOHNHOLZ replied that "everything" is at the legislature's discretion.

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MR. PAINTER pointed out that there is a statute that governs the management of CBR which states that when the balance of CBR is needed within five years for deficit management, the goal is preserving cash through conservative management. When there exists a balanced budget or a surplus, he said, CBR can be invested more aggressively.

CHAIR SPOHNHOLZ added that there had been details described by Alaska Permanent Fund Corporation (APFC) Chief Executive Officer (CEO) Angela Rodell explaining why the rules-based framework is so important; it's known how much money is needed for both state operations and dividend payments, so APFC is able to invest as aggressively as possible while still meeting its obligations.

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REPRESENTATIVE JOSEPHSON asked how managers handle the "chaos" of a reverse sweep with respect to investment funds.

MR. PAINTER reported that the administration was trying to gradually transition the portfolio to match CBR, rather than engaging in a mass sell-off which would result in a loss of value, then transition back in the case of a reverse sweep.

REPRESENTATIVE JOSEPHSON expressed that such maneuvers can't be "seamless."

CHAIR SPOHNHOLZ expressed that Mr. Painter just described some of the potential consequences of such transitions.

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REPRESENTATIVE PRAX asked whether funds taken from CBR would still be available for appropriation for other purposes.

CHAIR SPOHNHOLZ asked Representative Prax whether he was asking whether the funds would be swept back into the higher education fund from CBR in the case of a reverse sweep.

REPRESENTATIVE PRAX responded, "Correct."

CHAIR SPOHNHOLZ asked, "Would they be available for appropriation?"

REPRESENTATIVE PRAX answered yes.

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MR. PAINTER deferred to Ms. Wallace

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MS. WALLACE explained that funds are available for appropriation by the legislature once they've been reversed back into the original account; any funds affected by the reverse sweep, returning to the higher education fund from CBR, would remain available for legislative appropriation out of the higher education fund and would potentially be subject to a sweep in a subsequent fiscal year.

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REPRESENTATIVE PRAX wondered whether the fact that the funds are still be subject to appropriation could affect the investment strategy of those funds.

CHAIR SPOHNHOLZ pointed out that, hypothetically, such a situation could happen at any time. She said the point of setting up the funds was to designate funding to a specific purpose, and that having a longer time horizon for the use of funds would allow for more aggressive investment. Conservative investment would allow for more cash on hand, she said, thus less wealth would be generated from the funds.

REPRESENTATIVE PRAX said in times of fiscal stress, designated funds are exposed to a greater risk of appropriation to a different use.

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REPRESENTATIVE STORY asked how to protect the Higher Education Investment Fund.

MR. PAINTER replied that the fund was established by statute in the general fund; if it were not, it would not be subject to the sweep.

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MR. PAINTER resumed his presentation of slide 15, pointing out that the Statutory Budget Reserve (SBR) is listed specifically as separate from the general fund, which indicates that it should not be swept, though it has historically been considered sweepable.

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REPRESENTATIVE JOSEPHSON asked whether the governor's response could only be veto or litigation if the legislature chose to spend the SBR, treating it as "unswept."

MR. PAINTER replied that litigation would be expected on that point. He pointed out that there were \$80 million in appropriations from the SBR that were used to fund capital projects, so if the governor decided not to reclassify the fund, litigation could follow.

REPRESENTATIVE JOSEPHSON sought to verify that the governor had decided to authorize the expenditure of \$80 million.

MR. PAINTER responded that he believes those appropriations were made as part of the budget under HB 69 but have not been released.

REPRESENTATIVE JOSEPHSON concluded that it can't be known whether the administration intends to spend that money or declare that the funds are swept.

MR. PAINTER confirmed Representative Josephson's comment.

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MR. PAINTER turned to slide 16, "Impact of Sweep on the budget," which read as follows [original punctuation provided]:

- Based on the list of funds swept in FY20 by the Division of Finance, the FY22 budget uses \$367.4 million from sweepable funds. Subtracting the PCE fund would reduce that to \$321.2 million.
  
- Not all funds are impacted equally, however. LFD breaks them into three categories:
  1. Immediate Impact: No ongoing source of revenue to support appropriations.
  2. Partial Impact: Ongoing source of revenue that is insufficient to support appropriations.
  3. Minimal/No Impact: Ongoing source of revenue fully covers appropriations.

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REPRESENTATIVE JOSEPHSON discussed the prevention account for the Division of Spill Prevention and Response (SPAR) in the Department of Environmental Conservation (DEC). He asked how to handle the circumstance of a sweep of \$12 million, leaving \$9 million to operate.

MR. PAINTER deferred to the Office of Management & Budget (OMB), and he expressed that in some cases, OMB would structure appropriations to ensure ongoing revenue.

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MR. PAINTER resumed the presentation and reviewed a summary of impacts by category: Immediate impact, immediate impact pending interpretation, partial impact, and minimal to no impact. There are more appropriations from the low impact categories, with balances coming from the immediate impact categories.

CHAIR SPOHNHOLZ clarified that the permanent fund dividend (PFD) this year was largely funded through SBR because of the failure of the reverse sweep.

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MR. PAINTER detailed immediate impact on slide 18, "Immediate Impact." He said the Higher Education Investment Fund is the only one in the "Immediate Impact" category; since it's an investment fund, the only ongoing revenue is investment earnings, resulting in a \$21 million shortfall. Similarly, he said, if the SBR is swept, there would be an \$80.7 million shortfall in capital projects and school debt.

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REPRESENTATIVE STORY noted that more money was lost due to the low CBR interest versus high interest in the fund.

MR. PAINTER stressed that most years would see a return of approximately 6 percent, which is the amount in ongoing appropriations, instead of the 38 percent return seen this year.

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REPRESENTATIVE JOSEPHSON expressed concern about the term "immediate" in terms of impact. He said the Alaska Children's Trust relies on the marijuana education and treatment fund to operate in approximately 40 communities, and the fund is swept. He said, "Am I wrong when I say they also have an immediate impact?"

MR. PAINTER responded that the MET fund has an ongoing revenue source to fulfill a portion of the appropriations, so the administration could keep making payments in anticipation of a reverse sweep. He stressed that the decision is between funds where there exists no money, versus "some" money, to pay the appropriations.

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MR. PAINTER turned to slide 19, "Items Funded with Statutory Budget Reserve in FY 22 Budget," which read as follows [original punctuation provided]:

- Governor vetoed \$320.0 million appropriation for Permanent Fund Dividends from the SBR, along with \$362.5 million from the general fund.
  - If the SBR is swept, this would have resulted in a PFD estimated to be \$525. If the SBR is not swept, the vetoed PFD would have been estimated to be \$1,025.
  
- SBR also funds \$4.15 million for School Debt Reimbursement in FY22.
  
- SBR was used to fund \$76.5 million of capital projects, including:
  - \$10 million for Mat-Su Borough Pavement Rehab
  - \$9 million for Houston Middle School
  - \$8.5 million for West Susitna Access
  - \$36.5 million of projects in the Department of Natural Resources, including \$10 million for firebreak construction
  - \$6.3 million of projects in other agencies

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REPRESENTATIVE EASTMAN expressed that he didn't remember SBR having much money last year, and he asked how the account was funded.

MR. PAINTER replied that two appropriations filled the account. One populated the account with lapsing balances of general fund appropriations from FY 2021, rather than lapsing them to CBR. The other was an appropriation directly to SBR in the amount of \$325 million from the general fund. The two appropriations totaled \$410.7 million in SBR, which was spent in the FY 2022 budget.

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MR. PAINTER presented slide 20, "Partial Impacts," and he stressed that these are areas of appropriation where there is some ongoing revenue, but in which there still exists a shortfall. He said the largest impact is the Alaska Capital Income Fund, which is used for deferred maintenance; because of the high investment returns in FY 2021, there exists extra money

in the fund that would have been spent in the FY 2022 budget, but will be swept, leaving a shortfall of \$18.5 million. He noted several funds with shortfalls due to the CBR sweep, and he called special attention to the recidivism reduction fund, which has almost a \$5 million shortfall due to previous' years exceeded projections, and the marijuana education and treatment fund, which had been under discussion earlier in the meeting.

CHAIR SPOHNHOLZ pointed out the impacts of a failed reverse sweep, noting that the recidivism reduction fund is used for halfway houses and addiction treatment, and the marijuana education and treatment fund is used for prevention programs.

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REPRESENTATIVE STORY asked whether the rate of return for any of the funds on slide 20 would allow for separate funds to be established in statute, as is the case with the Higher Education Investment Fund.

MR. PAINTER responded that many of the funds are in the "general fund and other non-segregated funds" (GeFONSI), which have relatively low earnings amounts due to their ongoing use, whereas funds for long-term use, such as the Higher Education Investment Fund or the Power Cost Equalization (PCE) fund, have a higher return.

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REPRESENTATIVE PRAX asked for the source of inflow to the recidivism reduction fund.

MR. PAINTER responded that it's a portion of marijuana tax receipts.

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REPRESENTATIVE SCHRAGE discussed the betrayal of public trust stemming from the expectation that certain taxes would have specific purposes, not to be swept to CBR. He said a portion of the marijuana tax was expected to be used for education and treatment, and he characterized the use of funds as "almost criminal."

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MR. PAINTER presented slide 21, "Minimal/No Impact," which listed several programs with accounts that had nothing to sweep, or the amount of available projected revenue is higher than or equal to the amount used in the FY 2022 budget, so there would be no impact from a sweep.

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MR. PAINTER presented slide 22, "4. Comparison of HB 3003 (Governor's appropriation bill) to HB 3004 (Ways and Means appropriation bill) and continued to slide 23, "HB 3003 (Governor's Appropriation Bill)," which read [original punctuation provided]:

- \$1.53 billion from the ERA to the Dividend Fund for a 2021 PFD based on 50% of the POMV draw
  - While this is based on 50% of the POMV draw, it is an additional draw beyond the POMV for FY22
- \$1.47 billion transfer from the ERA to the CBR
  - When added to the above appropriation, this represents the Governor's \$3 billion "bridge fund"
- \$21.4 million of fund changes from Higher Education Investment Fund to UGF, supporting Alaska Performance Scholarship Awards, Alaska Education Grants, and WWAMI Medical Education

CHAIR SPOHNHOLZ asked whether the governor's bill would double the amount of money taken from the Permanent Fund if it were to pass in its current form.

MR. PAINTER answered yes.

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REPRESENTATIVE SCHRAGE asked why the specific funds would be supported by the \$21.4 million, as described in the third bullet point, instead of any of the other funds.

MR. PAINTER replied that the Higher Education Investment Fund is the only fund in the "immediate impact" category due to the lack of partial funding. The other items have some funding available, and may prorate or delay grants.

REPRESENTATIVE SCHRAGE expressed that if the reverse sweep is not addressed, and funding for the other programs isn't restored within a few months, the impact would be the same by end of fiscal year.

MR. PAINTER responded that there would only be a partial reduction in the funds, so while there would be an impact at the end of the fiscal year, it would be less of an impact on those funds.

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MR. PAINTER continued to slide 24, titled "HB 3004 (Ways and Means Appropriation Bill)," which read as follows [original punctuation provided]:

- Restores funding for all Governor's vetoes of operating and capital items except for the PFD
- Appropriates \$500.7 million to the PFD Fund (representing a roughly \$742 PFD) from the General Fund and Statutory Budget Reserve
- Funds direct CBR funded items that were removed from HB 205 with the failure of the CBR vote
  - \$114.0 million for oil and gas tax credits,
  - \$48.6 million for School Debt Reimbursement
- Provides reverse sweep and CBR deficit-filling language (requiring a  $\frac{3}{4}$  vote)

CHAIR SPOHNHOLZ noted the importance of understanding that a PFD of \$742 is what the Permanent Fund could support unless other revenue sources can be found.

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REPRESENTATIVE JOSEPHSON asked whether the difference between an \$1,100 and \$742 PFD is due to oil and gas tax credits and school bond debt reimbursement being funded not using CBR.

CHAIR SPOHNHOLZ replied yes.

REPRESENTATIVE JOSEPHSON surmised that adding the \$114 million for oil and gas tax credits and the \$48.6 million for school bond debt reimbursement would translate to an \$1,100 PFD.

MR. PAINTER added that \$48 million from CBR was directly funding the \$1,100 PFD.

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REPRESENTATIVE PRAX asked whether legal issues would arise from funding the PFD from another source.

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MS. WALLACE explained that the dividend is subject to legislative appropriation and is calculated based on the amount of money in the Alaska Permanent Fund, so there would be no legal issue with transferring money into the Alaska Permanent Fund for payment of a PFD.

REPRESENTATIVE PRAX expressed that the statutes seem confusing.

CHAIR SPOHNHOLZ clarified that the statute is about defining the amount of the dividend, but the legislature has the ultimate appropriating authority.

REPRESENTATIVE PRAX expressed that "taking funds from the constitutional budget reserve to pay the dividend" would create a future obligation to fund CBR.

MR. PAINTER answered that anything spent from CBR becomes subject to repayment.

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REPRESENTATIVE EASTMAN said the money from the dividend is to come from the earnings reserve account (ERA), and he wondered why money wouldn't be taken from ERA.

CHAIR SPOHNHOLZ said the point of the draft of HB 3004 was to show what dividend could be afforded if a balanced budget were passed.

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REPRESENTATIVE STORY asked whether an amendment could be made to HB 3003 to direct money into the Higher Education Investment Fund.

MR. PAINTER explained that HB 3004 would reverse the sweep, thereby restoring the money to the Higher Education Investment Fund.

REPRESENTATIVE STORY clarified that she was talking about HB 3003.

MR. PAINTER answered that such an amendment could be adopted to HB 3003, and that it would require a three-quarters vote to remove money from CBR.

[1:29:15 PM](#)

REPRESENTATIVE EASTMAN asked why a balanced budget would allow a dividend of \$742, when the Alaska Permanent Fund has gained approximately \$20 billion.

CHAIR SPOHNHOLZ reiterated that HB 3004 was drafted based on a presumption that the statutory formula for spending from the Alaska Permanent Fund that was passed in SB 26 in 2018.

[1:30:54 PM](#)

REPRESENTATIVE EASTMAN commented that HB 3004 would require support from the House minority to pass, and he asked why there was "no effort to consult with or gain consensus from" members of the minority in drafting the proposed legislation.

CHAIR SPOHNHOLZ acknowledged his comments, and she reiterated that the goal was to define the existing problem, clarify the impact of the reverse sweep, and show what a balanced budget would look like when operating within the rules-based framework with regards to drawing from the Alaska Permanent Fund.

[HB 3004 was held over.]

[1:32:18 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 1:32 p.m.