

HOUSE FINANCE COMMITTEE
March 7, 2023
1:35 p.m.

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CALL TO ORDER

Co-Chair Johnson called the House Finance Committee meeting to order at 1:35 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair
Representative Neal Foster, Co-Chair
Representative DeLena Johnson, Co-Chair
Representative Julie Coulombe
Representative Mike Cronk
Representative Alyse Galvin
Representative Sara Hannan
Representative Andy Josephson
Representative Dan Ortiz
Representative Will Stapp
Representative Frank Tomaszewski

MEMBERS ABSENT

None

ALSO PRESENT

Neil Steininger, Director, Office of Management and Budget, Office of the Governor; James Stinson, Director, Office of Public Advocacy, Department of Administration; Samantha Cherot, Public Defender, Public Defender Agency, Department of Administration; Deb Etheridge, Director, Division of Public Assistance, Department of Health; Josie Stern, Assistant Commissioner, Department of Health.

SUMMARY

HB 79 APPROP: SUPPLEMENTAL

HB 79 was HEARD and HELD in committee for further consideration.

OVERVIEW: GOVERNOR'S FY 23 SUPPLEMENTAL BUDGET

Co-Chair Johnson reviewed the meeting agenda.

#hb79

HOUSE BILL NO. 79

"An Act making supplemental appropriations, reappropriations, and other appropriations; amending appropriations; and providing for an effective date."

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^OVERVIEW: GOVERNOR'S FY 23 SUPPLEMENTAL BUDGET

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NEIL STEININGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, provided a PowerPoint presentation titled "Office of Management and Budget: Fast Track Supplemental Budget HB79," dated March 7, 2023 (copy on file).

Co-Chair Johnson noted she would leave the meeting at some point and would pass the gavel to Co-Chair Foster.

Mr. Steininger addressed the fast track supplemental that included three specific items with a need for urgent legislative action. He explained that the items were a bit different than regular supplemental items. He detailed that other supplemental items were often related to cost overruns that may present unanticipated funding challenges throughout the course of the fiscal year. The fast track supplemental items required additional funding to execute on additional operational costs in order to meet an unanticipated need going into the future. The administration was looking for expedited consideration of the items to ensure the Department of Administration (DOA) and Department of Health (DOH) could fulfill their mission related to specific circumstances that arose during the current fiscal year. He noted the departments would provide additional detail on the needs included in the fast track.

Mr. Steininger highlighted that the fast track supplemental included a total of \$8.4 million including close to \$4.7 million in undesignated general funds (UGF) and \$3.7 million in federal funds. He noted that part of the total

was a transfer of \$3 million from Medicaid to Public Assistance field services; therefore, the true increase in operational costs was closer to \$8 million UGF and nearly \$4 million in federal funds. He requested to hear from the departments on the specifics.

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JAMES STINSON, DIRECTOR, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION, thanked the committee for hearing the request by the Office of Public Advocacy (OPA). He explained that the funding was needed to address a dire situation within the agency. He detailed that OPA caseloads had hit a point where in-house attrition may occur if there was not additional contract authority to immediately relieve some of the pressure on the in-house attorneys. The agency also faced other challenges independent of the caseload backlog. He was happy to provide details if members had questions. He relayed that the additional funding requested in the fast track supplemental would enable OPA to begin tackling the problem immediately. Without the funding, the backlog would increase and the agency would start to lose employees.

Mr. Stinson understood the Public Defender Agency (PD) was facing a similar challenge, which was concerning to OPA. He explained that OPA was a downflow agency; when other agencies involved in the criminal justice system were not doing well, particularly the frontline Public Defender Agency, it had a direct deleterious impact on OPA's ability to execute its constitutionally and statutorily mandated duties. He elaborated that the situation put the agency between "a rock and a hard place" because there was nowhere for the cases to go. The cases had to go to an in-house attorney or a contractor. The agency was mandated to take the cases from the court.

Representative Hannan shared that she served on the DOA subcommittee and supported the need. She looked at page 1, line 10 of the bill [version A] and asked why the bill would appropriate money to OPA in two fiscal years (FY 23 and FY 24). She noted the bill also included an increment in two fiscal years for PD on page 2.

Mr. Steininger answered that the increments were supplemental multiyear appropriations. He turned to slide 3 and pointed to a one-time increment of \$750,000 for backlog

contractor support as an example of a supplemental multiyear appropriation. He explained there a surge in activity needed within OPA and PD to address the backlog, which would not be completed in the current fiscal year. The Office of Management and Budget (OMB) had worked with OPA and PD to determine approximately how much would be needed in FY 23. The appropriation had been structured to ensure any of the unspent money from FY 23 was available for use in FY 24.

Representative Hannan asked how it impacted the agencies' regular FY 24 budget. She asked if the [fast track supplemental] increment would reduce the agencies' FY 24 operating budget appropriation. Alternatively, she asked whether the supplemental request was in addition to the FY 24 budget.

Mr. Steininger responded that the one-time cost need and the surge in support could be viewed as a combination of the two appropriations. The amount in the fast track supplemental was the estimate of what would be spent in FY 23, but some of the spending may push into FY 24. He clarified that the fast track funds were in addition to the FY 24 operating budget funds.

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Representative Josephson referenced Mr. Stinson's statement about OPA being a downflow agency. He stated that the Department of Law (DOL) was situated at the top of the flow. He highlighted that DOL was receiving nothing from HB 325 [legislation updating domestic violence statutes passed in 2022], which he found to be astonishing. He questioned whether OPA would not need anything because DOL would not vigorously prosecute new cases under HB 325. Alternatively, he wondered whether DOL would prosecute the cases within its means. Yet OPA was anticipating increased sexual assault cases and DOL had communicated it was not spending any more money. He asked what Mr. Stinson made of that.

Mr. Stinson replied that he did not want to speak out of turn about DOL and its strategy for acquiring funding. He communicated that his current situation was critical. He stated OPA was at a precipice and the agency anticipated increased prosecutions from HB 325. He agreed with Representative Josephson on some of the logical inconsistencies. He posited that over many previous years

sometimes there may have been resource differences and allocation to the various agencies. He suggested that some of what was impacting OPA may be tied to a year where OPA did not receive resources, while a different agency did. He believed OMB's strategy moving forward to approach the situation holistically by looking at the actual need made sense. He knew what cases his attorneys had and what kind of caseloads they had in terms of sexual assault cases, and he did not have the capacity to wait for the other shoe to drop. Some of OPA's needs were driven by ancillary factors such as independent court action and other things that may also be stressing the agency. He relayed that OPA based its fiscal note off of projection from DOL. He believed the projection was conservative in terms of what OPA was anticipating.

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Representative Josephson considered the words "fast track" and thought the administration was doing a good thing by taking action immediately. He asked if the administration would treat the bill more like a supplemental or amendment or if it was asking for the legislation to be brought to the floor quickly.

Mr. Steininger replied that the administration was asking for HB 79 to be passed quickly by the legislature. He detailed that OMB took the three items from the administration's existing supplemental and amendment package and repackaged them into a separate bill in consideration of the urgency of the needs in OPA, PD, and the Office of Public Assistance. The administration wanted the bill to move forward cleanly to address the issues as expeditiously as possible.

Co-Chair Johnson requested a report showing how the different funding had transpired between the courts, DOL, and the OPA attorneys to see if there was a need for leveling [of funding] in the future. She passed the gavel to Co-Chair Foster.

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Representative Ortiz clarified he was supportive of the needs in the bill. He recalled there were fast track supplementals in the past that ended up not being so fast. He stated the urgency was there. He asked if there was

anything different about the way the current bill had been brought forward to hopefully guarantee a more positive outcome for fast tracking it.

Mr. Steininger confirmed that fast track supplementals had been put forward in the past (before his tenure with OMB) and generally supplementals passed alongside the operating and capital budgets. The difference in the case of the current fast track was it had been limited as much as possible to only three items that presented true operational concerns for state agencies in terms of the impact on the public, particularly those who the state had a higher moral obligation to serve. The administration hoped limiting the items and excluding items requiring a greater policy discussion would help facilitate the speed of the bill and communicate the urgency of the needs within the agencies.

Representative Ortiz stated that contracting for services often required RFPs [request for proposals]. He asked if the current situation was different. He wondered whether the administration would be able to contract out quickly and get things moving. Alternatively, he asked if there would be a lag time.

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SAMANTHA CHEROT, PUBLIC DEFENDER, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION, replied that PD would be able to immediately spend the funds on contracted cases to private attorneys. The agency was currently doing so and in particular to stave off having to move to vacate from new appointments in Bethel and Nome. The agency had exhausted the balance of funds from its personal services line to be able to contract the cases to private attorneys. She relayed that the agency's enabling statute allowed it to contract the cases immediately.

Representative Coulombe stated her understanding that the backlog was a result of the COVID-19 pandemic. She looked at the contractor rate cap increase [on slide 3] and asked if it reflected an anticipation of more cases coming or whether it was digging the agency out of the backlog. Her immediate concern was the existing backlog. She asked if the funding [in the bill] would enable the agencies to get out of the backlog. She asked how long it would take.

Mr. Stinson replied that the answer was both. He stated that the HB 325 supplemental was designed to head off the anticipated increase; however, in the interim that in addition to the increased contractor rate and cap increase included in the fast track would tackle the backlog. The agency was getting additional resources to get to the end of the current fiscal year. He relayed his understanding that the governor's FY 24 budget proposal was the moving forward plan. He stated that like PD, OPA had a procurement exemption because the service was mandated. He explained that OPA would have the ability to instantly begin contracting. He added that news of the fast track items had resulted in some increased interest, especially amongst former public defenders, former OPA employees, and other defense agency firms.

Representative Coulombe asked whether the courts could handle the cases if they increased quickly. She wondered if there would be a scheduling obstacle with the courts.

Mr. Stinson answered that when cases were contracted to private counsel, contractors were better able to negotiate and perhaps fully investigate the cases. He stated it was an interesting question of whether or not there were enough judges as well. He believed it would depend on the number of cases that were pushed to trial. The current issue was the backlog. For example, if a serious felon was caught in FY 19 or FY 20 that needed to go to trial, the case was going on three to four years old. The other issue was that cases continued to come in. He explained it was necessary to contract some of the cases out in order to get breathing room for the in-house attorneys. The independent contractors had less cases and more options at their disposal and therefore a better ability to resolve the cases short of trial. He understood the court system was trying to get creative with things like settlement conferences and other items. There were differing opinions on how successful the options were, but there were options that existed. He understood the point that there was a potential for a series of bottlenecks. He stated that a relief valve was needed for some of the cases. The need for PD was urgent as well.

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Ms. Cherot echoed the comments made by Mr. Stinson. She emphasized the importance of digging out of the backlog and

providing relief for existing overburdened attorneys. The agency's new attorneys needed time to gain more experience. She relayed that the agency was waiting for its next class of attorneys to start. She detailed that the next class would include third year law students graduating in the spring and law clerks would start in August and September. The money would not instantly fix or erase the backlog that had accumulated over years, but it would help immensely to provide relief and stave off having to not accept new appointments in Nome and Bethel and potentially Palmer and other areas of the state. She stated it was a dire situation for clients and overburdened attorneys. The agency did not want to see the backlog increase and did not want to lose more district attorneys.

Co-Chair Edgmon asked if the \$7.8 million total on slide 3 was a typo. He noted the subtotals did not result in the \$7.8 million shown.

Mr. Steininger confirmed it was a typo.

Mr. Steininger turned to slide 4 that covered the Division of Public Assistance under DOH. He deferred to the department for detail. The proposed amount was \$3.1 million UGF. The administration was proposing transferring the \$3.1 million in excess Medicaid Services funds and \$3.7 million in federal funds.

DEB ETHERIDGE, DIRECTOR, DIVISION OF PUBLIC ASSISTANCE, DEPARTMENT OF HEALTH, relayed that DOH was experiencing a tremendous backlog in SNAP [Supplemental Nutrition Assistance Program] cases (also known as food stamps). She explained that due to the backlog individuals were going without benefit. She elaborated it was critical to some areas in Alaska because they were a "food desert" without a food bank or access to food. The department was asking for additional staff and support to handle its virtual contact centers in order to pivot other staff to move off the contact center and work on the backlog. She reported that in addition to the SNAP backlog, there had been cascading effects to other programs. Additionally, the department was planning to unwind from the public health emergency, meaning the department would be doing redeterminations on all Medicaid recipients starting April 1 for the next 12 months. The request in the fast track supplemental was aimed at addressing the backlog and the upcoming effort.

Co-Chair Foster asked how many staff would be brought on to help with the SNAP backlog.

Ms. Etheridge answered, "30 individual eligibility technicians."

Representative Stapp asked if there were any other funds (outside of Medicaid Services) within the department that could be reallocated to pay for the need. He noted there was a huge vacancy rate in the Medicaid Services section of the department.

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JOSIE STERN, ASSISTANT COMMISSIONER, DEPARTMENT OF HEALTH, answered it was the only pot of money with enough funds to support the needs of the Division of Public Assistance.

Representative Stapp relayed that the subcommittee talked at length about mid-term and long-term solutions for the problems facing the Division of Public Assistance, but there had not been significant time spent on immediate relief for SNAP beneficiaries. He stated that the governor had spent \$1.7 million on food. He highlighted there was a \$6.9 million reappropriation for a capital project, which also came out of the same pot of money. He asked if the legislature needed to take the \$6.9 million reappropriation and direct it to an immediate need for SNAP.

Mr. Steininger stated his understanding of the question. He believed Representative Stapp was asking whether any of the other excess money in the Medicaid Services program should be directed to other needs.

Representative Stapp agreed.

Mr. Steininger answered that OMB was confident in the \$3 million in excess money in the Medicaid program to satisfy the need. He noted that Medicaid projections were not hard and fast. He detailed that there was money spent out of Medicaid programs weekly. The structure Representative Stapp was referring to for the IT system for the Division of Public Assistance was structured to use whatever was remaining at the end of the year to buy down the general fund cost in FY 24 for the IT system. He elaborated that the implementation of the IT system was a solution to the issue; therefore, the appropriation for the IT system was a

critical need to the division's work. He stated that any redirection of the funds used to fulfill the need for the IT system would result in exacerbated problems within the Division of Public Assistance.

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Ms. Etheridge answered it was a multipronged approach. The division was currently focused on staffing and additional support through contracting. She relayed that the division's legacy system was not prepared to be as nimble as the existing AIRES system. She confirmed that in order for the division to be prepared it had to be able to move off of the legacy system onto the cloud based portal.

Representative Stapp asked for verification that the administration was confident the money was available for the reappropriation and a capital request of \$6.9 million for an IT system; however, the administration was not confident the money may not be available for another purpose.

Mr. Steininger answered, "Not exactly." He was confident the \$3 million on slide 4 would be available in excess in Medicaid unless there were massive increases in Medicaid reimbursements in the weekly check writes. The structure of the appropriation for the IT project would use the remaining amount available. The cost was estimated to be \$6.9 million but it could end up being \$1 million or \$18 million. He explained that if the \$6.9 million estimate was applied to an immediate need, because the \$6.9 million may not be realized in excess in the Medicaid program, the immediate need meant to receive the funds would be in jeopardy. He clarified that the appropriation for the IT project was structured to backfill with general funds. He highlighted that the IT project would also take time to execute; therefore, any shortfall could be addressed in the next legislative session. He stated that if the \$6.9 million was used as a direct grant to communities, it would be necessary to wait until the true lapse from the Medicaid program was known after August 1 in order to execute on the appropriation.

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Representative Stapp asked why a reappropriation would be included for a capital request if the administration was

not confident the money would be available. He wondered why the administration would not just request all of the money out of general funds rather than from a reappropriation that may or may not materialize.

Mr. Steininger replied they were doing so in order to ensure the amount of money obligated out of FY 24 funds was as low as possible. He highlighted that OMB had projected an FY 24 deficit of greater than \$400 million in previous presentations. In order to achieve the needs of the state, it was necessary to use every budgeting tool possible. One of the tools was to use reappropriations of estimated values to try to reduce the need for FY 24 revenues.

Representative Josephson wanted to ensure providers were paid and that payments due in July were paid in July. He asked, "Can we be confident about that?"

Mr. Steininger answered that the administration was confident the appropriation shown on slide 3 could be executed without creating any risk to providers in the Medicaid program.

Representative Josephson stated that he was in support of the proposal if it was the way the administration wanted to provide a partial cure for SNAP, redeterminations, and freeing up staff to work on the backlog.

Mr. Steininger explained that current revenue projections combined with the supplemental budget needs (including the transfer on slide 4) left a zero dollar surplus in FY 23. He stated it was necessary to look at all available tools to meet the state's needs in FY 23 and FY 24. He elaborated that OMB had asked agencies to look within their existing budgets to determine whether there was money that could be moved around to achieve a supplemental need. The Department of Health had identified the excess Medicaid Services funding to meet the Division of Public Assistance need.

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Representative Galvin asked for verification there would be no unintended consequences where people did not receive needed services if the [Medicaid Services] funds were transferred.

Mr. Steininger replied that based on OMB's projection, there was more than enough surplus in Medicaid Services to cover the \$3 million. The appropriation made to the FY 23 Medicaid budget assumed there would only be two quarters of enhanced Federal Medical Assistance Percentage (FMAP) in FY 23. However, the state would receive enhanced FMAP for close to four quarters, which resulted in excess Medicaid funds.

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Representative Coulombe referenced Medicaid eligibility redeterminations. She noted the department had discussed the SNAP backlog. She asked if the funding would be used to hire three new eligibility technicians.

Ms. Etheridge responded that the title was Medicaid eligibility redeterminations; however, the department took a "whole case" approach. She elaborated that an individual was often "multi program" and the department worked "all program," which applied to the SNAP program. She clarified that the department would hire 30 eligibility technicians to work all programs.

Representative Coulombe asked if the proposal all depended on hiring 30 new people or retraining 30 existing employees.

Ms. Etheridge replied that it would involve hiring 30 new employees. She added that a number of individuals had already been hired and were currently going through training.

Representative Coulombe asked how long it would take to hire and train the individuals.

Ms. Etheridge responded that expedited training took eight to ten weeks with 100 percent follow up to ensure quality. She explained there was 100 percent case review for an additional four weeks.

Representative Coulombe surmised that the money would be fast tracked but would not solve anything for another three months.

Ms. Etheridge answered there were a number of individuals in various stages of hire and training who would be able to

work on the SNAP backlog while the others were training and preparing for the Medicaid redeterminations, which had to start in April.

Representative Coulombe asked for the existing individuals in the system.

Ms. Etheridge replied that there were approximately 120 individuals who were able to draw down work and approve. She stated the department had to use merited staff to approve those. There was another group of individuals handling the initial workflow, which involved receiving applications, electronic signature, and the filing and registering of cases in the database.

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Co-Chair Edgmon asked about the funding source behind the fast track bill. He asked for verification that it would not require a Constitutional Budget Reserve (CBR) draw.

Mr. Steininger agreed that the bill would not require a CBR draw.

Co-Chair Edgmon asked if the funding source would be the Statutory Budget Reserve (SBR).

Mr. Steininger clarified the funding source was excess revenue in FY 23. Under current projected revenue there was roughly \$115 million in excess FY 23 revenue that had not been appropriated. The bill would use the unappropriated excess funds. He explained that the total equaled roughly \$115 million when adding in the governor's proposed supplemental requests in the other supplemental budget. He stated that the total came in underneath the \$115 million level and did not require a three-quarter vote for CBR access.

Co-Chair Edgmon remarked there was still one quarter remaining in the fiscal year. He surmised that OMB was projecting forward for the remaining quarter in order to assume there was a \$115 million surplus.

Mr. Steininger answered affirmatively. The most recent public forecasts were released on December 15 through mid-December [2022]. The spring forecast from the Department of Revenue (DOR) would come out towards the end of March,

which would provide an update to the amount available in FY 23. He stated that the the bill would not require a CBR vote because it was well under the current projected excess. He relayed that depending on the upcoming revenue estimate it may be necessary to look for other tools to handle the other supplemental requests.

Co-Chair Edgmon had heard from the other body that there may be some concern about running out of money by the end of the fiscal year. He referenced the testimony by Mr. Stinson and Ms. Cherot and got a sense the situation was at an emergency level. He asked why the situation had not been brought up much earlier.

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Mr. Steininger answered that the items had been included in the governor's budget amendment packages and supplemental budget at the normal timeline of release. He relayed that as soon as the administration found out about the OPA and PD emergent issue, it had put forward budget amendments shortly after. He confirmed the situations qualified as emergencies, which was the reason the items had been included in the fast track supplemental bill. He relayed that OMB was keeping an eye on available revenue for FY 23; however, OMB was encouraging swift adoption of the specific supplemental items in the bill, which were well underneath any amount of change that may occur in the revenue projection. He explained that separating the items from the other supplemental funding needs such as wildfires would enable time for ample conversation on those more regular supplemental items.

Co-Chair Edgmon remarked that putting an appropriations bill on the floor at an early stage in session opened up and invited the possibility of all types of floor amendments. He advised that the requests in the bill had better be worth it. He clarified that he was not trying to imply the requests were not worth it. He highlighted that any member would have the ability to offer any amendment. He found the issue concerning.

Representative Josephson referenced Mr. Steininger's statement that the amount was well under the \$115 million excess. He agreed that was mathematically true. He referenced Mr. Steininger's statement that when including the additional supplemental requests, the total was not

under the \$115 million. He referenced Mr. Steininger's suggestion that any variability in oil price should not matter too much. He believed the opposite to be true. He was unclear whether FY 23 would be fully funded. He did not want to be difficult, but he wanted to ensure the fiscal year was fully funded. He noted he knew of numerous options to do so and was available to help. He was ready to vote for the bill but needed clarity.

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Mr. Steininger replied that when considering all of the supplemental expenditure needs for additional items like wildfires, the Department of Corrections, and the Department of Public Safety, the state was at a zero dollar surplus/deficit for FY 23 under current projected revenue. The items resulted in a total general fund need of under \$4.7 million. He stated that based on the current price of oil and revenue projections, the bill could be passed and signed without a three-quarter vote to access the CBR. He stated that when the revenue forecast updates came from DOR at the end of the month, there may or may not need to be a conversation about how to balance FY 23 with the available revenue and the supplemental needs. He remarked that it would be a broader conversation about the available tools. He relayed that waiting to have a conversation before the needs in the bill were addressed would hamper the state's ability to service a large set of fairly needy Alaskans; it was the reason for the bill.

Mr. Steininger thanked the committee for its consideration of the bill.

HB 79 was HEARD and HELD in committee for further consideration.

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

ADJOURNMENT

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The meeting was adjourned at 2:26 p.m.