

HOUSE FINANCE COMMITTEE  
ANCHORAGE LIO  
April 15, 2020  
10:04 a.m.

10:04:50 AM

[Note: meeting took place in the Anchorage LIO and was recorded from Juneau.]

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 10:04 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Jennifer Johnston, Co-Chair  
Representative Dan Ortiz, Vice-Chair (via teleconference)  
Representative Ben Carpenter (via teleconference)  
Representative Andy Josephson (via teleconference)  
Representative Bart LeBon (via teleconference)  
Representative Kelly Merrick (via teleconference)  
Representative Colleen Sullivan-Leonard (via teleconference)  
Representative Cathy Tilton (via teleconference)  
Representative Adam Wool (via teleconference)

MEMBERS ABSENT

Representative Gary Knopp

PRESENT VIA TELECONFERENCE

Pat Pitney, Director, Legislative Finance Division; Megan Wallace, Director, Legislative Legal Services, Alaska State Legislature; Representative Bryce Edgmon; Representative Sara Hannan Representative Dan Ortiz, Vice-Chair; Representative Ben Carpenter; Representative Andy Josephson; Representative Bart LeBon; Representative Kelly Merrick; Representative Colleen Sullivan-Leonard; Representative Cathy Tilton; Representative Adam Wool.

SUMMARY

UPDATE: CARES ACT CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT

10:06:20 AM

Co-Chair Foster reviewed the meeting agenda.

^UPDATE: CARES ACT CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT

10:08:08 AM

PAT PITNEY, DIRECTOR, LEGISLATIVE FINANCE DIVISION (via teleconference), referenced two documents including the "Federal CARES Act Summary," dated April 15, 2020 (copy on file). She reviewed the four categories listed on slide 2 titled "CARES Act Provisions:"

The CARES Act is comprehensive. Legislative Finance produced a CARES Act Summary - organized in four categories:

- (1) Federal funds a State will receive directly
- (2) Federal funds to non-state entities, (tribal, local government entity, or owners of a medical hospital / facility)
- (3) Federal funds to Federal agencies for grant programs that may be available to the state or non-state entities
- (4) General items of interest

\*This presentation addresses the categories in reverse order.

10:10:14 AM

Co-Chair Foster recognized that Representative Bryce Edgmon, Speaker of the House, joined the meeting online.

Ms. Pitney turned to slide 3 titled "CARES Act Provisions:"

- General items of interest (Section 4 Page 16):
  - Extends Real ID deadline to Sept. 30, 2021.

- Provides a direct payment of up to \$1,200 to Alaskans with \$500 for each dependent child under 17 years old.
- Small Business Administration (SBA) emergency grants of up to \$10,000 to provide immediate relief for operating costs, can cover six months of payments for businesses with existing SBA loans with rent, mortgage and utility costs forgiveness, and loans for personnel costs can be reimbursed 100% through tax credits to participating businesses. (UA's Small Business Development Center for additional information)
- Corporation for Public Broadcasting to make fiscal stabilization grants to public television and radio stations \$75 million.
- Requires coverage of COVID-19 testing in health plans.

Ms. Pitney addressed general items of interest in the CARES Act. She reviewed other items on the slide including the direct payments to individuals of up to \$1,200. She reported that the University Small Business Development Center was the primary resource for the SBA loans and in addition, the act required health plans to cover COVID-19 testing.

[10:13:55 AM](#)

Ms. Pitney moved to slide 4 titled " CARES Act Provisions:"

- Federal \$4.3 billion to support federal, state, and local public health agencies
  - \$1.5 billion for grants or cooperative agreements to carry out surveillance, epidemiology, mitigation, communications and other preparedness and response activities
  - \$400 million in election security grants in the 2020 federal election cycle.

- \$40.7 million for establishing a grant program for geriatric education and training programs
- \$5 billion for the Community Development Block Grant (CDBG) program
- \$1 billion to states to distribute to eligible local entities (Community Action Agencies or CAAs) to design and implement anti-poverty programs
- \$2 billion from U.S. Housing and Urban Development to existing grantees
- \$4 billion for Homeless Assistance Grants
- \$250 million as grants or cooperative agreements with grantees or sub-grantees of the Hospital Preparedness Program.
- \$100 billion for grants to hospitals, public entities, not-for-profit entities, and Medicare- and Medicaid-enrolled suppliers and institutional providers. Helps cover unreimbursed health care-related expenses or lost revenue as a result of COVID-19.
- \$275 million in cooperative agreements and grants to expand services and capacity for rural hospitals

[10:17:59 AM](#)

Ms. Pitney moved to slide 5 titled "CARES Act Provisions:"

- Federal funds to Federal agencies for grant programs that may be available to the state or non-state entities (Section 3, Page 10)

- Substance Abuse and Mental Health Services Administration (SAMHSA)

- \$425 million to the for mental health and substance use with certified community behavioral health clinics

- \$250 million in grants using the Certified Community Behavioral Health Clinic Expansion Grant program
- \$50 million specifically allocated for suicide prevention
- \$15 million shall be specifically allocated to tribes, tribal organizations, urban Indian health organizations, or health or behavioral health service providers to tribes.
- \$100 million in grants for a pilot program for rural broadband access.
- \$25 million to support the Distance Learning and Telemedicine program
- \$10 billion in FAA, Airport Improvement Program -
- \$100 million in additional funding for Safe Schools and Citizenship Education
- \$45 million for grants to states to support the child welfare needs of families during this crisis

[10:19:32 AM](#)

Ms. Pitney turned to slide 6 titled "CARES Act Provisions:" and continued to review the Provisions:

- \$10 million available for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects.
  - \$955 million to the Administration for Community Living (ACL) services for seniors and disabled individuals as well as their caregivers
  - \$85 million for independent living centers currently receiving federal grant funding,

- o \$29 million for each fiscal year through FY 2025 for Telehealth network and telehealth resource centers grant programs.
- o \$150 million in Grants for Construction of State Extended Care Facilities'.
- o \$14.4 billion for VA programs, including the Health Care for Homeless Veterans
- o \$850 million for the Byrne JAG program grants to help enable States, among other eligible entities, to utilize emerging and evidence-based approaches to address the COVID-19 pandemic. The funds will allow state and local police departments and jails to meet local needs.

[10:21:10 AM](#)

Ms. Pitney noted that slides 7 and 8 were almost identical - she skipped slide 7. She addressed slide 8 titled "CARES Act Provisions:"

Federal funds available directly to a non-state entities, local government entities or owners of a medical hospital or facility (Section 2, Page 8)

\$750 million in additional funding to the Head Start program to continue serving eligible children

\$25 billion for transit systems

\$453 million for the Bureau of Indian Affairs to prepare for and respond to the coronavirus, including for public safety and justice programs, welfare assistance and social services programs, and other tribal government assistance.

Indian Health Service (IHS) \$1.032 billion for public health support, electronic health record modernization, telehealth, and other information technology upgrades, \$65 million of the funding will be used for electronic health record

stabilization and support and \$450 million will be distributed through IHS directly operated programs

\$100 million for the Food Distribution Program on Indian Reservations program (FDPIR) to prevent, prepare for, and respond to coronavirus.

- o \$50 million shall be for facility improvements and equipment upgrades.
- o \$50 million shall be for the costs relating to additional food purchases.

All federally recognized Tribes in Alaska are all eligible to administer FDPIR.

\$8 billion of Coronavirus Relief Fund is aside for tribal governments nation-wide for expenses based on increased COVID-19 related expenditures of each such tribal government (or a tribally-owned entity of such tribal government) relative to aggregate expenditures in fiscal year 2019.

Ms. Pitney elaborated on the Head Start program funding. She commented that Head Start funding typically required a local match covered by the state. The CARES Act funding provided the funding without the local match requirement and included funding for summer programs.

[10:24:00 AM](#)

Ms. Pitney advanced to slide 9 titled "CARES Act Provisions." She reminded committee members that the dollar figures in the presentation were the federal numbers and Alaska would receive a portion based on a formula.

Federal funds states will receive directly (Section 1, Page 2)

\$45 billion nation-wide for the Disaster Relief Fund (DRF) for the immediate needs

\$1.4 billion nation-wide for deployments of the National Guard.

Expanded unemployment insurance from three to four months, and provides temporary unemployment compensation of \$600 per week for up to 4 months

\$500 billion Economic Stabilization lending fund for businesses, cities, and states.

\$56 million provided nationwide to maintain existing Essential Air Service (EAS) to rural communities.

\$8.8 billion nationally in additional funds through September 30, 2021 to support federal child nutrition programs.

\$450 million for the Emergency Food Assistance Program (TEFAP) including \$150 million for costs associated with the distribution of commodities.

\$15.5 billion for a Contingency Reserve Fund within SNAP to support waiver authorities included in the Families First Coronavirus Pandemic Response Act (PL 116-127)

\$1 billion for Community Services Block Grant (CSBG), which provides funds to states to distribute to eligible local entities (Community Action Agencies or CAAs) to design and implement anti-poverty programs.

\$900 million supplemental funding for the LIHEAP program to further support low-income, disabled, and elderly populations

Ms. Pitney elucidated that the unemployment insurance was additive on top of Alaska's unemployment funds and increased payments by \$600 per week. The payments were extended to traditionally non-eligible workers; those in the gig economy or self-contractors. The money equated to 100 percent wage replacement for someone earning \$60,000 per year. She related that the Department of Labor and Workforce Development (DOL) was working diligently on application and distribution procedures to ensure prompt disbursement of funds.

[10:29:03 AM](#)

Ms. Pitney turned to slide 10 titled "CARES Act Provisions." and reviewed the federal funds states would receive:

- Federal funds states will receive directly

\$30.75 billion nation-wide for an Education Stabilization Fund for states, school districts and institutions of higher education.

- \$3 billion is shared by the states for governors to allocate at their discretion for emergency support grants.
- \$13.2 billion available for formula Elementary and Secondary Education grants to states, which will then distribute 90% of funds to LEAs based on their proportional allocation of Elementary and Secondary Education Act Title I-A funds.
- \$14 billion for emergency relief for Institutions of Higher Education

\$150 billion Coronavirus Relief Fund for state, local and tribal governments to be paid out within 30 days of enactment.

- Alaska's expects \$1.25 billion.
- Alaska has no municipalities with a population over 500,000, and would likely retain the full \$1.25 billion. The Act allowed for 45% set aside for localities with a population over 500,000.

[10:31:13 AM](#)

Ms. Pitney elaborated that 99.5 percent of the funds of Alaska's portion of the \$13.2 billion would go to school districts. She indicated that Alaska's portion of the \$14 billion emergency relief funding for higher education was approximately \$10 million, of which \$7.5 million was for the University of Alaska. She added that much of the higher education funding was intended for students based on the

Pell Grant formula. She learned that the tribal government funding would be distributed by April 24, 2020. The state expected to receive the entire \$1.25 billion along with 18 other states, which was the minimum amount. Since Alaska lacked municipalities with a population over 500,000, the state would manage the funding. She pointed to slide 11 titled "Guidance to Date on the Coronavirus Relief Fund:"

Ms. Pitney read from slide 11:

□ The CARES Act requires that the payments from the Coronavirus Relief Fund (Sec. 5001) only be used to cover expenses that—

(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);

(2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and

(3) were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

□ Additional information on eligible uses of Fund disbursements by governments will be posted as it becomes available.

Ms. Pitney anticipated that the treasury department would be sending additional guidance any day. She shared that the guidance she received from federal officials thus far was sparse; the funding was for costs associated with the COVID-19 outbreak from March 2020 through the end of December 2020. She concluded her presentation and was available for questions.

[10:35:21 AM](#)

Co-Chair Foster recognized that Representative Sarah Hannan had joined the meeting in Juneau.

Co-Chair Johnston cited slide 10 regarding the Education Stabilization Fund. She asked if the state currently, could accept the funds because of having an established formula in place. She was trying to ascertain what items the

legislature would need to give receipt authority to and what items contained no appropriating vehicle.

[10:37:15 AM](#)

Ms. Pitney answered that the formula in place was set up by the federal government. She delineated that both the Department of Education and Early Development (DEED) and the University of Alaska (UA) had existing federal appropriations. The degree to which the additional funds exceeded federal receipt authority would require additional legislative action. Depending on the use of the education funds there were currently federal appropriations that could potentially be increased by the Revised Program Legislative (RPL) process. She believed that Legislative Legal Services would cover the range of actions that may be necessary. Co-Chair Johnston wanted clarification on the budget process before going to the legal process. She felt that it would be helpful regarding the block grants and wondered whether the grants go through the state or went directly to communities. She wanted to understand where the state's responsibility was. Ms. Pitney answered that some pieces of the block grants went to the state and others went directly to communities. She pointed out that items like the \$25 million in transit funding was distributed directly to communities. Co-Chair Johnston suggested that it would be helpful to understand where funding from the CARES Act was already in place so the legislature could properly address the needs.

[10:40:28 AM](#)

Representative Josephson asked for clarification on several items. He referenced a legal memo by Megan Wallace, Director, Legislative Legal Services, Alaska State Legislature. He related that the memo stated emergency funding cannot be used to supplement regular budget items not affected by the coronavirus. He deduced that the budget from the prior year determined whether an item was related to COVID 19. Ms. Pitney replied in the affirmative. She indicated that the funding was for the extra expenses that were incurred at the time the CARES Act was enacted. The FY 21 budget and the FY 20 supplemental were passed after the enactment of the CARES Act. She deferred further answer to Ms. Wallace to "set the stage."

Representative Josephson considered the \$1.25 billion in federal funding. He thought that the funding should be a focus but noted the importance of understanding all categories of the CARES Act funding relative to the RPL process. He ascertained that while the \$1.25 billion in funding was "critical" there was other CARES Act funding to consider. He asked whether his statement was accurate. Ms. Pitney responded in the affirmative. She reported that it was important to know if the state had the existing mechanism to accept and implement the funding for grants from other federal agencies. She exemplified the Temporary Assistance for Needy Families (TANF) program where the RPL process could be used to authorize the CARES Act funding that exceeded the existing authority. She reiterated that Ms. Wallace's testimony regarding the range of options for funding distribution authority framed the discussion regarding specific funding.

Co-Chair Foster set aside any legal questions related to the \$1.2 billion and the RPL process for the moment. He would have Ms. Wallace answer the question later.

[10:45:19 AM](#)

Representative Wool asked about the additional \$600 per week to compensate for a \$60,000 per year job in Unemployment Insurance (UI) benefits. He did not understand how the numbers added up. Ms. Pitney answered that if a person earned \$60,000 per year prior to losing their job, the \$600 per week plus Alaska's existing maximum benefit of \$370 per week would replace the income in full. She voiced that if a person made \$60,000 or less the extra \$600 would replace the wage. Representative Wool stated that that total amounted to \$52,000 per year. Ms. Pitney clarified that there were additional funds for a family of four. Representative Wool asked for an estimate of the number of applicants based on the current trajectory. Ms. Pitney answered that she was receiving weekly updates from DOL and indicated that the applications were up significantly from the previous year. She would provide the data following the meeting. She added that anyone who applied and was eligible for UI was automatically awarded the \$600 per week in federal funds in addition to the funds provided by the state.

[10:48:41 AM](#)

Representative Wool referenced Alaska's \$10 million portion of the \$30 billion for the Education Stabilization Fund. He asked whether there was any other fund that would help the University besides the \$7.5 million cited in the presentation. Ms. Pitney confirmed that out of the \$10 million coming to the state associated with higher education the University would receive 7.5 million. Other colleges in the state would receive some of the funds. The portion not sent to the students would be available to the university, but it was a small amount. She was unaware of other funds available to help cover other losses at the University.

Representative LeBon asked about the support for hospitals in the amount of \$100 billion cited on slide 4. He asked how the funds would be distributed to medical facilities throughout the state. Ms. Pitney answered that the grants were managed and distributed by the Centers for Medicare and Medicaid Services (CMS) or another federal Health and Social Service entity. The hospitals were working directly with the federal agencies to secure the funds. The medical facility funding belonged to the category of money available in grants from the federal government.

[10:52:34 AM](#)

Vice-Chair Ortiz referenced the potential monies to businesses that had been shut down and individual contractors who worked for the businesses. He noted that it had been described as a loan program, but he heard that the loans may be forgiven. He wondered if the individual business would apply directly for the funds to the federal government or through the state. Ms. Pitney referenced the program through the Small Business Administration (SBA). Vice-Chair Ortiz interjected a question regarding the slide number. Ms. Pitney directed attention to slide 3 of the presentation or on page 16 of the summary document titled "Explanation of Federal Stimulus Bill" (copy on file). She elaborated that the best resource for help in applying for the program was the Small Business Development Center (SBDC) at the University of Alaska. The SBDC was specifically set up to link small businesses with the SBA. The SBA loans were administered through a bank. She listed the three types of assistance: a \$10,000 grant; a short-term loan with forgiveness if used for payroll and other business related expenses; and a loan that could be repaid through future tax credits.

10:55:49 AM

Representative LeBon interjected with his understanding of the SBA program. He informed the committee that there were several programs. He contended that the banks did not manage the \$10,000 maximum loan program and reported that it was managed by the SBA. However, the banks managed the Paycheck Protection Program (PPP). He relayed that he had been helping his prior bank employer process the PPP loans and had processed over 250 loans valued at over \$30 million. He elucidated that the repayment period was two years and interest only applied for six months. The loan could be used for business related expenses but, if the business used most of the money for payroll related expenses, that amount could be forgiven.

Vice-Chair Ortiz cited slide 9 related to \$500 billion in economic stabilization lending funds for businesses, cities, and states. He asked whether the item was related to the SBA funds. Ms. Pitney answered in the negative and related that the item was completely different. She elaborated that he was referring to a "major debt refinancing mechanism" for states and cities that utilized low interest "mechanisms" through the federal government.

10:58:24 AM

Representative Josephson referred to the discussion regarding the \$100 billion for hospitals and Medicaid providers, etc. He inquired whether the legislature would be privy to the information regarding the grant recipients who received awards directly from the federal government. He reasoned that the state may need the information when disbursing limited resources in FY 22. The state may want to provide resources to entities that did not receive federal aid.

Co-Chair Johnston replied that some of the information may be coming from the reporting requirements spelled out in SB 241 [SB 241 - Extending COVID 19 Declaration/Relief - Chapter 10 SLA 20 - 04/09/2020]. She communicated that the administration was required to send monthly reports. She did not know whether they would receive information regarding federal monies that went directly to nonprofits. She believed that they would see the information related to CMS.

[11:01:14 AM](#)

Vice-Chair Ortiz referenced the \$500 billion on slide 9. He thought a comment had been made by Ms. Pitney that perhaps some of the funds could go towards a larger contribution to Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS). He asked if there was a legislative mechanism in place for that to happen. Ms. Pitney answered that several years back a pension obligation bond bill had been passed and had not been used by the administration. She maintained that the legislation would require another piece of legislation to authorize a transaction between the state and federal government. The legislation would work similarly to the current pension obligation bond provisions currently in place. She cautioned that the financial terms would be a deciding factor when weighing the benefits of such an option. Vice-Chair Ortiz considered it was an issue for a later time. Ms. Pitney agreed with the statement.

[11:03:43 AM](#)

Representative Sullivan-Leonard asked if there was a specific federal formula directing how the CARES Act funds would be dispersed. Ms. Pitney answered that there were 100 or more provisions in the CARES Act. She relayed that some of the provisions came with a distribution formula. She provided the example of the Education Stabilization Fund that had a distribution formula for each state. The \$1.25 billion relief fund lacked any guidance other than the funds must be used for unanticipated expenses related to the COVID 19 preparation, mitigation, and response. She reiterated that the funds would be deposited into the state treasury by the 24th of April. Representative Sullivan-Leonard referenced \$88 million in funding cited by Senator Lisa Murkowski for tribal entities. The senator was waiting for specifics regarding distribution. She wondered whether Alaska was "putting the cart before the horse" and should wait for further federal guidance before distributing the funds.

[11:06:43 AM](#)

Ms. Pitney believed that there were many questions yet to be answered and there would be many moving parts and the issues would be addressed as necessary over time. She noted

that the \$88 billion that Senator Murkowski cited was different from the \$1.25 billion coming to Alaska.

[11:07:38 AM](#)

Representative Tilton referenced slide 10 and considered the \$1.25 billion. She thought there may be something missing regarding economic impact. She asked for clarification. Ms. Pitney answered that the COVID-19 relief fund focused on unanticipated expenditures related to the COVID-19 pandemic response. She recounted that in the budget that was adopted there was funding for the Division of Public Health and open ended federal receipt authority in the public health area for outbreak response. She deduced that to the degree that federal and state money was spent directly in the public health arena - the administration had the spending authority at present. The state's budget accommodated the use of the funds for public health response. Any amount of the funding that could be used for an economic response was not currently part of the budget.

[11:09:46 AM](#)

Co-Chair Johnston clarified that the unlimited receipt authority was in the mental health trust budget. She asked for verification that it had passed prior to the enactment of the CARES Act. Ms. Pitney responded in the affirmative.

Representative Tilton referenced the federal stimulus dollars being distributed to individuals and families. She learned that about 40,000 Alaskans would not qualify based on 2018 and 2019 tax returns. She asked for an update. Ms. Pitney was unable to answer the question.

Co-Chair Johnston interjected that anyone with a direct deposit from the federal government would receive their checks such as social security recipients that did not file a tax return. She acknowledged that checks would be issued later in the year and it may take time to identify eligible individuals who were not on direct deposit. She noted that for those lacking a direct deposit with the federal government the Department of Treasury had put up an application link for the stimulus checks.

[11:12:28 AM](#)

Representative Tilton mentioned the unemployment program for individuals operating as independent contractors, gig workers, or other self-employed individuals. She asked for more information. Ms. Pitney answered that once the federal and state systems were in place to assist those workers, anyone who had applied would be in line for assistance when operational. Representative Tilton disclosed that anyone who had applied prior to the expanded unemployment benefits had been "kicked out" of the system. She asked whether anyone currently applying before the expanded benefit system was in place would remain in the system's queue. Ms. Pitney replied in the affirmative. She recommended that individuals seeking benefits should request clarity from DOL. Representative Tilton asked about items like assisted living and congregate meals connected to federal programs listed on slide 6. She asked if the funds would go directly to organizations or through the state. Ms. Pitney responded that Representative Tilton was referring to grant programs from federal agencies. She indicated that unless the grant program was a consolidated statewide request, each individual operator had to apply. The definitive answer would be based on provisions sent out by the federal agency. Representative Tilton surmised it would be up to individual providers to check on what they could apply and qualify for.

[11:15:54 AM](#)

Representative Wool referenced the municipal distribution for communities over 500,000 in population. He noted that Alaska lacked a municipality of that size. He asked whether there was any obligation to disperse funds to localities under 500,000 in population. Ms. Pitney responded that there was an expectation based on the provisions of the act that the state would manage disbursement to smaller communities. The federal government did not want to manage smaller chunks of money and left it as an expectation of the state to manage the funding. She was uncertain exactly how funding would have been calculated per 500,000 population centers. The 45 percent calculation was based on the "macroeconomics of state versus local government." She ascertained that an "expectation and not necessarily an obligation" existed to distribute the funds.

[11:18:36 AM](#)

Representative Wool surmised that the federal government assumed that a municipal government serving a population over 500,000 had the infrastructure and ability to utilize the funding versus smaller municipalities, where it was left to the state to distribute the funding. Ms. Pitney replied that ultimately, the federal government did not want to manage distributing funds at a smaller level due to overhead costs.

Representative Josephson referenced the COVID 19 testing covered by the CARES Act at the bottom of slide 3. He asked if it could be used for fishing industry workers and processing personnel. Ms. Pitney answered that the testing required an insurance provider of a plan like AlaskaCare to cover the COVID-19 testing. She determined that a better provision would be to set up a testing system in the health mitigation and response area that allowed for the ability to test fishermen.

[11:21:40 AM](#)

MEGAN WALLACE, DIRECTOR, LEGISLATIVE LEGAL SERVICES, ALASKA STATE LEGISLATURE (via teleconference), focused mainly on the legal issues surrounding the allocation of CARES Act funding. She highlighted that her comments were preliminary. The specific proposals and appropriations would need to be analyzed by the source and purpose of the funds. She spoke from the "big picture" perspective and related that the CARES Act funds were federal funds and came with restrictions attached in terms of what they could be used on. She focused on the last group of CARES Act dollars specifically, the \$1.25 billion to be received shortly by the state. She detailed that section 5001 of the CARES Act detailed the restrictions on use of the funds and were for the purpose of covering qualified COVID 19 related expenses. The guidance from the United States Treasury was limited and made specific analysis on how to use the funding more broadly "tricky." She added that Section 5001 contained oversight authority and an audit function to make sure the funds received by the state were spent in compliance with the use of funds provision - meaning they were necessary for the COVID-19 emergency. The state may be responsible to repay the funds if it was later determined that the state did not use the funds for that purpose.

[11:25:11 AM](#)

Ms. Wallace continued that Article 9, Section 13 of the Alaska Constitution stipulated that the money was prohibited from being withdrawn from the state treasury without an appropriation. She opined that there were three main options for the expenditure of the CARES Act funds. She relayed that the first option was for the legislature to reconvene and specifically appropriate the funds from the CARES Act. The second option, lacking legislative appropriation, required that the administration find existing appropriation provisions and find either open ended receipt authority or other receipt authority to allow the expenditure of the funds. The third option was the RPL process. The governor would utilize the RPL process to increase other federal appropriations in the budget where the legislature had not previously appropriated the federal receipts. She voiced that the legislature had not appropriated any of the CARES Act funds. She defined potential existing appropriations that could possibly be used to expend the CARES Act funding. One of the provisions had been mentioned by Ms. Pitney and was an open ended appropriation for federal receipt authority in the Mental Health budget for supplemental COVID 19 emergency relief received during FY 20 (July 1, 2019 through June 30, 2020). The authority would capture the moment in time when the \$1.25 billion was anticipated to be deposited. The provision granted federal receipt authority to the Department of Health and Social Services (DHSS), Division of Public Health, for emergency programs specifically responding to and mitigating the risk of the COVID-19 outbreak. She relayed that another area for potential expenditure was the Disaster Relief Fund. She qualified that she was unsure the money would be deposited into the fund. The governor and president had declared the COVID 19 pandemic a public health disaster and the legislature extended the governor's declaration of disaster to November 15, 2020. The governor would only have the authority to spend a cumulative total of \$10 million of the assets of the Disaster Relief Fund. The limit was established in SB 241.

[11:29:50 AM](#)

Ms. Wallace concurred with Ms. Pitney's statement that while the legislature provided broad authority to the administration to respond to the pandemic from a public health standpoint, authority to expend CARES Act appropriations for economic relief was lacking, absent some

other action by the legislature that legally allowed expenditure of the funds according to federal guidelines or through the RPL process. She explained that the RPL process was described in the Executive Budget Act, AS 37.07.080 (h). The provision, typically used in the interim, allowed the governor to submit a request to the Legislative Budget and Audit Committee (LBA) to increase an appropriation item based on the receipt of additional program receipts or federal funding not specifically appropriated by the full legislature. She noted that although it was not interim, the legislature had passed the budgets for the upcoming fiscal year and it may be a process that could be utilized under the circumstances given the legislature's current indefinite recess.

[11:32:22 AM](#)

Ms. Wallace continued to explain the RPL process. She reported that the legislature included specific language in the operating budget that allowed for the RPL approval and appropriation process. She read from the appropriation language as follows:

(The federal receipts) that exceed those amounts appropriated by this Act are appropriated conditioned on compliance with the program review provisions of AS 37.07.080(h).

Ms. Wallace explained that if the administration complied with the program review provisions, the appropriations could be increased. She offered that it was often questioned whether LBA could approve the request to increase the appropriation, or if LBA could decline the appropriation. She elucidated that statute dictated that once the governor submitted an RPL to the committee he had to wait 45 days to use the funds. The committee could reject the request, which required the governor to provide a written justification to move forward with the request regardless of LBA's denial. She communicated that ultimately, the governor had the authority to expend the funds without LBA approval of the RPL request. Typically, the legislature already appropriated the money and the RPL process was used to increase the appropriation. She emphasized that it was not an appropriation itself, the RPL was merely a mechanism to increase the amount of federal funds that had already been appropriated by the legislature. With respect to the CARES Act funds, Ms.

Wallace's opinion was that the strictest interpretation of AS 37.07.080(h) and the language in the operating budget that supplemented the provision allowed for money in excess of the federal receipts already appropriated to be increased via the RPL process. Specifically, the legislature had not appropriated any CARES Act funds therefore, one could advance an argument that the RPL process was not appropriate for the CARES Act funding. A less restrictive interpretation could allow the RPL process to increase the authority for specific federal receipts the legislature had appropriated. She declared that it was her opinion the RPL process could not be used to increase an appropriation where the legislature did not appropriate any federal funds.

[11:37:15 AM](#)

Co-Chair Johnston provided a real life situation. She noted that the legislature intended to distribute some of the CARES Act funding to local governments through the state. She referenced the community revenue sharing statute. She indicated that one-third of the fund was expended through a formula. She asked if putting CARES Act money into the fund was a gray area in the RPL process or whether it could be done. Ms. Wallace replied that in her opinion, utilizing the RPL process for community assistance would not be appropriate because the appropriation had only included state funds. To the extent that the governor vetoed the entire community assistance appropriation, the appropriation could not be increased because it was no longer in the operating budget. The legislature could enact a new appropriation that would use CARES Act federal receipts for distribution to communities rather than state funds. The appropriation would differ from the specific revenue sharing statutory program, but the legislature could use the program as guidance.

[11:41:19 AM](#)

Co-Chair Johnston referenced a housing program in the CARES Act outside of the \$1.25 billion appropriation. She asked whether the Alaska Housing Finance Corporation (AHFC) could act independently or if the legislature needed to consider it. Ms. Wallace replied that Ms. Pitney had spoken about some HUD funds that may be available. She would have to follow up. She did not know specific details about funds used for AHFC. She suggested that Ms. Pitney follow up.

Ms. Pitney answered that AHFC had several appropriations in different programs. The entity could act independently if it had federal receipt authority that exceeded what it normally received. She exemplified that if AHFC had federal receipt authority of \$10 million and had only received \$5 million, it could likely expend CARES Act funding. However, if the funding exceeded the corporation's federal authority it was more likely the RPL process was appropriate. An examination of the emergency funding and the federal funds the agency had received was necessary. However, she deemed that AHFC receipt authority was a more appropriate use than an RPL associated with the community assistance program.

[11:43:58 AM](#)

Representative Josephson referenced the RPL process and reiterated his understanding of the process as Ms. Wallace had explained it and asked whether he was accurate. Ms. Wallace replied that his statement was generally correct. She noted that the RPL process could not be used for money that had not been appropriated. She noted that Ms. Pitney provided the summary document that included CARES Act funding that might be available. She deduced that many categories of the federal funds like education, Medicaid, and UI were areas where the RPL process was likely appropriate; however, it was not an appropriate mechanism for expending funds unrelated to existing appropriations that already had federal receipt authority.

[11:46:22 AM](#)

Representative Josephson spoke about the vetoes made nine days earlier by the governor. He asked if because the legislature passed the operating budget after March 27, 2020, the CARES Act funding was predicated on the prior year's budget and the current year's mental health budget. Ms. Wallace responded that Section 5001 of the CARES Act only applied to the \$1.25 billion lump sum payment, the requirements for use of the funds in subsection (d) listed three categories of restriction [only 2 were noted]:

- Restricted use for costs incurred related to COVID-19
- The costs were not accounted for in the budget most recently passed.

Ms. Wallace delineated that the answer was confusing, and it was easy to "get lost" in discussions regarding which

budget the CARES Act applied to. The appropriations recently vetoed by the governor were relevant because subsection 3 of the CARES Act allowed for costs incurred from March 1, 2020 through December 2020. The period covered two different fiscal years; the FY 20 and FY 21 budgets. Specific to the RPL process, COVID 19 expenditures in FY 20 were determined on the FY 20 budget. Expenditures for FY 21, after July 31, 2020 were based on the FY 21 budget. Representative Josephson noted her statement was helpful and he supported the governor using the CARES Act funds to supplant his vetoes.

11:49:50 AM

Vice-Chair Ortiz referenced the three main options provided by Ms. Wallace to appropriate the CARES Act funding. He asked if it was safe to say the cleanest and most efficient way would be for the legislature to reconvene and appropriate the funds. Ms. Wallace replied that it was a policy call for the legislature. She offered that risks were involved and noted that there were many unknowns. The state would receive a minimum \$1.25 billion from the federal government. She announced that the simplest thing would be for the legislature to convene and appropriate the funds to eliminate any speculation and confusion.

11:51:55 AM

Representative Sullivan-Leonard asked about the RPL process. She saw that the process had been used in the past for emergency funding, Medicaid, and the National Guard. She referenced a response by Ms. Wallace to Senator Wielechowski regarding limitations of the RPL process for CARES Act expenditures concerning "other program receipts." She inquired whether Power Cost Equalization (PCE) could be considered program receipts and used to disperse funds for community revenue sharing and if it was applicable to the RPL process. Ms. Wallace answered in the negative. She explained that additional program receipts applied when a program received more revenue than had been anticipated. She detailed that the RPL process could be used to increase program receipts. She detailed that PCE funds were part of a state fund and were not program receipts. Utilization of PCE funds were specifically appropriated by the legislature. The RPL process could not be used to request to expend additional funds out of a state fund. Representative Sullivan-Leonard hoped that funding could be

dispersed by the state to the local governments as soon as possible. She acknowledged that people in her district were really hurting. She did not want to hold up the process and wanted the funds dispersed quickly and effectively.

[11:55:26 AM](#)

Co-Chair Johnston echoed Representative Sullivan-Leonard's comments. She wanted to work expediently, together with the administration to distribute the funds in a "thoughtful manner." She offered to reach out to the administration to ensure the funds were distributed to Alaskans as soon as possible.

Co-Chair Foster relayed that the point of the meeting was to gain information and use it for a plan going forward.

#

ADJOURNMENT

[11:57:00 AM](#)

The meeting was adjourned at 11:56 a.m.