

**ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE**

Anchorage, Alaska

May 1, 2020

1:01 p.m.

MEMBERS PRESENT

Representative Chris Tuck, Chair
Representative Neal Foster
Representative Andy Josephson
Representative Ivy Spohnholz (via teleconference)
Representative Mark Neuman (via teleconference)
Representative Jennifer Johnston (alternate, via teleconference)

Senator Click Bishop, Vice Chair
Senator Bert Stedman (via teleconference)
Senator Natasha von Imhof
Senator Cathy Giessel
Senator Lyman Hoffman (via teleconference)
Senator Bill Wielechowski (alternate, via teleconference)

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Bryce Edgmon
Representative Matt Claman
Representative DeLena Johnson
Representative Dan Ortiz
Representative Geran Tarr
Representative Kelly Merrick
Representative Harriet Drummond

Senator Lora Reinbold.

COMMITTEE CALENDAR

APPROVAL OF MINUTES
REVISED PROGRAMS - LEGISLATIVE (RPLs)

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

PAT PITNEY, Director
Legislative Finance Division
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Provided information regarding RPLs.

NEIL STEININGER, Director
Office of Management & Budget
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding RPLs.

LACEY SANDERS, Director
Administrative Services Section
Department of Education & Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of RPLs.

ELIZABETH DUNAYSKI, Director
Central Office
Division of Administrative Services
Department of Public Safety
Juneau, Alaska

POSITION STATEMENT: Provided information during discussion of RPLs.

ROB CARPENTER, Deputy Commissioner
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of RPLs.

ACTION NARRATIVE

1:01:40

[1:01:21 PM](#)

CHAIR CHRIS TUCK called the Legislative Budget and Audit Committee meeting to order at [1:01] p.m. Representatives Tuck, Foster, Josephson, Spohnholz, Johnston (Alternate) and Senators Bishop, Stedman, von Imhof, and Giessel were present at the call to order. Representative Neuman (via teleconference), Senator Hoffman (via teleconference), and Senator Wielechowski (via

teleconference) arrived as the meeting was in progress. Also present were Representatives Edgmon, Claman, Ortiz, Tarr, Merrick, and Drummond and Senator Reinbold.

Approval of Minutes

[1:03:12 PM](#)

CHAIR TUCK announced that the first order of business would be the approval of minutes.

[1:03:20 PM](#)

SENATOR BISHOP made a motion to approve the minutes of the Legislative Budget and Audit Committee of March 30, 2020. There being no objection, the minutes from the meeting of March 30, 2020, were approved.

Revised Programs - Legislative (RPLs)

[1:03:35 PM](#)

CHAIR TUCK announced that the final order of business would be the consideration of Revised Programs - Legislative (RPLs). He said he would like the committee to consider as many RPLs as it could legally approve to release as much money as possible to help the people of Alaska "alleviate some of the effects of the COVID-19 crisis." He stated his intention that the committee release more than \$124 million today. He stated that a couple hours ago a revised RPL packet was sent by the governor that contains over 100 new RPL requests and is more than 270 pages. He said that "our team" did not have time to review the entire packet; therefore, it was his intention to give the Legislative Finance Division and Legislative Legal Services time to review the RPLs and then reconvene at a later date to address them as soon as possible.

CHAIR TUCK named those available to inform and answer questions: Pat Pitney, Kelly Cunningham, Sabrina Javier, and Michael Partlow, from the Legislative Finance Division; Kris Curtis, from the Legislative Audit Division; Neil Steininger, from the Office of Management & Budget; Rob Carpenter, John Binder, Dom Pannone, Ben White, Matt McLaren, and Mike Lesmann, from the Department of Transportation & Public Facilities; Lacey Sanders, from the Department of Education & Early Development; Elizabeth Dunayski, from the Department of Public Safety; and Megan Wallace, from Legislative Legal Services.

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PAT PITNEY, Director, Legislative Finance Division, Legislative Affairs Agency, noted that the division had just supplied an updated packet of RPLs to committee members with minor revisions made to the six RPLs that were supplied two days ago.

MS. PITNEY began with RPL 05-2020-0074, which is \$44,911,411 of funding through the CARES Act to the Department of Education & Early Development (DEED). She indicated that \$38,407,000 of the total amount would provide for additional formula funding to kindergarten through twelfth-grade (K-12) schools, while \$6.5 million is the governor's Education Relief Fund. She said the amount submitted on April 21, 2020, was \$48 million. She said, "Subsequently they know the exact amount. They've also clarified that it's a [fiscal year 2020] (FY 20) RPL." She stated there are no technical issues with this RPL and the intent of the distribution is based on Title I(a) formula funding and an additional amount to ensure that all K-12 schools "get an amount." She noted that there is \$2.8 million remaining from "a formal distribution that has not been provided for."

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REPRESENTATIVE JOSEPHSON asked whether these funds could be used after July 1.

MS. PITNEY answered that the funding will be allocated to school districts in FY 20, but the school districts "have access to the funding going forward." She deferred to Neil Steininger or Lacey Sanders for further clarification.

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NEIL STEININGER, Director, Office of Management & Budget, Office of the Governor, echoed Ms. Pitney's statement that the funds in the state budget would be obligated in FY 20 but the grant to the school "would be available to be spent ... outside of FY 20." He added that there is carry-forward federal receipt language under the FY 21 budget that can be used by DEED to carry that revenue forward "and make those commitments at that time in FY 21, as well."

REPRESENTATIVE JOSEPHSON asked what the restriction on these dollars are "relative to the \$30 million that was vetoed."

MR. STEININGER offered his understanding that this money is intended for Title I eligible activities. He deferred to Ms. Sanders to supply more specifics.

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LACEY SANDERS, Director, Administrative Services Section, Department of Education & Early Development, stated that federal guidance provided to DEED states that the funding is to be allocated to school districts based on the Title I(a) formula; however, it is clear that "the money is not ... to be spent based on the Title I funding." She summarized the guidance that the department received. She said the local educational agencies have the ability to spend the money on any activities authorized under two federal Acts, and they can spend it on emergency response coordination, school leader support, preparedness, cleaning supplies, education technology, mental health support, summer learning, and additional COVID-19 response.

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MS. PITNEY moved on to RPL 05-2020-0075, DEED, U.S. Department of Agriculture Families First Coronavirus Response Act (FFCRA). She said the RPL on April 21 was for \$5 million, and the amount was changed to align with the actual award of \$41,869,000 "and change." She said the money will be available to DEED and distributed to school districts and other sponsoring state agencies based on their claims for reimbursement of meals served. She said the expectation is that the full amount of the grant will be obligated in FY 20; however, subgrantees can expend the funds in [FY] 21.

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REPRESENTATIVE JOSEPHSON asked whether school districts could use these dollars for "next year's lunch" in order to "free up assets."

MS. PITNEY deferred to Ms. Sanders.

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MS. SANDERS stated that the funding will be allocated to the school districts based on the claims submitted to DEED for reimbursement. The claims would be for expenditures from March

through September 2020. The funds do not cover any cost beyond meal claims.

REPRESENTATIVE JOSEPHSON responded that although that answered his question, what he heard was "not favorable news."

MS. SANDERS added her understanding that when the COVID-19 declaration was announced, school districts "stepped up" and began providing meals and were asked to track the number of meals that were being provided. She said the understanding is that the \$42 million can be used as relief for school districts that have increased the number of meals they would typically distribute, in response to COVID-19. The money would provide school districts support.

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SENATOR VON IMHOF remarked that no one really knows whether school will be back to normal operations in the fall; therefore, she encouraged the committee to consider that it may have to revisit this topic. She said the onus is on the school districts to closely track the meals being provided and submit the claims "in a periodic and timely fashion."

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SENATOR GIESSEL directed attention to the first sentence of the second paragraph of page 2 of the RPL, which read [original punctuation provided]:

The funds are anticipated to become available during FY2020 and will be available for obligation through September 30, 2021.

SENATOR GIESSEL said that that language seems to be in conflict with language on page 1, which read: "through September 30, 2020." She asked Ms. Sanders if she could reconcile that.

MS. SANDERS answered that the initial guidance the department received from the U.S. Department of Agriculture indicated that DEED was going to be receiving funding through September 30, 2021. A few days ago the department received the actual grant award, which provides the \$42 million and clearly outlines the end date of the grant award as September 30, 2020. She said the states are working closely with the U.S. Department of Education to identify whether there will be additional flexibility, as well as seek clarification as to whether additional funding will

be coming. She concluded, "I believe that this paragraph just wasn't updated after we received that guidance."

SENATOR GIESSEL directed attention to the final sentence of the second paragraph of page 2 of the RPL, which read [original punctuation provided]:

The full amount will be obligated in FY2020, however sub grantees may be able to expend those funds in FY2021.

SENATOR GIESSEL asked for clarification that the money could be committed in FY 20 and spent in FY 21.

MS. SANDERS explained that the end of the fiscal year would be June 30, 2020, and the award would end on September 30, 2020, thus the award would cross the two fiscal years.

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CHAIR TUCK asked which statement should have been corrected.

MS. SANDERS answered, "I believe the second paragraph on the second page should be corrected to say: "available for obligation through September 30, 2020."

[1:23:46 PM](#)

REPRESENTATIVE SPOHNHOLZ offered her understanding that Ms. Sanders had said this RPL is for increased meal claims, but she pointed to information on page 1, paragraph 4, which uses the phrase "to meet unexpected feeding needs." She said this is an important distinction. She asked for confirmation that the schools would not have to demonstrate an increased number of meals served in order to claim the funds.

MS. SANDERS suggested perhaps she is using a term differently from how Representative Spohnholz may consider it. She explained that there are school districts that are providing an increased number of meals, which has resulted in an increased cost to the districts. She said she thinks she and Representative Spohnholz are saying the same thing. She added that she agrees with what Representative Spohnholz said.

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CHAIR TUCK reminded the committee that it cannot amend an RPL. Nevertheless, he said he wants to make sure the 9/30/2020 date is duly noted.

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REPRESENTATIVE JOSEPHSON posited that what Chair Tuck had just said was that he amended the RPL.

CHAIR TUCK explained that he just wanted to make sure it was on the record that "everybody understands it's a typo."

[1:26:10 PM](#)

MS. PITNEY proceeded to RPL 05-2020-0076, within DEED, for an amount of \$421,500 via the CARES Act for the Alaska State Council on the Arts. Planned use of the funds is limited to salary support for positions critical to the organization's mission, fees for artists and contractual personnel "to maintain and expand the period during which the person has engaged," and facilities costs such as rent and utilities. Ms. Pitney said there are no technical issues with this RPL. The Alaska State Council on the Arts consistently receives funding from the federal government and has existing federal authority. She said RPL 05-2020-0076 just provides additional dollars that can be used within the council for grants.

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SENATOR VON IMHOF asked whether there is a time frame for getting out the grants.

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SENATOR BISHOP drew Senator von Imhof's attention to the second paragraph of the second page of the RPL, which relates to "Timing Issues" and read as follows [original punctuation provided]:

The CARES Act was passed by Congress and signed into law on March 27, 2020. The Alaska State Legislature recessed on March 29, 2020. Given the timing and lack of guidance provided by the NEA, ASCA did not have enough information to request an appropriation during the current legislative process. Documentation of the amount of funding became available in an email to the Executive Director from the State Arts Director at the

NEA on April 8, 2020. The award packet will follow in a few weeks. The funds are imminent as State Arts Agencies across the nation are also receiving similar funding and are listed as such on the NEA's website. Funds will be available to draw down before June 30, 2020. The funds do not lapse, and they can be extended until spent if not expended by September 30, 2022.

SENATOR VON IMHOF remarked that it is interesting that this RPL is more generous than that for food and nutrition.

CHAIR TUCK agreed it does seem that way in terms of timing, but not in terms of money.

[1:29:14 PM](#)

MS. PITNEY moved on to RPL 12-2020-4049, Department of Public Safety (DPS), Alaska State Troopers, Special Projects, which gives authority to receive a U.S. Department of Justice Byrne-Justice Assistance Grant Program (Byrne-JAG) grant authorized through the CARES Act. She said the award has been received by DPS and will be allocated as follows: \$1 million to local law enforcement agencies on a rolling reimbursement request basis; \$1 million to state criminal justice agencies, which will apply to DPS for funding; and \$1.6 million retained by DPS to address increased operational costs due to COVID-19. Ms. Pitney related that today's resubmission of the RPL provided clarity as to how much of the RPL authority is needed in FY 20 and how much is needed in FY 21. The approval of the RPL would provide \$750,000 for FY 20 and \$2.8 million for FY 21. She stated that Byrne-JAG is commonly administered through DPS, and DPS has current federal authority.

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REPRESENTATIVE JOSEPHSON asked whether the three components Ms. Pitney listed came from the CARES Act or were a creation of the Office of the Governor.

MS. PITNEY deferred to Mr. Steininger.

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MR. STEINGER answered that the distribution was determined by the department based on an estimate of how much would be necessary for each of the areas.

REPRESENTATIVE JOSEPHSON noted that the corrections officers that have been exposed to the virus and have tested positive for it have concerns about accessing these funds and wanted him to make note of that. Further, he noted that these people were curious about the designation of \$1.6 million to DPS and no dedication to the Department of Corrections (DOC).

MR. STEININGER responded that currently the way the grant is administered, the funds go through DPS and can be distributed to DOC and "other state agencies that have eligibility within this grant to distribute funds to those state agencies."

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SENATOR BISHOP asked Mr. Steininger to reconfirm that the funding could be, if needed and requested by DOC, allocated to DOC.

MR. STEININGER answered that is correct.

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REPRESENTATIVE NEUMAN asked whether there were any restrictions that would prevent DPS from setting up a grant system so that communities could apply for grant funds for neighborhood watch programs.

MS. PITNEY said she does not know.

MR. STEININGER suggested someone from DPS could answer that question.

[1:35:41 PM](#)

ELIZABETH DUNAYSKI, Director, Central Office, Division of Administrative Services, Department of Public Safety, stated that the nature of the grant does not allow the funding to be used that way. She explained that the grant is specifically for costs related to COVID-19 circumstances.

REPRESENTATIVE NEUMAN indicated he was interested in how DPS could give outreach to local communities on how to deal with COVID-19 issues. He said he could follow-up in a discussion with the department on his own.

[1:37:00 PM](#)

MS. PITNEY directed attention to RPL 25-2020-8766, for COVID-19 Federal Transit Administration 5311 grants, which go to the Department of Transportation & Public Facilities (DOT&PF). The amount is \$29 million. She said DOT&PF traditionally has funding for the federal transit program (FTP), and this RPL would add an additional \$29 million to an existing capital project that has \$10 million in federal authority from FY 20. She said this is a grant program that provides expenses for transit administration recipients, including administrative leave for transit workers. It notes that the Alaska Marine Highway System (AMHS) is eligible to apply for the grants. She said other areas that have applied are communities, as well as the inter-island ferry operation.

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SENATOR VON IMHOF noted that DOT&PF anticipated \$10 million to the Alaska Marine Highway and that left \$19 million of the \$29 million. She asked whether that could go to the Alaska Railroad. She questioned what other nonurban transportation systems Alaska has, such as bus systems, commuter airports, and interisland ferries. She mentioned airports. She asked Ms. Pitney what "this other \$19 million could be used for?"

MS. PITNEY answered that Juneau and Kodiak, for example, "have received funding from this in the past." She deferred to a representative from DOT&PF to provide further clarification. She added that there are separate grants for over \$100 million in airport funding separately that will be addressed at a later date.

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ROB CARPENTER, Deputy Commissioner, Department of Transportation & Public Facilities, stated:

So, the FTA grant is a program - we have 13 subgrantees that are in the rural area that's basically everything but Anchorage and Fairbanks. So, anything with a bus system or a caravan. Examples would be Juneau, Kenai, Tok even has some ... caravan transit-type systems that... Those subgrantees will receive funding through this. We set aside \$10 million for those 13 subgrantees; we set aside \$10 million for the [Alaska] Marine Highway System; and we have \$9 in reserve to kind of evaluate how this ...

progresses. And if the subgrantees require additional money, we'll evaluate as ... time goes by.

SENATOR VON IMHOF asked whether there is a date certain when the money in reserve has to "go out."

MR. CARPENTER offered his understanding that there is no "lapse date" imposed by the federal government; therefore, currently there is no indication that that money will be taken away from the department. He said the plan is to address costs related to COVID-19, replace revenue loss, and fund employees and other costs.

SENATOR VON IMHOF asked Mr. Carpenter whether he is certain that the money can be used to replace lost revenue.

MR. CARPENTER responded that the intent is to cover lost revenue that "would have funded their operations."

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REPRESENTATIVE JOSEPHSON noted that AMHS had "suffered a veto." He further noted that the guidance language regarding the current RPL uses the phrase "secondary order effects." He constructed a hypothetical situation in which AMHS figures that it will lose "X" dollars during its peak season, May 1 through mid-September, because "no one wants to come here from the Lower 48" [because of the threat of coronavirus], and it decides that "we want to submit that through the public transportation and have a portion of the \$29 million paid to it as the division a of the Department of Transportation [& Public Facilities]." He asked for help in understanding how this would work. In response to a request for clarification, he confirmed that he wants to know whether the \$29 million can be used to replace AMHS revenue.

MR. CARPENTER responded that he thinks the department could [use the funds for that purpose]; however, he said that is not the intent of the department. He clarified as follows:

Our intent is to cover the significant costs that were incurred as a result of having to pay employees. We had to close down the Ketchikan shipyard in March to protect employees. We sent a lot of them home; they're still being, of course, paid almost COVID leave, to speak of. ... So, like I said, we're trying to cover costs of the [Alaska] Marine Highway [System]

only, at this point. ... Our revenue is obviously down a significant amount going into finishing this fiscal year, and we're not even sure how FY 21 will proceed, but our intent with this money is specifically costs of [Alaska] Marine Highway [System] that we're incurring right now. The ... subgrantees, however, can use the money that they receive as a grant to replace their revenues they're losing.

REPRESENTATIVE JOSEPHSON, referencing the aforementioned vetoes, surmised that when the governor spoke about supplanting funds with federal dollars, he was not speaking about the ferry system as people think of it - "boats on the water with passengers on the boats" - but was "thinking about something else, I guess."

[1:47:50 PM](#)

CHAIR TUCK said he thinks federal guidance related to the CARES Act is pretty clear that the funds cannot be used as revenue replacement but only be used for actions taken to respond to the public health emergency. He remarked, "So, we say that we can use it for lost revenue in this case but not these other cases." He asked for an explanation of what makes this the exception.

[1:48:22 PM](#)

MS. PITNEY responded that there are 125-150 different provisions in the CARES Act, and each one has different definitions. She said the section of the Corona Virus Relief Fund that provides the state with \$1.25 billion has strict guidance that the funds cannot be used for government revenue replacement. She said she had spoken about airport funding, which clearly allows for revenue replacement. She said although she is not as familiar with the transit grant, it appears also to have a provision for revenue replacement. She added that another example of differences between provisions can be seen in their varying dates.

[1:50:12 PM](#)

REPRESENTATIVE SPOHNHOLZ noted that Mr. Carpenter had said this RPL applies to transportation in Alaska other than in Anchorage and Fairbanks. She asked whether there are any other revenue streams available for those urban transportation systems.

MR. CARPENTER answered that Anchorage and Fairbanks receive FTA money separately outside the rural funding requested for

subgrantees. He added that Anchorage and Fairbanks receive money directly from the federal government, not through the State of Alaska.

[1:51:17 PM](#)

SENATOR BISHOP asked Mr. Carpenter to confirm his assumption that some of the rural villages and incorporated second-class cities in Alaska would be able to apply for this funding, as well.

MR. CARPENTER confirmed that is 100 percent correct; the funds are available to any community that operates a transit system.

[1:52:18 PM](#)

MS. PITNEY brought attention to the final item on the agenda, RPL 45-2020-0002, University of Alaska, for the amount of \$5 million and for FY 20. She said the University of Alaska is receiving almost \$7.9 million through the CARES Act funding, through the Education Stabilization Fund, and it is split into two components: 50 percent to students for emergency student aid; and 50 percent anticipated as being available for more general relief for university operations and lost revenue, with more guidance expected. She explained the reason that the University of Alaska is requesting \$5 million in receipt authority rather than \$7.9 million, is because it already has existing receipt authority and is asking for what it needs and "to have the authority in the right appropriation."

CHAIR TUCK summarized the final RPL and ascertained that there were no questions from the committee.

[1:54:35 PM](#)

The committee took an at-ease from 1:54 p.m. to 1:55 p.m.

[1:55:15 PM](#)

SENATOR BISHOP moved that the Legislative Budget and Audit Committee approve the following RPLs: RPL 05-2020-0074 (Department of Education and Early Development U.S. Department of Education CARES Act), as revised on May 1, 2020; RPL 05-2020-0075 (Department of Education and Early Development U.S. Department of Agriculture FFCRA and CARES Act), as revised on May 1, 2020; RPL 05-2020-0076 (Department of Education and Early Development National Endowment for the Arts CARES Act), as

revised on May 1, 2020; RPL 12-2020-4049 (Department of Public Safety USDOJ Byrne-JAG CARES Act), as submitted on April 21, 2020; RPL 25-2020-8766 (Department of Transportation and Public Facilities FY2020 COVID-19 Federal Transit Administration 5311 Grants), as revised on May 1, 2020; and RPL 45-2020-0002 (University of Alaska CARES Act Federal Funding Opportunities), as revised on May 1, 2020.

SENATOR BISHOP noted that the passage of these RPLs while the legislature is still in session "represents action taken during an unprecedented public health disaster" and "does not represent an abrogation of the legislature's preeminent [constitutional] appropriation authority."

CHAIR TUCK announced that there being no objection, the RPLs were approved.

[1:58:24 PM](#)

CHAIR TUCK spoke about unprecedented times occurring and the high profile of the committee as a result of getting the funds out to communities. He thanked the Division of Legislative Finance, Legislative Legal Services, the Office of Management & Budget, the Department of Law, the Office of the Governor, and the many other state agencies that have taken part in this process. He said industries are hurting, communities are strained, and Alaskans need relief; therefore, he looked forward to continuing discussion on the topic the following week.

[1:59:30 PM](#)

ADJOURNMENT

The Legislative Budget and Audit Committee meeting was recessed at 1:59 p.m. to be reconvened at 1:00 p.m. on May 6, 2020. [The meeting was never reconvened; a new meeting was scheduled and held on May 11, 2020.]