HOUSE FINANCE COMMITTEE
April 8, 2021
9:04 a.m.

9:04:54 AM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Bryce Edgmon
Representative DeLena Johnson
Representative Andy Josephson
Representative Bart LeBon
Representative Sara Rasmussen
Representative Steve Thompson
Representative Adam Wool

MEMBERS ABSENT

None

ALSO PRESENT

Neil Steininger, Director, Office of Management and Budget, Office of the Governor; Paloma Harbour, Fiscal Management Analyst, Office of Management and Budget, Office of the Governor; Alexei Painter, Director, Legislative Finance Division.

SUMMARY

PRESENTATION: AMERICAN RESCUE PLAN ACT OF 2021: OFFICE OF MANAGEMENT AND BUDGET

PRESENTATION: AMERICAN RESCUE PLAN ACT OF 2021: LEGISLATIVE FINANCE DIVISION

Co-Chair Foster reviewed the meeting agenda.

^PRESENTATION: AMERICAN RESCUE PLAN ACT OF 2021: OFFICE OF MANAGEMENT and BUDGET

9:06:16 AM

NEIL STEININGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, introduced a PowerPoint presentation titled "State of Alaska Office of Management and Budget: Senate Finance COVID-19 Relief Funding Overview," dated April 8, 2021 (copy on file). He stated that the American Rescue Plan Act (ARPA) was the sixth in a series of federal fiscal response packages over the past year in response to the COVID-19 pandemic. The relief package most talked about thus far was the third relief package, the Coronavirus Aid, Relief, and Economic Security (CARES) Act that brought $1.25 billion to the state. Prior to the CARES Act, there had been two smaller acts with smaller amounts of funding focused on various areas such as vaccines and leave for employees who were sickened by COVID or were impacted by Coronavirus in some way.

Mr. Steininger detailed that the CARES Act had provided much of the fiscal response for second order impacts over the past year. He stated that ARPA built on the prior funding to address some of the second order impacts of COVID on states, communities, and economies. The timeline on slide 2 showed the various federal fiscal responses. He referenced a spreadsheet titled "Attachment 1" showing federal funding to Alaska for COVID-19 response (copy on file). The spreadsheet listed the various grants under each of the federal relief acts. He noted that the presentation used color coding for the various federal acts to make things clearer. He referred to names of the various acts. He detailed that green represented the initial responses from the federal government in the spring of 2002. The act introduced in December 2020 [Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA)] was shown in blue and ARPA, the most recent relief, was reflected in purple. He relayed that the Office of Management and Budget (OMB) was still working through its understanding of the various pots of money coming to the state.

Mr. Steininger added that the bright yellow shown in the spreadsheet reflected grant items that still needed an appropriation to expend. The green in the CRRSAA section represented items that OMB had submitted for an RPL [revised program legislative] or had put forward an appropriation request in the normal budget process. White items on the sheet reflected items where no appropriation was required, or an appropriation had already been received.

9:09:53 AM

PALOMA HARBOUR, FISCAL MANAGEMENT ANALYST, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, moved to slide 3 and discussed that the largest pot of discretionary funding for COVID relief was the Coronavirus Relief Funds (CRF). She explained that when the funds had been made available in the spring of 2020 there had been three broad guidelines from the federal government on how the funds could be spent. The funds had to be necessary expenditures incurred due to the public health emergency, the expenses could not have been accounted for in the budget most recently approved, and the expenses had to be incurred between March 1, 2020, and December 30, 2020. She stated there had been very little guidance and a short time frame in which to spend the funding. The legislature had passed appropriations for the funding in the April to May 2020 timeframe. She elaborated that RPLs had been used for part of the funding.

Ms. Harbour highlighted that a number of iterations, guidance, and frequently asked questions had been released after the act, providing clarity on allowable funding expenditures. She stated that flexibility in the appropriations had been critical for the state's ability to utilize the funding as the guidance continued to change.

9:11:58 AM

Ms. Harbour advanced to a pie chart on slide 4 showing how CRF funds had been spent. The CRF funds had been appropriated in the spring of 2020 and were almost fully allocated. There was a $45 million reserve to address potential needs yet to be identified (e.g., a potential surge in cases). She explained that if the funds were not needed for emergent needs, they could be used to offset agency costs at the end of the fiscal year and increase the undesignated general funds (UGF) lapse. She referenced a spreadsheet titled "Attachment 2" in members' packets showing Alaska CRF allocations and expenditures (copy on file). The spreadsheet included additional details showing how funding was allocated to various projects. She relayed that Alaska had been selected for a desk review of the CRF funding. She detailed that OMB had an entrance conference with U.S. Treasury, Office of Inspector General (OIG). She explained that OMB had responded to OIG's initial document request. She expounded that OIG had a July target date for its preliminary report, which OMB would respond to. She relayed that OIG's final report should be released in August.

Representative Edgmon appreciated the presentation. He referenced the terms "allocated" versus "appropriated." He shared that he had watched the presentation when it had been given in the other body and had heard the word appropriation, while he had heard the words "fully allocated" in the current presentation. He stated that the funds that the CARES Act funds had gone through the RPL process.

Ms. Harbour agreed.

Representative Edgmon believed there was an open question for calendar year 2021 in terms of what the ARPA funds would entail once the Treasury guidelines were received around May 10. He stated that for him it was still an open question in terms of who had the ability to appropriate the money and distribute it to Alaskans. He asked if it was the governor in the RPL process or the legislature through the appropriation process. Additionally, he asked whether the word "appropriation" was synonymous with going through the RPL process as well as being appropriated by the legislature.

Mr. Steininger answered that anything shown in yellow on the list of grants coming in, particularly the ARPA grants, required appropriation of federal receipt authority by the legislature to state agencies for the ability to expend the funds. He referenced discussion on allocations and explained that appropriations had been made to the Department of Health and Social Services (DHSS) or through the RPL process. He noted the RPL process represented an appropriation included in the appropriations bill action on a specific appropriation. He detailed that flexibility within appropriations allowed the state to slightly modify plans as [updated federal] guidance came out through the summer. The $45 million represented on slide 4 reflected unallocated portions of the appropriation to DHSS emergency programs where much of the response mitigation activities had been managed. He stated there was a small portion of the $45 million that was unallocated. He reiterated that the $45 million was money appropriated to DHSS.

9:16:27 AM

Representative Edgmon stated his understanding that the word "appropriation" could be used synonymously with the RPL process that had authorized the $568 million in community relief grants in 2020. He believed the legislature had authorized the action later on. He stated that OMB's presentation was not opining on whose responsibility it was with the ARPA funds henceforth on receipt of [federal] guidelines specifying how the funds could and could not be used. He wanted to be clear that the word appropriation could mean after the legislature was out of session and while the legislature was in session and that it was not code for "the legislature has to appropriate the ARPA money." He stated he would ask further questions if he continued to receive an ambiguous response.

Co-Chair Foster recognized that Representative LeBon had joined the meeting.

Representative Josephson looked at slide 4 related to other COVID costs. He remarked there was $45 million the state had control of for use on emergent expenses. He asked for verification that the funds could be used to backfill or supplant other DHSS expenses if the state could not find meaningful ways to spend the funds in the next two months and three weeks.

Mr. Steininger replied that slide 4 showed expenditures the state had made in response to COVID. He explained it was not that the state had not spent state funds on COVID response that could be eligible for reimbursement from the $45 million. He expounded that the state had not reimbursed some of the state costs because agencies had been able to absorb some of their spending on COVID. He continued that at the end of the year, if the state did not have other emergent needs requiring the use of the federal monies, it could reimburse state agencies for the costs incurred due to COVID. He explained that the action would effectively lapse the general funds agencies had used.

Mr. Steininger explained that at the end of FY 20 there were costs incurred in the Department of Public Safety, which was a presumptively eligible cost for COVID relief funds (any public safety personnel costs). He elaborated that at the end of the fiscal year, a portion of the CRF funds had been used to reimburse some of the personnel cost in order to lapse additional money into the Constitutional Budget Reserve (CBR). He clarified that the CRF funds had not all been used because some funds were necessary in case of emergent situations requiring response by the state that fit within the CRF guidelines. The administration was still sitting on the $45 million in the event there was a need for the funding, but there were plenty of costs incurred throughout state government that were eligible for reimbursement from the funds. He stated that at the end of the day, the money would not go unutilized.

9:20:32 AM

Representative Josephson asked if it would be knowable to a legislator prior to adjournment, what funding would lapse.

Mr. Steininger answered that OMB updated and provided reports to the legislature on all spending related to COVID, including how much of the CRF was unexpended. He stated that the decision about whether to offset general fund costs in agencies - agencies that did not necessarily need the offset to meet other needs - would happen at the end of the fiscal year based on whether or not the state had to utilize the $45 million for more specific COVID-related emergent events. He added that the amount may not be knowable [prior to adjournment] because OMB would not know until the end of the fiscal year.

Representative Johnson knew there were existing requests for money from the state, which could potentially be paid from the [CRF] fund and agencies could potentially lapse their money. She wondered at what point the state would decide it would no longer hang on to the funds and the money would be fully expended.

Mr. Steininger replied that it was a balancing act. He explained that the CRF was only eligible for use through the end of the calendar year. He elaborated that due to the incoming federal ARPA funds it loosened up the need to hold onto the $45 million in contingency. He stated it was likely the state would soon have a better understanding of how the CRF funds would be used once there was a better understanding of how ARPA funds could be used. He remarked that from the high level eligibility criteria, it appeared the CRF looked to be more flexible in some ways than ARPA funding; however, until the state received more specific guidance on ARPA it was difficult to make commitments with the $45 million [in CRF funding] outside of emergent needs.

9:23:54 AM

Ms. Harbour turned to slide 5 showing state agency current COVID-19 expenditures. The slide showed there was about $116 million in state incurred expenses, part of which could be offset with CRF.

Mr. Steininger moved to slide 6 outlining the current information on ARPA eligibility criteria. Similar to the CRF, broad categories had been identified for ARPA. The funds could be used to cover expenses to respond to the public health emergency and its negative economic impacts; to respond to workers performing essential work by providing premium pay to eligible workers; for the provision of government services to the extent of the reduction in revenue due to COVID-19; and to make necessary investments in water, sewer, or broadband infrastructure. The act included a couple of specific restrictions. He detailed that direct or indirect offsets to a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation, was not allowed. Additionally, deposits into any pension fund were not allowed.

Mr. Steininger continued to address slide 6 and relayed there had been many questions about all of the pieces. He shared that the state had participated with several different organizations including the National Governor's Association and the National Association of State Budget Officers in compiling questions on the guidance to send to the Treasury. He stated it appeared Treasury had learned from experience and feedback the previous summer when it had issued many iterations of guidance. He reported that Treasury seemed much more interested in getting as many of the questions in upfront in order to provide more complete guidance. The federal guidance was not due until May 10. He noted that OMB was hopeful the guidance would come sooner, but it may not happen.

Mr. Steininger provided an example of the scale and scope of questions coming in. He highlighted that the letter from the National Governor's Association (included in members' packets) was 25 pages of questions. He added that the list of questions provided by OMB was two pages single spaced. There were a significant number of detailed questions on how to interpret the federal guidance. Given the nuance to the interpretation the federal government had given CRF, OMB wanted to ensure it understood what was and was not eligible for ARPS funding. He pointed out that thus far, the eligible categories were broad and covered many different ideas and concepts. He explained that it was the nuance of the individual plans that the state started to get concerned about how the Treasury would interpret the language it had issued related to allowable expenses.

9:28:12 AM

Representative Wool looked at the items on slide 6 and remarked that [allowable expenses outlined in] items A, B, and C were COVID-related whereas item D appeared to be new investment in infrastructure. He asked for verification that a community could build a brand new broadband system with the funds.

Mr. Steininger replied that it was his understanding that the funds could be used for new infrastructure for broadband. He believed the federal government saw broadband as COVID-related because of telework capability for people in areas without broadband infrastructure. Additionally, COVID had been somewhat taxing on water and sewer infrastructure for hygiene related reasons.

Co-Chair Foster stated that much of the relief being provided required applying online. He highlighted that many people in rural areas had problems accessing the funds.

Representative Wool remarked that remote school had poked numerous holes in the understanding of what defined good internet. He asked for verification that as long as a tax was not changed, the funding could be used to make up for a lack of tax revenue. He used bed tax in the Denali National Park and cruise ship head tax as examples.

Mr. Steininger answered that it was an area where the federal government had given a bit more guidance because the interpretation of the change in tax had received many questions. It was OMB's current understanding that a loss in tax revenue as a result of COVID could be backfilled whereas a deliberate reduction to the bed tax rate could not be backfilled.

Representative Wool remarked that there was no statewide sales tax in Alaska; however, any community with a sales tax would have a loss in revenue because people were not buying as much. He stated his understanding that any loss of state, municipal, or other tax revenue was fair game.

Mr. Steininger agreed. He added that several of the questions OMB had asked the federal Treasury was how to calculate the loss in tax revenue. He explained that the phrasing in the bill talked about a drop from a base year of FY 19; therefore, OMB believed it was merely the difference in the tax revenue between FY 19 and the current fiscal year. He noted it was not clear how it would be interpreted. He advised communities to wait until the calculation guidance was received before deciding a specific amount was allowable.

Co-Chair Foster remarked that internet was important throughout the state when it came to distant learning and education, particularly in rural areas where speeds were incredibly slow or nonexistent and costs were exorbitant.

9:32:11 AM

Vice-Chair Ortiz referenced item B on slide 6 outlining funds could be used to cover expenses for workers performing essential work during COVID-19. He asked if there was a clear definition identifying who essential workers were.

Mr. Steininger replied that OMB had included the question in its list to the Treasury.

Vice-Chair Ortiz asked how the distribution of funds would take place based on the current definition of essential workers.

Mr. Steininger noted that the topic would require refinement when more information was received. He stated that his basic understanding was that it would be based on an hourly rate of up to $13 per hour in premium pay to essential workers up to $25,000 per worker. He did not want to speculate on how the mechanisms worked, how the funds would be distributed, or on who would qualify.

Vice-Chair Ortiz surmised it would allow for the distribution to go to private businesses. He highlighted there was no stipulation about government workers only. He asked there would be a direct distribution to businesses.

9:34:20 AM

Mr. Steininger responded that he did not see the funding being limited to state or government employees. He stated his understanding that the funding would be open to all essential workers. He did not know whether funds would be distributed through employers or directly to workers. He could speculate on which option would be easier to manage, yet he did not know what the Treasury would decide.

Representative Carpenter stated his understanding that item B [on slide 6] pertained only to eligible workers who were employed during the COVID pandemic. He asked for verification that a premium pay would be added to a worker's regular paycheck; however, the funds would not go to workers who were not deemed essential and therefore were not working during the pandemic.

Mr. Steininger replied that it was his understanding of item B; however, OMB believed individuals who had lost their jobs would qualify for funding under item A related to negative economic impacts to businesses, households, and so on.

Representative LeBon stated that during the subcommittee process for the Department of Public Safety (DPS), the subcommittee had looked at trooper overtime or premium pay. He believed everyone would agree that Alaska State Troopers would be defined as essential workers. He asked if the payment of overtime or premium pay to the troopers through DPS would allow for backfilling part of the expense through ARPA.

Mr. Steininger agreed that troopers would fall under the essential worker category as they had under the CRF funding. He stated it would make troopers eligible for premium pay under the eligibility criteria [listed on slide 6]. He believed March 3, 2021, was the start date for eligible expenses for ARPA funds, meaning it would not be possible to look back very far in terms of money paid to troopers.

Representative LeBon suspected it would be an ongoing challenge for the department. He shared that he and Co-Chair Merrick had looked at the trooper's budget and their ability to fill vacant positions and avoid a lot of overtime was the challenge. He suspected it would be an ongoing challenge.

9:38:24 AM

Mr. Steininger referenced a document titled "Attachment 3" showing state and local allocation estimates (copy on file). He explained that the attachment provided detail on ARPA funding that would go to communities. The first page broke out the amount coming to the state in terms of the $1.019 billion. He stated that information under a yellow header provided the amount of money coming to the different communities. He noted that the community distributions had been set by the federal government, which was different from CRF funding where the state had set the distribution to communities. He explained that if someone observed some communities receiving a markedly different amount of money it was due to the allocation formula used by the federal government.

Representative Edgmon stated that the committee had heard from the Alaska Municipal League (AML) director that tribes would receive $1.7 million per tribal entity in Alaska. He remarked there were almost 300 tribes in Alaska. He asked why tribes were not included in the analysis. He believed items A through C on slide 6 did not refer to tribal entities in Alaska. He asked why there was not a breakdown of tribal entities along with communities. He stressed that the amount of money coming into Alaska for tribes was significant.

Mr. Steininger answered that the tribal money coming in was included in Attachment 1. He explained that the tribal funding did not flow through state government or the appropriation process through the legislature. The funding was not included in Attachment 3 because the tribal grant was separate from the state and local relief fund allocation represented in the attachment. He clarified that the distribution was separate grant included in ARPA. He detailed that Attachment 3 showed the state and local relief fund for state and local governments and not tribal entities. He relayed that OMB did not yet have an exact list of the distribution going to tribal entities.

9:41:22 AM

Representative Edgmon noted that AML had said $1.7 million would be coming to each tribal entity. He believed it was a significant amount of money that should be included somewhere in future presentations in order for the committee to understand interfacing that would take place between money going to communities, infrastructure projects, and a broad array of uses extended to 2024 with more allowable uses than under the CARES Act. He hoped there would be opportunity of synergy for the monies to be working together for the state's greater good.

Ms. Harbour answered that Attachment 1 included a $600 million placeholder for the Coronavirus Relief Fund tribal set-aside. She detailed that OMB knew there would be $398 million coming, which would be divided among tribes at $1.7 million per tribe. She elaborated that OMB did not currently know how the remaining $200 million would be distributed (e.g., based on population or fiscal impacts). She explained that OMB was waiting for the information to be released from Treasury. She clarified that the document provided to the committee with more details on the state and local fund was from the U.S. Senate estimates. She noted that OMB did not yet have similar information related to tribal governments.

Co-Chair Foster asked if the placeholder [for the tribal set-aside] was located on page 2 [of Attachment 1].

Ms. Harbour replied affirmatively. She detailed that the tribal set-aside was located on page 2, row 2 under the American Rescue Plan Act header.

Vice-Chair Ortiz looked at Attachment 3 showing the distributions to state governments, metro cities, and non-counties. He asked if the word "counties" was a direct substitute for boroughs in Alaska. He asked if non-counties would be unincorporated areas in Alaska [he received a non-verbal affirmative from the testifiers]. He asked if tribes would receive any of the $43 million set aside for non-county areas. He assumed many tribes were located in unincorporated areas or areas. He asked if tribes would receive additional money.

Mr. Steininger answered that there was a list by community that would go to the community government, similar to the distribution the state made from CRF to communities.

Vice-Chair Ortiz stated the distinction would be that a tribal entity within a community would receive some funds and the government within a tribal entity would receive funds as well.

Mr. Steininger agreed.

9:44:59 AM

Representative Wool referenced the CARES Act allocation to Native corporations, which he believed was going to the U.S. Supreme Court. He asked if the allocation was included in the documents.

Ms. Harbour replied that the approximately $500 million was not currently included in the numbers because OMB did not yet know if the money would be received.

Representative Wool asked for verification the number stated by Ms. Harbour was $500 million.

Ms. Harbour responded affirmatively.

Representative LeBon asked for a high level summary of the federal distribution formula for the [ARPA] funding.

Ms. Harbour replied that the distribution was primarily on a per capita basis. She added that the way the federal government had defined the units of government was a little odd. For example, the Haines Borough did not have an incorporated city; therefore, it was treated differently.

Representative Johnson asked if the tribal set-aside shown on page 2 of Attachment 1 would go directly to tribes or pass through the state.

Mr. Steininger answered that the funding would go straight to tribes and would not pass through the state.

Representative Carpenter asked whether the funding going to tribes had a similar list of specifications and restrictions.

Ms. Harbour confirmed that the federal legislation included restrictions and spending specifications for the funds going to tribes.

Representative Carpenter requested a summary at a later time.

Ms. Harbour agreed to provide the information.

Mr. Steininger relayed that the next several slides provided detail on direct grants that were not part of the larger $1 billion community fiscal response fund.

Ms. Harbour remarked that they were hoping to go through the information fairly quickly. She suggested that if a deeper dive was desired it could be helpful to invite the agencies administering the programs to answer the in-depth questions.

Representative Edgmon looked at slide 7 and asked for the difference between an RPL and an appropriation. He pointed to language on the slide specifying that ARPA required an additional appropriation. He asked if an appropriation meant the legislature needed to be in session to appropriate. Alternatively, he wondered if it meant the Legislative Budget and Audit Committee (LB&A) could appropriate through the RPL process.

9:48:38 AM

Mr. Steininger responded that the language meant an appropriation was required to receive federal funds. He stated that the RPL process was part of the appropriation process and was an available avenue; however, it was the administration's intention to put forward appropriation requests to cover any of the funds requiring additional appropriation as part of the budget process. He stated that OMB recognized the timing of receiving the federal guidance and putting forward an appropriations request was tight, but it was the administration's intention to put forward appropriation requests for consideration by the legislature because appropriation was required to expend the funds.

Representative Edgmon stated that the federal guidelines would be released on May 10 and the legislature would adjourn on May 19. He asked if the work could be completed in nine days.

Mr. Steininger answered that OMB was working to be prepared to release amendments as soon as possible after receiving the [federal] guidance. He informed members that OMB would not wait until the additional guidance arrived to do the technical work required to submit appropriation requests to the legislature because of the tight turnaround. He agreed that a nine-day turnaround was difficult and challenging; however, the timeline was a product of the federal Treasury and not OMB.

Representative Edgmon surmised that the committee could not expect amendments prior to the 10th to some degree as OMB anticipated what the guidelines would be. He remarked that the timeline would require swift action, otherwise the legislature would have to extend session or go into special session. He wanted to have some clarity to the discussion and recognized there was a limited amount of clarity from the agency and the legislature as the appropriating body.

9:51:06 AM

Ms. Harbour added that guidance would be received on May 10 date for the $1 billion in state and local fiscal relief funds. She clarified there were different timeframes on the guidance for the rest of the programs. She highlighted the emergency rental assistance program receiving additional funding via ARPA would have the same criteria as the emergency rental funding received under CRRSAA; therefore, OMB was not waiting for additional guidance. She elaborated that OMB had submitted budget amendments for the housing relief funding on April 1. She explained that as soon as OMB received guidance on a program it was working and submitting amendments for the legislature's consideration.

Representative Josephson stated his understanding that the administration was already appropriating some of the ARPA money because emergency rental assistance was a knowable category of spending that guidance could not significantly alter.

Ms. Harbour agreed. She made another comment on housing relief on slide 7. She referenced the emergency housing choice vouchers and explained that the amount would not be known likely until the end of May. She detailed that OMB had submitted an amendment as a placeholder for the funding. She stated it pointed to a need for a bit of flexibility in appropriations that were made. She relayed that OMB had put in $2 million as a placeholder, but the exact amount would not be known until late in the session.

Representative Johnson looked at Attachment 1 and referenced the $600 million tribal set-aside and $100 million for the childcare development fund to tribes. She thought there was $3.2 million for tribal childcare in the DHSS subcommittee budget. She asked if the existing increment in the budget would be needed in light of the new money coming in.

Mr. Steininger deferred the question on how the two funding increments were related to DHSS. He had not looked at the connection between the two increments. He stated the amount that came out of the subcommittee was not a request by the department or administration.

Ms. Harbour continued to address housing relief details on slide 7. She reported that some of the funding for housing relief had already been received and appropriated via the RPL process for the Alaska Housing Finance Corporation (AHFC). She shared that after the process, the Municipality of Anchorage and tribal governments had approached AHFC to administer their funding as well. She explained that AHFC needed program receipt authority to receive and expend the funding on behalf of the entities. Consequently, OMB had submitted a budget amendment to give AHFC the authority. Additionally, ARPA had a number of housing relief appropriations for emergency rental assistance, mortgage assistance, the Home Investment Partnership Act, homeless funds, and emergency housing choice vouchers. She noted that OMB had submitted a budget amendment for the funding.

9:55:01 AM

Co-Chair Foster believed the Alaska Community Foundation (ACF) was administering some of the funds as well. He shared that he had recently spoken with the foundation, and it was interested in administering some of the ARPA funds.

Mr. Steininger answered that ACF helped administer the $50 million nonprofit grant program that was part of the CRF distribution.

Co-Chair Foster asked if it had gone smoothly.

Mr. Steininger replied that he believed so.

Ms. Harbour discussed higher education relief funding for the University of Alaska and the Alaska Vocational Technical Center (AVTEC) on slide 8. She relayed that the presentation primarily focused on funding going to state agencies and through the state budget; however, there were appropriations in the federal legislation that went directly to other higher education institutions. She noted the information was included in Attachment 1. She listed the entities: Alaska Bible College, Alaska Christian College, Alaska Pacific University, Ilisagvik College, and Alaska Career College.

Ms. Harbour clarified that slide 8 only pertained to funding that went through the budget. She stated that the CARES Act funding had already been appropriated through the RPL process. She relayed that CRRSAA and ARPA funding for higher education required additional appropriation. She highlighted that the administration had the CRRSAA funding amount to the university and AVTEC, but the ARPA allocation was not yet known. She shared a rough total estimate of $33.5 million that would come to Alaska. She clarified that how the funding would be distributed to the university, AVTEC, and the other non-state entities was not yet known. She added that 50 percent of the $33.5 million had to go to students. She explained that the institutions would receive the funding and pass it to students as grants.

9:57:20 AM

Representative Wool stated his understanding that OMB did not know how much of the $33.5 million would be allocated to individual universities. He remarked that 50 percent would go to students. He remarked that the CARES Act had a percentage for students that he believed was less than 50 percent. He noted that the semester had been disrupted, classes were canceled, and many students had gone home. He understood the reimbursement to students. He wondered about the logic for giving half of the funds to students going forward. He stated that the institutions were impacted by lower enrollment and further incurred costs. He wondered if the funding for students was to pay tuition because the pandemic was making employment more difficult.

Ms. Harbour answered that the distribution had been set by the federal government. She did not know the logic behind the 50 percent to students.

Mr. Steininger addressed K-12 education relief running through the state budget (slide 9). The CARES Act had contained $45 million, CRRSAA had $168 million, and ARPA contained $364.5 million. He noted the ARPA funding would require additional appropriation. The bulk of the funding would go directly as grants to school districts through formulas defined by the federal government. There was a state maintenance of effort requirement and a maintenance of equity requirement for the funding. He noted that the maintenance of equity requirement was new to the ARPA funding.

Mr. Steininger highlighted that the maintenance of effort requirement applied to the CARES Act had changed in CRRSAA and ARPA. He reported that OMB had reached out to the U.S. Department of Education for more information on how the requirement should be calculated and applied to the state. The response had been to hold until the federal government was able to make the determinations and provide more guidance. He explained that the state had received very little guidance on how the maintenance of effort would be applied to the state. The state had made some assumptions but had not yet received answers because the federal government did not yet have the information. The maintenance of equity was new at the state level. He remarked that OMB did not see the requirement having a significant impact at the state level allocations the way the K-12 foundation formula was distributed; however, there may be some greater impacts to some districts at the local level. He noted it was another area without perfect clarity.

10:01:33 AM

Representative Wool observed that the maintenance of effort appeared to apply to CRRSAA and ARPA. He asked if the requirement only applied to funding going through the state. He wondered if the maintenance of effort requirement did not apply to funds going directly to the university or school districts. He asked what percentage of the monies went through the state versus directly to entities. He thought most of the funding appeared to be directly from the federal government.

Mr. Steininger answered that the maintenance of effort requirement applied only to the funding shown on slide 9. He explained that maintenance of effort questions applied primarily to CRRSAA and ARPA. He did not know what the $168 million and $364 million represented as a percentage of total funding to districts, but the money districts may receive via impact aid was not impacted by the maintenance of effort requirement.

Representative Wool had heard that K-12 and higher education were bundled together to make sure the maintenance of effort was met. He believed only a percentage of the funds would be received if K-12 and higher education were not combined. He understood there was a lookback for several years. He asked if the lookback extended back pre-COVID. He asked for detail. He had heard more money needed to be added to the university (because it had been cut below a certain level) just to enable K-12 to have access to substantial federal funding.

Mr. Steininger replied that the CRRSAA and ARPA direct funding to the university reflected on slide 8 was not subject to the maintenance of effort requirement. He clarified that the requirement only applied to the funding that went to K-12 school districts. However, the maintenance of effort applied to the state's funding to the university and K-12. He clarified that the look was at the overall state spending on education (including K-12, the university, AVTEC, and other educational institutions the state spent money on) and applied the maintenance effort as a requirement to receive the funds.

Mr. Steininger stated it was unclear how the U.S. Department of Education would address some Alaska-specific nuances to the state's funding of education. He noted the nuances impacting other states was also unclear. He highlighted that there were natural population changes that occurred, and Alaska had seen outmigration, which could be seen in the formula and impacted the amount of money going to education. He shared that OMB had asked the federal government whether Alaska would be penalized for a natural decline in the number of students. Additionally, OMB had asked whether the state would be penalized for agreements like the university compact that existed prior to the pandemic. The state had not received definitive answers to those types of questions. He explained that the basic rules included a three-year average from prior to the pandemic of the amount of funding given to education by the state compared to the same three-year average of total state spending. The average was compared to the base-year of FY 21 or FY 22. He reported that how the base was calculated and what the federal government defined as state support of education was still unclear.

10:06:18 AM

Representative Edgmon discussed maintenance of effort. He recalled a prior presentation by OMB and a handout that talked about having to meet certain K-12 funding levels for FY 17, FY 18, and FY 19. He viewed the funding as matching funds. He elaborated that the state had to provide a given amount of matching funding to receive the $365 million. He understood it was more involved than that. He considered that the state did not have the full picture. He asked what the worst case scenario would be if OMB did not receive an answer back from the U.S Department of Education regarding the maintenance of effort that the state needed to provide to get to the $364.5 million. He asked if the state may not be eligible to receive the funding. Alternatively, he wondered if the state would only get part of the funding if it did not come up with the maintenance of effort or matching portion from the state.

Mr. Steininger replied that OMB had asked the U.S. Department of Education what the repercussion was for not meeting the maintenance of effort. He shared that one thing the state had experienced with all three pots of federal money coming in for school districts was that the money had been sent to the state to allow districts to draw down on the funds prior to giving guidance on the maintenance of effort. The federal government had not provided information on the actual repercussions of missing maintenance of effort. He did not want to speculate on the possible repercussions given that the U.S. Department of Education was unable to provide the answer.

10:08:54 AM

Representative Edgmon asked for verification that funds were flowing through school districts even though slide 9 specified an additional appropriation was required.

Mr. Steininger responded that the money flowed to school districts through the state. In a normal year, the state Department of Education and Early Development (DEED) had over $100 million in appropriations of federal receipts for normal federal programs. He explained that the $364 million would need to be an increase to the appropriation. He shared that OMB would be submitting an appropriation request for the change. He added that OMB had been waiting on the additional information from the U.S. Department of Education prior to submitting the appropriation request because the agency believed it was important for the legislature to know the maintenance of effort requirements in order to make an informed decision.

Representative Edgmon referenced OMB's questions to the federal government regarding maintenance of effort. He asked if it was all operating budget related. Alternatively, he asked if school bond debt reimbursement could be considered maintenance of effort. He clarified his question and asked if OMB knew whether the state had to provide a given amount for the K-12 education foundation formula to meet the maintenance of effort or whether other funds could be involved.

10:10:17 AM

Mr. Steininger replied that there was some understanding that capital expenditures in education were not allowable for part of the state's funding to education. He assumed school bond debt reimbursement would qualify as a capital expenditure given what the money was originally spent on. He stated that whether school bond debt reimbursement would be part of the maintenance of effort requirement was in the gray area. He believed there were one or two other restrictions.

Ms. Harbour expounded that the federal restrictions specified that state funding shall not include support for capital projects, research and development, or tuition fees paid by students.

Representative Wool considered that the maintenance of effort requirement also applied to CRRSAA funding, which had been dispersed. He thought it sounded like there was no retroactivity and the federal government could not say the state did not maintain maintenance of effort. He asked if the state was in the clear with CRRSAA funds spent.

Ms. Harbour answered that OMB did not know whether the state would have to pay back the $168 million if it missed maintenance of effort on the CRRSAA funding.

Representative Carpenter looked at the yellow sections in Attachment 1 indicating that additional appropriations were required. He asked if the required appropriations were only a request for additional federal receipt authority or a more detailed appropriation.

Mr. Steininger answered that many of the grants would only require a request for additional receipt authority. For the larger $1 billion state and community relief fund, the use of the funds would require more specific appropriations because it was not a passthrough grant with tight restrictions from the federal government.

Representative Carpenter referenced Representative Edgmon's earlier questions related to the timing the federal guidance would be received near the end of session. He stated it would be helpful to understand which of the items highlighted in yellow would be a receipt authority solution and which would require more detailed legislative action. He explained it would enable the legislature to better manage its time and understand the scope of time required.

10:13:44 AM

Representative Josephson discussed the university and the compact [agreed upon by the governor and the university]. He believed the state provided a grant of $327 million the year before the compact began. He elaborated that the funding had been decreased to around $302 million in the first year of the compact, which was before anyone had heard of COVID-19. The pandemic had begun in the second year of the compact when funding had been reduced to $277 million. He asked if the federal Department of Education could say that the reduction violated the state's maintenance of effort requirements.

Mr. Steininger agreed that it was a question. He elaborated that OMB had asked the question directly to the U.S.

Department of Education and had not yet received a response. He informed members there was an opportunity to request a waiver to the maintenance of effort requirements, which the state planned to do. He noted that what would be considered for a waiver had not yet been laid out by the federal government. He shared that OMB had discussed the compact with the federal agency and had provided information about its existence prior to the pandemic and how the state utilized federal relief to assist the university with lost revenues and other impacts due to COVID. He added that discretionary federal relief could not be applied to the maintenance of effort. He stated that the compact with the university would be part of the state's waiver request to the U.S. Department of Education to explain it had existed prior to the pandemic and was not a reduction in state support for education as a response to the pandemic.

10:16:11 AM

Ms. Harbour clarified that the traditional maintenance of effort requirement under the CARES Act was dollar focused. She explained that if $100 million was paid, $100 million had to be paid within the year. She elaborated that under CRRSAA and ARPA the requirement specified that if a state spent 30 percent of its state funding on higher education, it was required to spend 30 percent of state spending on higher education in FY 22 and FY 23. She underscored that the amount would not be $27 million or $40 million, but 30 percent of the overall state funded budget. She noted that the amount could swing significantly depending on how state funds were invested. She explained that a number of states were having problems with the requirement because they put substantial funding into community relief or health and social services, which skewed the percentage. She stressed that it was not possible to say the state had cut the university by $27 million. She elucidated that the size of the hole depended on the size of the total budget for FY 22 and FY 23.

Representative Josephson stated that while he appreciated that the administration may seek a waiver, he and a number of others did not want the waiver because they did not believe in the compact. Some solace had been taken in the compact, but it was not what a number of people had wanted because it had circumvented the legislature's role.

Representative Edgmon remarked that the Permanent Fund Dividend (PFD) was part of the appropriation process as well, which was an additional thing to think about when considering the demands of CRRSAA and ARPA regarding maintenance of effort.

Representative Wool asked for verification that the three-year lookback for maintenance of effort preceded COVID. He surmised it meant the federal government wanted to look at what the state had been funding historically as a percentage of the total budget to make sure the state was maintaining the same percentage.

Mr. Steininger agreed that the federal government was looking at a period of time prior to the pandemic as a baseline to set the percentage going to education.

Representative Wool stated the compact had been agreed to because the university had been looking at a $135 million cut or around 45 percent in one year. He remarked that the proposed cut had made national news because although many state universities across the country were facing cuts, the cut was the largest any state university had ever faced. He stated it was ironic that if the cut had been accepted there would have been no further cuts and the three-year lookback may actually look better. He was glad the compact had been chosen over the larger cut. He did not know whether one of the three years within the lookback was prior to the compact, but he noted the compact showed a radical reduction. He remarked that other states had likely cut overall state spending as well. He asked if the PFD was included as part of the total budget. He reasoned that a larger PFD would put everything else at a lower percentage relative to the overall state budget. He asked if the PFD was part of OMB's calculation.

10:20:05 AM

Mr. Steininger answered that OMB had asked the U.S. Department of Education whether the PFD would be considered part of the calculation. Based on calculations done by OMB the inclusion of the $680 million appropriation for the PFD did not significantly change the numbers in terms of using current appropriations in FY 21 as a comparison year.

Mr. Steininger moved to slide 10 and reviewed additional ARPA education relief details. He stated there was some guidance on how the money was spent. He highlighted that slightly over $500 million would go directly to school districts. The slide provided information on federal direction on how the state could allocate the funding. He pointed out that at least 90 percent of the funding would go directly to school districts or local education agencies as referred to in the federal legislation. The federal government had identified that allocations would go to address learning loss, summer enrichment programs, afterschool programs, other state activities, and administration. He noted the funding for the first three aforementioned items were to receive at least a certain percentage and the amount identified for the last two items was "at most" a given percentage. The vast majority of the funding coming in through ARPA would go to help classroom activities and students throughout the state.

10:22:16 AM

Mr. Steininger looked at slide 11 showing all of the various funds coming into the Department of Transportation and Public Facilities (DOT). The top of the slide showed three funding categories including the Federal Aviation Administration (FAA), the Federal Transit Administration (FTA), and the Federal Highway Administration (FHWA). Included under each of the categories was funding received under the CARES Act, CRRSA, and ARPA. He noted that OMB was not yet certain how much FAA money was coming into the state under ARPA.

Mr. Steininger detailed that each of the federal relief acts and federal entities had slightly different rules surrounding the money. He stated that tailoring the way the state utilized the transportation funding between the different acts was a complex process. He highlighted that a moderately large sum of money from the CARES Act had previously been allocated through the RPL process. The administration had also suggested appropriations in the governor's budget to utilize some of the FAA money to offset general fund expenditures in highways and aviation within DOT. He noted that within the $27 million in FAA funds under CRRSAA approximately $12 million was identified for specific airports.

Mr. Steininger noted it was a slight difference from the CARES Act funding, which had been allocated based on airport, but how the funds were spent was open-ended. He explained there were varying levels of restriction within the DOT funding, meaning figuring out which money went to what activities was complicated. He informed the committee there was a large portion of funding remaining for distribution that OMB had not yet put forward appropriation requests, including approximately $120 million in FHWA, $58 million in FTA, and $38 million in FAA. He remarked that the money could be used over the course of several fiscal years, which enabled an operating budget offset in the DOT budget for longer than one fiscal year. He noted other restrictions shown near the bottom of slide 11 in terms of money that had to pass through to the Municipality of Anchorage or had to be spent at specific airports for specific airport operations.

10:25:31 AM

Ms. Harbour addressed ARPA relief funding estimates for various programs within DHSS (slide 12). She relayed that OMB did not know the amounts for each of the programs. The funding would require an appropriation to receive and expend. She detailed that OMB was waiting for additional [federal] guidance. She reported that DHSS was working diligently to analyze the programs. She explained that for many of the grants like the childcare development grants, the funds were meant to supplement the current year's budget. She highlighted it was not possible to supplant the normal UGF budget with the funds.

Co-Chair Foster thanked the presenters.

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^PRESENTATION: AMERICAN RESCUE PLAN ACT OF 2021: LEGISLATIVE FINANCE DIVISION

10:33:27 AM

ALEXEI PAINTER, DIRECTOR, LEGISLATIVE FINANCE DIVISION, presentation titled "American Rescue Plan (ARP) Provisions for Alaska: House Finance Committee," dated April 8, 2021 (copy on file). He began on slide 2 and planned to discuss items not requiring legislative appropriation, funds with significant flexibility, and funds with limited or no flexibility. He moved to slide 3 and reviewed ARPA funds not requiring state appropriation:

- $1,400 Direct Payment to Alaskans - estimated total of
  $847.3 million (600,000 Alaskans)
- Phases out starting at $75,000/$150,000 income for individual/household
- Estimated $1 billion total available for tribal governments

Mr. Painter elaborated that the tribal funding included a primary increment of $600 million and several others. He noted that the state did not know the exact details on all of the amounts, but the [$1 billion] number had been in the media. He continued to review slide 3:

- Tax code changes to Child Tax Credit (expanded to $3,000 per child ages 6-17, $3,600 per child under 6, credit made fully refundable), Earned Income Tax Credit
- Additional funds for Paycheck Protection Program
- Direct funding to rural health providers

Mr. Painter noted that the Child Tax Credit had been expanded from $2,000 per child ages 6 through 17. He described the Paycheck Protection Program as a loan program for small businesses. He stated there were quite a few areas of funding that would influence the amount available in the economy in Alaska that were not necessarily going through the state budget.

10:36:06 AM

Mr. Painter moved to a pie chart on slide 4 "Over $2 billion allocated to state of Alaska and Local Governments." He detailed that about half of the $2 billion was the State Fiscal Recovery Fund shown in blue, which was more flexible. Additionally, there was $112 million in flexible capital funds and $230 million for local fiscal recovery. The other items in the pie chart reflected specific areas with less spending flexibility. He noted that the chart only included items with a known funding estimate. He relayed there were about $2.1 billion of known amounts that would go through the State of Alaska or direct to local governments.

10:37:11 AM

Mr. Painter turned to slide 5 and discussed the State Fiscal Recovery Fund, estimated at $1,019,259.4 for Alaska to be allocated 60 days from when state submitted a certification to Treasury. There was flexibility allowing the secretary of the Treasury to withhold half of state allocation for 12 months based on the unemployment rate of each state. He noted it was unclear what would trigger the withholding of a portion of the funding and whether it was a high or low unemployment rate was unclear. He speculated that the funds would likely not be withheld due to Alaska's relatively high unemployment rate. He highlighted that the fund could be used on expenses incurred through December 31, 2024.

Mr. Painter continued to review slide 5. The slide included language from the federal legislation describing eligible uses of the funds. He stated that while Alaska was waiting on treasury guidance for more clarity on the items, he believed many of the basics were already outlined. He believed the list of eligible uses could provide some ideas on ways the state may be able to use the funds. He read the first eligible use as defined in the federal legislation:

> Eligible uses of funds include:
> (A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality

Mr. Painter elaborated on the first eligible use and explained that it could take the form of something similar to the $290 million RPL for the small business grant program in 2020. He stated that there was specific funding going to many of the public health items, but items without a specific grant could also be used under the statute. He noted the next item pertained to premium pay to essential workers:

> - (B) to respond to workers performing essential work during the COVID-19 public health emergency by

providing premium pay to eligible workers of the State, territory, or Tribal government that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

Mr. Painter highlighted the third eligible use included the revenue replacement clause:

- (C) for the provision of government services to the extent of the reduction in revenue of such State, territory, or Tribal government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the State, territory, or Tribal government prior to the emergency; or

Mr. Painter expounded that the language could pertain to something like the state itself. He explained that the state had significantly lower revenue projected in FY 22 than received in FY 19, much of which was due to oil prices. In FY 19, oil prices had been a bit over $69 per barrel and were projected to be in the low $60s. He remarked that the state's revenue was several hundred million lower. He stated that the eligible use could apply to specific taxes. For example, the state was not anticipating any cruise ships in the coming summer; therefore, the state could supplement the commercial vessel passenger tax revenue that went to local communities. He remarked that it would be eligible for FY 21 as well when there had been no cruise ships. Additionally, it could likely apply to items like the vehicle rental tax where the tax had been down due to the lack of visitors in 2020. He reviewed the last eligible use item:

- (D) to make necessary investments in water, sewer, or broadband infrastructure.

Mr. Painter highlighted two things in the bill identified as ineligible. Funding could not be used to offset revenue losses caused by changes in state law or regulations. He referenced a couple of instances in 2020 under the emergency disaster declaration, where certain taxes and fees were suspended or delayed. He noted the items would not be eligible for revenue replacement where the state had made the decision to reduce taxes or fees. Additionally, the federal funds could not be deposited into any pension fund including the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS).

10:41:12 AM

Co-Chair Merrick asked if the Paycheck Protection Program or the Small Business Loan Program had been turned into grant programs in the past. She asked if the new funding would be eligible for the same purpose. She asked if it was a state or federal decision.

Mr. Painter answered that the federal Paycheck Protection Program was a loan that could be forgiven under certain circumstances. He believed a portion or all of the funding could be forgiven if it was used for payroll. He detailed that the state program had originally been discussed as a loan program, but it had been converted into a grant program. He elaborated that the $290 million had been a grant program. He relayed it was likely a similar program would be eligible again as the [federal] language was fairly similar. He noted that how it was determined would be up to the legislature as the appropriating body. The legislature could appropriate funds with a lot of strings enabling only particular types of businesses to qualify. Alternatively, the legislature could make the funds available to any business with lost revenue.

Vice-Chair Ortiz referenced the first bullet point on slide 5 related to the $1.019 billion coming to the state. He observed that the funds would be allocated to Alaska 60 days after the state submitted a certification to Treasury. He asked if the state had already submitted the certification.

Mr. Painter replied it was his understanding that the certification had not yet been submitted by the state. He explained that the state did not yet know what the language meant. He noted that the state had received some of the education funds but had not yet physically received the money [from the State Fiscal Recovery Fund].

Vice-Chair Ortiz referenced language on the slide under the first bullet point, which specified the Treasury may withhold half of the allocation for 12 months. He asked how and when the state would know whether it would receive all of the funding in one or two tranches.

Mr. Painter believed it was one of the questions on OMB's list sent to the federal government. He noted that the National Conference of State Legislatures (NCSL) had compiled a similar list of questions sent to the federal government. He believed the answer to Vice-Chair Ortiz's question was the state would wait and see.

10:43:54 AM

Representative Edgmon asked about the 60 days and certification process. He referred to the federal guidelines that would be available on May 10. He remarked there were many lessons learned on the state and federal end in 2020. He asked about Mr. Painter's sense in terms of the ability to craft or meld the money into the legislative budgetary process. He asked if there would be enough information on May 10 vis-a-vis the certification process. He highlighted that Alaska was the only state with a Permanent Fund Dividend (PFD).

Mr. Painter replied that he had a slide on considerations on timing and process. He asked to hold the question until that time.

Representative Carpenter asked who was responsible for submitting a certification to Treasury.

Mr. Painter believed it would be someone in the executive branch, whether it be OMB or another entity.

Representative Thompson asked if any of the ARPA funds could be used to supplant the UGF funds in the state's FY 22 budget.

Mr. Painter confirmed that funds could be supplanted through the revenue replacement clause to the extent that the state's FY 22 revenue was lower than in FY 19. He noted that the federal guidance would specify how the calculation should be made. He stated that with oil prices being several dollars down, it meant the state would have hundreds of millions of dollars less tax revenue; therefore, it could swap out hundreds of millions of general government expenditures if desired. The exact number was not known because the state did not yet have the detail on how to make the calculation. He informed members that in terms of non-percent of market value (POMV) UGF revenue, the state was projected to be over $900 million lower in FY 22 than in FY 19. He stated that FY 19 had been the most recent peak revenue year; therefore, if it could be used as a peak the state would have a lot of room. The state would not have to go hunting for things that may be eligible if it could use the general revenue replacement clause. He reiterated that the state did not yet have the guidance on how to make the calculation. He added that the state would not want to offset something like education, which would cause problems with the maintenance of effort requirement. He stated there may be areas where a simple revenue replacement swap could be used. Once the guidance was received, it would be easier to have a better handle on the situation.

10:47:15 AM

Representative Wool asked about revenue loss. He remarked that the price of oil was higher in 2019 than its current price. He asked if the decline had to be linked to COVID.

Mr. Painter answered there was nothing in the bill indicating whether that would be true. He believed the guidance would provide clarity. He reasoned that the state's revenue in FY 22 was clearly lower than revenue in FY 19. He thought it would require an economics Ph.D. to untangle whether the oil market [decline] was because of COVID. He was not sure the state would be held to that standard of figuring out what degree the oil price decline was due to COVID.

Representative Wool asked if there was a list of who qualified as essential workers. He highlighted examples of workers who he considered essential such as plumbers and grocery store clerks. He asked if essential workers were considered to be in the health and public safety category.

Mr. Painter replied that he believed federal guidance would spell out the federal definition. He remarked that the federal definition may or may not be similar to the state definition.

Representative Johnson thought one of the things they were trying to figure out was how the funding would potentially fill the state's fiscal gap for the coming fiscal year. She asked what kind of impact the CARES Act had on the FY 21 budget. She remarked that the state had until FY 24 to spend the ARPA funds. She stated the big issue in her mind was how much the federal funding would help the state. She highlighted that the fix was temporary.

10:50:07 AM

Mr. Painter answered that how much the funds could be used for revenue replacement was largely a decision up to the legislature. He listed questions for the legislature to consider including whether lapsing as much money into the Constitutional Budget Reserve (CBR) in FY 21 to reduce the budget in FY 22 through FY 24 was one of the goals. Other questions included how much the legislature wanted to do at present versus in the future for various programs. He relayed that $1 billion was not enough to make up revenue losses for a five-year period of FY 21 through FY 24. He informed members that the entire amount could be spent on revenue replacement if that was the goal.

Representative Johnson observed that some planning could make the funding more effective moving forward as the legislature addressed existing challenges.

Representative Josephson asked if the legislature appropriated half of $1 billion and put the other half billion in the Statutory Budget Reserve (SBR). He provided a hypothetical situation where the governor vetoed the funds put in the SBR. He asked if the governor could then submit RPLs for the $500 million to LB&A.

Mr. Painter answered that it depended on what the RPL language in the budget said. He elaborated that the version adopted in HB 205 for FY 21 would likely apply because the revenue under discussion would have been received in FY 21. He detailed that HB 205 specified that the governor could submit RPLs for new federal money. He relayed that when the prior administration wanted to pursue Medicaid expansion and the legislature was not supportive, the legislature had changed the language in the budget to specifically state it could not be used for Medicaid expansion. He remarked it had been a special case where the legislature had ended up losing the lawsuit. He clarified that the RPL language appropriated additional federal receipts received compliant with the RPL process in statute. He explained that the legislature could limit the appropriation just like any other. He stated that the legislature had not limited the RPL process in the current budget, but it had the option.

He highlighted that the RPL process was statutory and could be changed.

10:53:32 AM

Representative Josephson thought it was very important information. He believed Mr. Painter was saying that the RPL statute did not stand alone and needed direction from the budget. He surmised that the governor could not independently cite the statute and say he would issue RPLs.

Mr. Painter replied that it was his understanding; however, as seen the previous year, the governor had been able to submit RPLs. He noted that Legislative Legal Services did not think it was allowable under statute. He continued that the RPLs could be submitted and approved by the [LB&A] committee. He noted someone could sue if they did not think the action was legal, which had occurred in 2020. He stated there was nothing stopping the governor from doing so, other than a lawsuit.

Co-Chair Foster asked if the language allowing or disallowing the RPL process was in the capital budget.

Mr. Painter replied that the language was in the operating and capital budgets. He elaborated that because there had been a single omnibus bill in 2020 it had only been included the one bill. He relayed that the language was included in both bills for FY 22 and was very similar.

Representative Josephson referenced his hypothetical example and thought that if the $500 million appropriation to the SBR was vetoed that the funds would remain in the General Fund. He surmised that would not be much different than if the funds were in the SBR.

Mr. Painter did not know whether appropriating the funds to the SBR would be allowable because it was a state savings account. He highlighted that the state had four years to spend the funds and he did not believe the federal government expected the state to get all of the funding out the door in year one.

Mr. Painter moved to slide 6 titled "Capital Projects Fund." He reported the state was estimated to receive $112 million from the Capital Projects Fund. He explained that the state had to apply for the funds. He clarified that presumably the legislature would appropriate the money for a given purpose and the administration would apply for the funds. There was no expenditure cutoff date in ARPA, but he anticipated Treasury would include a limit for practical purposes. The only current guidance from the federal government regarding eligible purposes was included in the last bullet point on the slide. He read the bullet point:

> Can be used "to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19."

Mr. Painter was hopeful there would be more detail available on May 10 in terms of what projects would be eligible for the funding. He reiterated his earlier statement that the state would have several years to get the funding out; therefore, if uses for the funding had not been identified by May 10 it did not mean the state would lose the money; it could be determined in future sessions.

Representative Wool referenced the third bullet related to the allowable use of the funds on slide 6. He asked if the project created work, it would be a legitimate use of the funds. He added that creating work was inherent in most projects.

Mr. Painter answered that he did not have anything beyond the sentence to go on.

Representative Wool referenced Mr. Painter's previous statement that he did not believe the money could be put into the SBR. He asked for verification that the state could put any unused portion of the money in an account. He asked if the state did not want to spend the funding whether it could be put into a capital fund. Alternatively, he asked if the funding would have to sit in the General Fund.

Mr. Painter replied that the SBR was essentially the General Fund, it was merely a named account within the General Fund. He explained that CARES Act funds had sat in the General Fund as they were spent down. He stated it could happen with the ARPA funds as well. He noted it was not necessary to park the funds someplace else in the meantime.

10:58:42 AM

Vice-Chair Ortiz referenced the ability to use the funding to carry out critical capital projects. He asked if the funds could be used for the lengthy and growing list of deferred maintenance on school buildings throughout the state.

Mr. Painter answered affirmatively as long as the projects complied with the requirement that the projects be in response to the public health emergency. He stated if there was some nexus the projects were needed to enable education in response to COVID-19, it would qualify. He did not believe projects with no nexus to COVID-19 would qualify. He did not know how narrow or broad the definition may be.

Representative LeBon referred to Representative Josephson and Representative Wool's questions regarding the SBR. He asked for clarification on a scenario where the state spent half of the $1 billion and held onto the remaining half for future budget cycles in the SBR. He asked if the funds would be subject to the sweep into the CBR. He asked if the funds would go into the CBR or remain in the SBR.

Mr. Painter replied that if the funding was left in the General Fund, it would not be subject to the sweep because it was federal money.

Representative LeBon asked for verification that the funding did not necessarily have to go to the SBR to protect it for future use.

Mr. Painter agreed. He added that the SBR was subject to the sweep; therefore, the funds would not be protected in the SBR.

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Mr. Painter moved to slide 7 considering timing and legislative direction. He provided a refresher on how the legislature had handled the CARES Act funding in 2020. He clarified that the funding did not all go through the RPL process. He explained that specific language had been put in the budget allowing open-ended federal receipts to be received in the Division of Public Health for workforce training in the Department of Labor and Workforce Development (DLWD) and for the Unemployment Program. He detailed that the language in the Division of Public Health specified that any federal funds received in FY 20 could be spent over FY 20 and FY 21 related to COVID. He noted there had been a $9 million estimate, which had turned out to be low. The CARES Act funding included over $300 million in the Coronavirus Relief Fund (CRF) that went out to nonprofits, state agencies, and the Division of Public Health through the division.

Mr. Painter expounded that the DHSS commissioner had approved some requests by another agency, which referred to the specific receipt authority that allowed the unlimited amount in addition to specific grants. He explained that hundreds of millions in flexible funds went through the language in addition to less flexible funds. He clarified that the RPLs were for areas that could not go through that same process. The RPL process was used for things like the Small Business Program and the money going to local communities. He noted it had been a legislative decision to grant the open-ended appropriation to the Division of Public Health; the funding had been included in the mental health budget and had been requested by the governor as a supplemental and granted several days later. The action gave the administration substantial flexibility.

Mr. Painter stated there was a tradeoff in the action of offering the administration flexibility. The more narrowly the legislature appropriated the funds, it was more difficult to do quickly and more likely a special session would be required if the guidance changed, or a new need arose. He explained that providing flexibility as the legislature had done the previous year, delegated the decision making to the governor. He noted the legislature had heard a lot about the $45 million in unallocated funds. He explained it was because the legislature gave the administration receipt authority enabling the administration to spend as much as it received. He advised that if the legislature did not want the situation to occur again, it needed to provide more strict language. However, if the legislature felt the flexibility was justified and the right way to go, it could provide blanket language. The amount of flexibility the legislature gave the governor was a policy choice and a tradeoff.

Mr. Painter stated there were a number of goals the legislature may want to achieve with the funds. He explained that the legislature could choose to focus on helping the economy with things like premium pay, grants to unemployed workers, and grants to businesses and nonprofits in the short-term. The legislature could choose to focus on investing in long-term items such as water and sewer projects or economic development. Alternatively, the legislature could choose to focus on maintaining state budget reserve levels by using funding primarily as revenue replacement. The legislature could decide to pass funding to local governments. He remarked that AML had stated there was hundreds of millions of dollars in lost revenue in local governments and the funds going directly to communities would not be sufficient to replace the loss. He relayed it was up to the legislature as the appropriating body to decide on its priorities. He stated that the governor would come forward with his amendments; the legislature could wait for the amendments or do it itself. He underscored legislators were the appropriators and could decide on the priorities to include in the budget.

11:05:58 AM

Representative Johnson referenced $9 million in CARES Act funding the state had received that the governor had been able to spend as he saw fit. She asked how the $9 million had changed the FY 21 budget in terms of revenue replacement.

Mr. Painter answered that it was currently unclear because the legislature did not know how the last $45 million would be spent. He stated if it was spent on creating lapsing funds it would be used for reductions of UGF. He stated that generally the hundreds of millions that went through the $9 million appropriation that was really over $400 million went to needs that prevented supplementals in some cases and created FY 20 lapse. Generally, it was not seen in the budget creating the lapse, but the lapse report received from OMB had several million in specific areas where some may be due to the funds. He believed the full effect of the size of the lapse would not be known until the last $45 million was expended.

Representative Johnson referenced the $45 million that went through the CARES Act and RPL process. She asked for verification that the funds were still under the authority of the administration.

Mr. Painter replied in the affirmative. He explained that the administration had received the funding under the open-ended language specifying that anything the Division of Public Health received in FY 20 the administration could spend in FY 20 and FY 21.

Representative Johnson asked how the administration accounted back to the legislature for the expenditure of the funds since they had not been appropriated by the legislature in the traditional sense. She asked if the tracking was just through actuals in the budget. She thought it had been difficult to track how the administration was spending the money. She asked if the administration was putting out any reports on the spending.

11:09:08 AM

Mr. Painter answered in the affirmative. He relayed that as part of the 2020 disaster declaration there was a reporting requirement where monthly reports were sent to legislators. He expounded that the information continued to be provided even after the requirement ended. Additionally, the information was on the OMB website with monthly expenditures on COVID-19 from all sources.

Representative Johnson remarked that even though the legislature was receiving the reports, there was still significant uncertainty around the numbers that were continuing to shift. She supposed it was a matter of giving it a bit of time. She stated that a substantial amount of money was coming in quickly and it was difficult to make decisions when it was not entirely clear where everything stood. She hoped they would do better in the future.

11:10:19 AM

Mr. Painter discussed local fiscal recovery funds estimated at about $230 million on slide 8. He stated it was unclear which of the funds required an appropriation and which of the funds would go directly to local governments. He noted Anchorage would receive at least some of its money directly. He noted beyond that, there were some differences in interpretation that would hopefully be worked out in the near future. He emphasized that the allocation was a federal formula almost entirely based on population. He detailed that 44 percent of the $230 million would go to Anchorage. He pointed out that in contrast, when the state had allocated $568 million to local governments, it had been distributed based on a state formula that resulted in 28 percent going to Anchorage. He explained that the federal payments were strictly based on population, which meant some of the communities with high revenue losses were not made whole, while some communities without high revenue losses were more than made whole because they had higher populations. He believed the committee had heard from AML the previous week that for many local governments with higher revenue losses and lower populations, the $230 million would not be sufficient to pay the bills.

Representative Wool highlighted places including the Denali Borough and Skagway that were heavily impacted. He remarked that there were other monies discussed in the presentation out of the $1 billion that communities would be eligible for if they had revenue loss due to COVID.

Mr. Painter answered that it was not a given the $1 billion would go to that purpose. He explained that the legislature would have to choose to do so.

Representative Wool stated his understanding that the legislature could choose to appropriate additional money beyond population formula to certain communities disproportionately impacted by COVID.

Mr. Painter agreed that it was an option available to the legislature.

11:13:06 AM

Representative Edgmon looked at slide 7. He discussed that that the RPL process laws had been passed in the late 1970s and possibly the early 1980s. He remarked that the laws were antiquated and never contemplated the enormity of the [federal] money coming into Alaska as was occurring currently. He observed that based on Mr. Painter's comment, the legislature had a lot of say in what the governor could or could not do once session ended. He stated that a Department of Law attorney and a Legislative Legal Services attorney may have two different opinions on what the administration could do unilaterally outside of the legislature being in session. He thought it should be included in the category of things that were not known. He remarked on the title revised program language and noted that no one in the current era really understood what it meant. He noted the word revised indicated some tie-in back to the budget process. He stated there were more questions about the RPL aspect setting everything else aside in relation to the avalanche of incoming federal funding.

Mr. Painter moved to slide 9 and discussed items with limited flexibility. He noted that OMB had covered the items and he would not go through each item on the list. He detailed there was approximately $170 million in known funding coming in for DHSS. He stated that the legislature could choose whether to give the department receipt authority for $170 million or keep it open-ended as had been done the previous year.

11:15:29 AM

Mr. Painter discussed education items with limited flexibility on slide 10. He reported that at least 90 percent of the incoming federal funding for K-12 schools had to go to school districts. There were some allocations for particular purposes that specified maximum or minimum amounts depending on the item. Additionally, there was funding that may not pass through the state, which was designated for non-public schools, higher education, and specific education functions like museums, libraries, the Alaska Council on the Arts, and Head Start.

Vice-Chair Ortiz referenced a maximum of 2.5 percent for other state activities shown on slide 10. He asked for a definition of other state activities.

Mr. Painter replied that he did not know.

Mr. Painter moved to slide 11 and continued to discuss education items with limited flexibility. He referenced the substantial discussion on the maintenance of effort and maintenance of equity earlier in the meeting. He emphasized there was a waiver process, and the state did not know when it would know whether it would have a waiver. The waiver was designed for states with disproportionate revenue impact. He relayed that Alaska had the highest revenue impact in the country; therefore, if any states received a waiver, he believed Alaska would be included. He added that the consequences of the waiver were not fully known. He detailed that two-thirds of the Elementary and Secondary School Emergency Relief (ESSER) funding would be received immediately. The state would have to apply for the remaining one-third and would have to include state certification of compliance with the maintenance of effort or an approved waiver. The state did not yet know if it would receive the remaining one-third of the funding if it did not qualify. He explained that with the CRRSAA funding, the state had received all of the funds before the waiver process had started. He relayed it was very uncertain what the consequences would be of failing to get a waiver and not being able to meet the provision.

11:17:56 AM

Representative Wool referenced Mr. Painter's statement that Alaska had suffered the most impact. He thought much of the impact the state had felt was due to the absence of a broad-based tax. He remarked that some states with a sales and income tax saw a boon from COVID due to increased taxable online sales and increased taxable stock dividends. He was not certain unemployment checks in Alaska were taxed as income. He had seen maps showing Alaska was way off the chart, but much of it had to do with the state's lack of revenue recouperation and not so much that the state's economy was any more impacted than others. He asked whether it was Mr. Painter's understanding.

Mr. Painter agreed that the state's lack of revenue diversification had contributed to the situation. He noted that Institute of Social and Economic Research (ISER) had a slide in a previous presentation showing that personal incomes in Alaska had increased in 2020. He explained that if the state had an income tax, it would not have seen the collection change much due to all of the federal money that went directly to individuals. He relayed that the projection of oil prices at $61 per barrel instead of the $69 per barrel in FY 19, meant Alaska's revenue was significantly lower because of the state's reliance on oil as a revenue source.

Representative Wool surmised that the drop in oil price had impacted Alaska more than other states including Oklahoma and Texas. He understood the aforementioned states were on the list of high impact; however, they had been able to recuperate some of the revenue. He asked if the $300 million for education could displace operating budget monies. Alternatively, he asked if the funds had to be in addition to operating budget funds.

Mr. Painter answered that if the state used the funds to displace operating budget money, Alaska would likely fail the maintenance of effort because it was specifically tied to non-federal funds.

Mr. Painter moved to slide 12 and discussed items in other agencies with limited flexibility. He stated there was more money coming in on the Federal Transit Administration infrastructure grants. He detailed that some of the funds may go directly to Anchorage and Fairbanks and $2.7 million would come to the state for rural areas. Additionally, there was funding coming in for the Alaska Housing Finance Corporation and emergency management grants to the Department of Military and Veterans Affairs. Additionally, there would be another federally funded unemployment compensation boost that would go through the state-run program. The federal bill added a $300 per week supplemental payment through September 6, 2021 and changed the federal tax law so the first $10,200 of unemployment benefits would be nontaxable income for households with adjusted gross income up to $150,000. He noted typically it was a taxable income source. As with the previous expanded federal unemployment payments, self-employed and contractors were eligible for the payment even if not eligible under normal state rules. He noted the funds would go directly through the state's program but would not directly impact the state's budget.

11:21:41 AM

Representative Josephson looked at slide 5 related to eligible uses (of the state fiscal recovery fund), which included assistance to households. He asked if the federal government would tolerate Alaska paying a PFD under the clause.

Mr. Painter answered that he did not know. He stated that one of the questions was whether the payments had to specifically be to households impacted by COVID. He relayed that it was something the guidance may be able to clarify.

Co-Chair Foster thanked Mr. Painter for his presentation. He reviewed the schedule for the afternoon meeting, which would begin at 2:00 p.m.

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ADJOURNMENT

11:23:03 AM

The meeting was adjourned at 11:23 a.m.