

**NEVADA DEPARTMENT OF EDUCATION  
COMMISSION ON SCHOOL FUNDING  
MAY 14, 2021  
1:00 P.M.**

**Meeting Location**

**Due to the circumstances created by the COVID-19 pandemic, the Commission on School Funding met via videoconference. In accordance with Governor Sisolak's State of Emergency Directive 006, Section 1, no physical location was designated for this meeting. The meeting was livestreamed on the Nevada Department of Education's (NDE) website.**

**SUMMARY MINUTES OF THE COMMISSION MEETING**

**COMMISSION MEMBERS PRESENT**

**Via Videoconference**

Dusty Casey  
Andrew J. Feuling  
Jason Goudie  
Guy Hobbs  
Dr. David Jensen  
Paul Johnson  
Punam Mathur  
Dr. R. Karlene McCormick-Lee  
Jim McIntosh  
Dr. Lisa Morris Hibbler

**DEPARTMENT STAFF PRESENT**

**Via Videoconference**

Heidi Haartz, Deputy Superintendent of Business and Support Services  
Jessica Todtman, Chief Strategy Officer  
James Kirkpatrick, Administrative Services Officer III  
Beau Bennett, Management Analyst IV  
Megan Peterson, Management Analyst III

**LEGAL STAFF PRESENT**

**Via Videoconference**

Greg Ott, Chief Deputy Attorney General

**AUDIENCE IN ATTENDANCE**

**Via Videoconference**

### **1: CALL TO ORDER; ROLL CALL**

Meeting called to order at 1:01 P.M. by Commission Chair R. Karlene McCormick-Lee. Quorum was established.

### **2: PUBLIC COMMENT #1**

Ryan D. Russell and Robert M. Salyer of Allison MacKenzie Attorneys & Counselors at Law submitted public comment on behalf of districts regarding Senate Bill 439. (*A complete copy of the statement is available in Appendix A*)

### **3: APPROVAL OF COMMISSION MEETING MINUTES**

**Vice Chair Guy Hobbs moved to approve the April 9, 2021 Commission minutes. Member Paul Johnson seconded. Motion passed.**

### **4: NEVADA DEPARTMENT OF EDUCATION UPDATE**

Heidi Haartz, Deputy Superintendent of Business and Support Services provided an update to the Commission regarding the work of the Nevada Department of Education (NDE or the Department) since the April Commission meeting.

Deputy Superintendent Haartz reported that the Department finished the payment book which would be used to process payments beginning in fiscal year (FY) 2022 and tested using data from FY20-21. However, due to changes made by the Legislature, revisions would be necessary. The Department has also been comparing how funding is allocated to schools and districts under the current funding methodology and the weighted methodology of the Pupil-Centered Funding Plan (PCFP), specifically as it relates to Zoom, Victory, and related programs.

Deputy Superintendent Haartz noted that the Department has been providing technical assistance to the Governor's Finance Office and the Fiscal Analysis Division of the Legislative Council Bureau regarding the PCFP and maintaining a running list of future agenda items for discussion. Senate Bill (SB) 439 is the budget implementation bill for the PCFP based off the phased implementation in the Governor's recommended budget. The Department worked with the Governor's Finance Office to develop multiple bill draft requests that addressed phased implementation, full implementation, etc.

The Department began work with Infinite Campus in April to implement the Campus Analytics Suite which will identify at-risk students using the parameters as recommended by the Commission. Beau Bennett, Management Analyst IV, provided an overview of the [At-Risk Methodology](#).

Member Andrew Feuling asked why Infinite Campus was identifying only 91,917 students when Free and Reduced-Price Lunch (FRL) identified 247,268. Mr. Bennett expressed that Infinite Campus is continuing to work to approach the percentage of students that would be identified with FRL by extending the percentile beyond false settings.

Member Punam Mathur asked how many students are currently being served in Victory Schools; Deputy Superintendent Haartz stated that the Department would return with that data. She noted that Legislative finance committees currently prefer to keep the definition of students who are at-risk as students who are FRL-eligible, but have asked that the Commission track and compare the Infinite Campus methodology and the FRL methodology throughout the next biennium.

Member Paul Johnson requested a district comparison of the Legislatively approved PCFP versus the model the Commission was last working from. Member Jason Goudie emphasized the importance of district flexibility in implementing the PCFP for the first biennium during a transition from the Nevada Plan to PCFP.

### **5: UPDATE AND DISCUSSION OF THE BUDGET CLOSING HEARINGS RELATED TO THE PUPIL-CENTERED FUNDING PLAN CONDUCTED BY THE ASSEMBLY COMMITTEE ON WAYS AND MEANS AND THE SENATE COMMITTEE ON FINANCE**

Heidi Haartz, Deputy Superintendent of Business and Support Services, conducted a PowerPoint presentation regarding the [Budget Closing Hearings](#) for the Department and those specifically related to the PCFP.

Member Goudie expressed concern about using a four-year average to calculate transportation as it would not support growth. He further noted that the Commission's recommended definition of unrestricted ending fund balance was not addressed by the proposed legislation. He noted concerns with using FRL as the definition for at-risk, and with maintaining the hold harmless at a per pupil level.

Member Jim McIntosh asked how the special education multiplier would function; Deputy Superintendent Haartz stated that the intent was to have no changes in the methodology used to allocate State general fund dollars for special education services.

Member Dave Jensen asked about proportional reduction for FY20 to reduce the amount equal to revenues available for allocation in FY22. Deputy Superintendent Haartz stated that phased implementation was initially recommended due to the \$100 million difference between FY22 and FY20 baseline revenues. Member Jensen expressed concern that if a proportional reduction was made to FY20, districts would not be able to meet the FY20 hold harmless amount. Deputy Superintendent Haartz clarified that there is latitude in the application of the hold harmless provision in its first year of implementation. Member Jensen expressed that this seemed contrary to the intent of SB 543 (2019).

Member Dusty Casey asked for confirmation that the Nevada Cost of Education Index (NCEI) would be applied to the Statewide base per pupil amount; Deputy Superintendent Haartz affirmed that NCEI and the district size adjustment would be applied directly to the Statewide base funding amount.

Member Mathur asked how regulations would be developed and promulgated to provide guidance to districts regarding implementation of the PCFP. Deputy Superintendent Haartz stated that the Department would proceed with regulations in the fall based on the feedback provided by the Commission. Member Johnson requested that the Commission be provided with the same information from which the Legislature was making their decisions.

Member Goudie requested clarification on maintenance of effort (MOE) for special education. Deputy Superintendent Haartz stated that MOE will be paid through the adjusted base per pupil amount. Member Lisa Morris Hibbler asked whether State surplus funds could be requested for allocation to education. Chief Deputy Attorney General noted that Commission Members could make a statement but were not statutorily empowered to make the request. Member Mathur supported Commission Members exercising their first amendment rights to submit comment to legislators regarding the use of surplus funds.

## **6: DISCUSSION REGARDING PRELIMINARY RECOMMENDATIONS REGARDING OPTIMAL EDUCATION FUNDING SUBMITTED TO THE GOVERNOR AND THE LEGISLATURE**

Chair McCormick-Lee facilitated a discussion related to the [optimal funding recommendations](#) the Commission submitted on April 9, 2021 to the Governor and Legislature.

Member Mathur reflected that the Commission's recommendations may need to be much more specific for Legislative consideration. Member Jensen noted his surprise that it seemed the Commission's work was given minimal consideration. Additionally, Member Jensen expressed concern related to protecting dollars for staff positions previously funded through categorical grants. Member Johnson stated that part of the Commission's job is to have public deliberation to explain the nature of the proposals they make and to identify the taxes of least resistance that could be used to develop optimal funding.

## **7: DISCUSSION OF THE ORGANIZATION OF WORK FOR THE 2020-2023 BIENNIUM**

Chair McCormick-Lee facilitated a discussion regarding how the Commission will organize its work over the next biennium to effectively carry out its responsibilities and meet required deadlines.

Chair McCormick-Lee summarized the following items for future work, based on requests made by the Legislature and the Commission:

- Nevada Cost of Education Index
- At-risk methodology
- Dual enrollment
- Students participating in virtual/distance learning
- Transportation and food service

- Implementation and monitoring of the PCFP
- Special Education funding
- Guidance for districts
- Optimal funding
- Categorical grants
- Restricted and unrestricted ending fund balances
- Attendance areas
- Federal Coronavirus Relief Funding (Elementary and Secondary School Emergency Relief Funds (ESSER)) and related maintenance of equity requirements

The Commission expressed urgency related to reporting requirements upon implementation of the PCFP and clear guidance provided to districts regarding the types of monitoring and reporting they must conduct. This information will likely make up the next set of recommendations that go to the Legislative Committee on Education in the spring of 2022.

#### **8: FUTURE AGENDA ITEMS**

Future agenda items were summarized under agenda item 8.

#### **9: PUBLIC COMMENT #2**

No public comment.

#### **10: ADJOURNMENT**

Meeting adjourned at 3:17 P.M.

*Appendix A: Statements Given During Public Comment*

1. Ryan D. Russell and Robert M. Salyer of Allison MacKenzie Attorneys & Counselors at Law submitted public comment on behalf of districts regarding Senate Bill 439.

**Item A1, Ryan D. Russell and Robert M. Salyer of Allison MacKenzie Attorneys & Counselors at Law** May  
Madam Chair and Members of the Commission on School Funding:

We represent the following county school districts and their respective superintendents: Elko, Esmeralda, Eureka, Storey, Douglas, Pershing, Lander, Lyon, Lincoln and Carson City.

On May 10, 2021, SB 439 was introduced at the 81st (2021) Session of the Nevada State Legislature. SB 439 revises provisions relating to education and specifically seeks to address certain funding concerns contained in SB 543 from the 80th (2019) Session. We are aware that SB 439 was drafted, in large part, based on the recommendations of this Commission. We sincerely appreciate your efforts to address the ongoing concerns related to SB 543 in this new bill. However, we feel our previously voiced concerns with SB 543, specifically with respect to the inequitable affect certain provisions will have on the county school districts we represent, have not been adequately addressed by SB 439. As such, please accept this letter as an outline of our main issues with SB 439 which we trust the Commission will carefully consider.

### ***1. COVID-19 Relief Funding***

Given the proposed use of flexible federal COVID relief funds to facilitate the State's transition from [the Nevada Plan to the Pupil-Centered Funding Plan](#) ("PCFP"), we are concerned that, once such federal relief funds dry up, Nevada will experience a devastating shortfall to the overall amount of revenue required to fund education past this biennium. Unfortunately, SB 439 does not appear to adequately address the inevitable depletion of federal COVID relief funds nor does this legislation contain alternate revenue sources to adequately offset the shortfall that will occur once all the flexible federal COVID relief funds are exhausted. In that regard, we urge the Commission to reexamine the funding aspects of SB 439 to ensure adequate education revenue past the current biennium.

### ***2. Ending Fund Balance (Section 35 to SB 439)***

Section 35 to SB 439 is of particular concern as the proposed language would sweep, into the Education Stabilization Account, any portion of a district's ending fund balance which exceeds 16.6 percent of the total actual expenditures for the fund for the fiscal year which ends on June 30, 2020, leaving each district with an ending fund balance for its local school district fund in the succeeding fiscal year which does not exceed the ending fund balance for the fiscal year which ended on June 30, 2020. In connection with the COVID-19 pandemic, and amid public safety concerns, many schools were forced to close beginning in March 2020 potentially affecting their ability to utilize previously budgeted funds for the fiscal year ending on July 30, 2020. Accordingly, the proposed language of Section 35 to SB 439 could potentially have an adverse effect on school districts that may have been unable to make normal expenditures due to school closures. As we have urged the Commission previously, we should be extremely cautious of the long-running impact any provision based on calculations from the 2019-2021 biennium could have on future budgeting allocations. Thus, we would request that the Commission recommend that the Legislature adopt language to maintain the status quo until the 2023-2025 biennium, and delay implementation of SB 439/SB543 until that time. This approach would ensure that school districts are properly funded and maintain their ability to receive statewide guarantees should local revenues decline. This temporary delay would also better protect the districts from financial harm. If you are unwilling to recommend delay, we would request that you recommend that Section 35 of SB 439 be limited to each district's unrestricted (unassigned) ending fund balance.

### ***3. Hold Harmless Provision***

Upon review, SB 439 does not appear to address the hold harmless provision included in Section 15 of 2019's SB 543. As you know, SB 543's hold harmless provision would protect school districts against an unexpected loss of revenue resulting from the implementation of the PCFP. Specifically, Section 15 of 2019's SB 543 guarantees that a school district will not receive less under the PCFP than they did during the fiscal year ending on June 30, 2020. The legislative intent of this language plainly indicates the provision is meant to protect against a sudden reduction in revenue to a school district. Additionally, Subsection 3 to Section 15 of SB 543 provides that, in the event enrollment in a school district continues to decline for a period of 2 years or more, the Legislature would

then have the ability to modify the per pupil funding to a school district in an amount equal to the average number of pupils enrolled in an affected district over a rolling 3-year period.

As evidenced by the notable drop in enrollment caused by the [global COVID Pandemic](#), Subsection 3 to Section 15 of SB 543 is problematic for multiple reasons. Under the Governor's suggested phased implementation of SB 543, for instance, districts would be locked into their hold harmless numbers from the 2019-2021 biennium. Due to the pandemic, these amounts would not properly reflect, or would understate, the needs of each district due to a statewide drop in enrollment. Moreover, a phased implementation could have a significant negative impact on school districts if local revenues do not make up the difference between state allocated funding and the actual need of the school district. It will also be very difficult for school districts to properly budget and forecast staffing and service levels using COVID-affected revenue projections.

Without the hold harmless provision, our rural schools will suffer a notable drop in revenue if SB 439 is adopted in its current form. In moving from the Nevada Plan to the PCFP, we need to ensure there are adequate safeguards in place to protect our rural students. We realize this is not an easy task given the wide variation of community sizes in Nevada, but we must insist that SB 439 include a hold harmless provision in order to ensure that all Nevada pupils receive adequate and equitable educations.

It is our hope that the Commission will acknowledge our request and provide a recommendation to the Legislature that SB 439 be amended to include a modified version of the hold harmless provision from SB 543. Such recommendation should be consistent with the motion considered during the [April 2021 Commission Meeting](#) to reconsider or rescind the initial support of the NCEI for the implementation of the PCFP and recommend that every district be set to zero until further study may be completed.

Although that motion narrowly lost the vote during the April Commission meeting, we nevertheless feel this concept is crucial to include in any legislation related to the PCFP. Should the Commission determine that the hold harmless provision requires additional research, we strongly support that the Commission either recommend delaying implementation of the PCFP or, in the alternative, that SB 439 be amended to include a hold harmless provision funded at a per pupil level with an attendant CPI adjustment.

As always, we appreciate the Commission's continued time and effort to implement the PCFP and are always available for discussions, questions, or comments with the Commission.

Sincerely,

/s./ Ryan D. Russell      /s./ Robert M. Salyer

Ryan D. Russell, Esq.      Robert M. Salyer, Esq.