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Daniel J. Klaich
Chancellor

Written Statement of Chancellor Daniel J. Klaich (May 12, 2016 Special Meeting of the Board of Regents)

This Thursday you will meet to review a number of topics dealing with revisions to the formula for the funding of higher education and certain of my actions and actions of my staff during the course of hearings in 2012 by the Committee conducting an Interim Study on the Funding of Higher Education (the “Committee” or the “Interim Committee”). The topic is one of great complexity and the public record to be reviewed is extensive. In order to assist the Board as much as possible in its review of these matters, I have put together this written statement with links to reference material. While this statement will form the basis of my testimony to you on Thursday, I will try to be much more focused in that presentation on the issues that seem to be of the most current concern.

Over the last several years we have made great strides improving higher education in Nevada. One of our most important accomplishments was implementation of revisions to funding formula as recommended after the 2011 Legislative session and adopted first by the Governor and then by the Legislature in 2013 and again in 2015. Prior to 2011 the funding formula was arcane and understood by few. It was not oriented toward performance or the goals of the state. Now for the first time NSHE has performance funding and is better aligned with the Nevada’s economic development plan. Inequities in student funding were eliminated and incentives for better performance and accountability were instilled. The implementation of the new funding formula was the result of a great deal of hard work by NSHE, the Legislature and its committees, and supported by the Governor’s office and the Board of Regents. All were aided in this effort by highly qualified consultants who brought a national perspective to our efforts. It pains me now to see these efforts being called into question as a result of some unfortunate emails and interactions between me and our consultants.

In the notice I received prior to this meeting, I was asked to address a number of points. I will address each below in the order set forth in the notice.

1. NSHE’s Participation in the Legislative Interim Study. I will briefly address this point, recognizing that members of the Board who are still serving and who were central to the process will also be able to add their own perspective for the Board.

From NSHE’s standpoint, efforts to reform the formula began as early as 2008 under then Chancellor Jim Rogers. We had numerous episodes of testimony in the public comment section at Regent meetings about the unfairness of the formula. Comments were pointed, angry and in many cases well founded. Chancellor Rogers attempted to get a bill through the 2009 legislature to study and recommend revisions to the formula. He was not successful. I took over as Chancellor in July of that year and shared the view of Chancellor Rogers on the importance of

formula reform. I was convinced that doing nothing for the next two years while we waited for the next session of the legislature was not a viable option. I hired MGT of America to analyze our current formula for its positive and negative aspects. I provided that report to the Board, the legislature, the Governor's office and posted it publicly. In the 2011 legislature, I followed the direction of the Board to get a study bill passed. I worked with Senator John Lee and ultimately SB 374 passed the legislature, unanimously in the Senate and with two dissenting votes in the Assembly. Pursuant to SB 374 the Interim Committee was formed. Three members of the Board of Regents served as active, voting members of the Committee, then Board Chair Jason Geddes, then Board Vice Chair Kevin Page, and immediate past Chair Michael Wixom.

2. The Process followed By Chancellor to Develop a Funding Formula Proposal. While the formula is a product and tool of the legislature, NSHE is clearly impacted. The funding formula is the process by which the legislature allocates funding among our institutions. As Chancellor I felt that there would be no more important task that I would tackle during my tenure than the funding formula, and that was how I approached this critical project.

Over the period of fourteen months commencing in November 2011, I engaged presidents, students, faculty and staff in numerous meetings to solicit their opinions and ideas. I held at least seven meetings of the institutional presidents to solicit their opinions about the formula and the reforms they wished to seek for their institutions. We met often, sometimes weekly to try to find common ground on ideas. I can assure you that no one was completely happy with all of the decisions, and no one achieved what they might have thought was a perfect result for their respective campus. The Board of Regents understood what was at stake and put this item on the agenda for every meeting of the Board from June 2011 to November 2012, a total of eight public meetings. At each of those meetings we reported to the Board, solicited the guidance and wisdom of the Board, and worked to implement the decisions of the Board through the Interim Committee process. And of course I also sought the best minds I could find to help me bring national best practices to the discussion.

Working with representatives of Governor Sandoval, we secured a grant from the National Governors' Association to study performance funding which we could, and did, incorporate into the funding formula for the first time in the history of the state. I also solicited advice from national experts.

3. The Hiring of NCHEMS as a Consultant. When the Interim Committee was formed I solicited advice related to funding formulas from various national experts including those from the National Center for Higher Education Management Systems (NCHEMS), the Western Interstate Commission on Higher Education (WICHE) and the association of State Higher Education Executive Officers (SHEEO). NCHEMS was already assisting us in assessing equity aspects of the current formula and I turned to them for additional assistance.

Over the past thirty years, NCHEMS has consulted with almost all of the states that have undergone major governance changes and that have developed outcomes-based funding models.

On the governance side, this includes the states of Louisiana, Kentucky, Tennessee, Oregon, Illinois, Ohio, California, New Mexico, Rhode Island, Connecticut, Colorado, Texas, West Virginia and Washington.

On the outcomes-based funding side, NCHEMS has worked most intensively with Massachusetts, Maine, Connecticut, Rhode Island, Indiana, Illinois, Mississippi, Tennessee,

Louisiana, Oklahoma, Oregon, Colorado, Montana, Minnesota, New Mexico and of course Nevada.

No other organization in the country has been as involved as NCHEMS in these discussions.

On the broader policy side of higher education issues, NCHEMS has worked and continues to work with:

- The National Conference of State Legislatures
- National Governors Association
- National Association of State Budget Officers
- Education Commission of the States
- Complete College America
- State Higher Education Executive Officers
- Western Interstate Commission for Higher Education
- Southern Regional Education Board
- Midwest Higher Education Compact
- New England Board of Higher Education
- Lumina Foundation
- Gates Foundation
- Hewlett Foundation

A more complete description of NCHEMS qualifications and experience is set forth at, www.nchems.org. With this extensive background and expertise, I felt that NCHEMS could assist NSHE in advocating for positive, equitable and transparent changes to the formula that incorporated the best national practices and the work of national policy groups.

Although I hired the national consulting firm NCHEMS because of their extensive background, the public allegation is that I had a “cozy” relationship with NCHEMS, referring to it as my “special consultant” with the implication, that this impacted their independence and or credibility. This is an example of one of the cases where an email has been read out of context and created a false impression. In fact, the “special consultant” that I was referring to in the referenced email was Dr. Jane Nichols. ([See December 13, 2011 email from Dan Klaich to Jane Nichols](#)) During this time, then Vice Chancellor Nichols decided it was time for her to step away from full time employment, and we had discussions about her continuing to help me in a part-time capacity as a Senior Advisor. In an email dated December 13, 2011 ([See December 13, 2011 from Dan Klaich to Jane Nichols](#)), I forwarded to Dr. Nichols an email string and outline of the significant issues that would need to be addressed in developing a new formula and said to her, “The more I think about it the more I need my special consultant sooner rather than later.” The “special consultant” referred to in the email is Dr. Nichols, not NCHEMS as has been reported. Following that email exchange, Dr. Nichols and I finalized our discussions about her retirement as Vice Chancellor and her new part-time position as Senior Advisor, and on December 14, 2011, I sent an email to the Regents, Presidents, Cabinet, Faculty Senate Chairs and Student Body Presidents transmitting a memorandum informing them of this change ([See December 14, 2011, email from Dan Klaich to the Regents](#)). I also sent an email to Dennis Jones of NCHEMS and other experts with whom I had been in contact about developing a new formula, informing them of the change to Dr. Nichols’s employment status and specifically stating, “So you will know her first job as Senior Advisor will be formula which she can then focus on without office stuff interfering.” ([See email of December 14, 2011 from Dan Klaich to](#)

[Jones, Lingenfelter and Longanecker](#)) Any suggestion that I hid from the Committee that NCHEMS was my “special consultant” is just not correct, since that comment was completely unrelated to NCHEMS.

4. Disclosure of the Relationship between NCHEMS and NSHE. A second allegation is that I misled the Committee by failing to disclose the NCHEMS hiring and relationship with NSHE to the Committee. The record of the Committee proceedings does not support the claim. In January 2012, the Chair of the Committee agreed to place an item on its January 11, 2012, Committee agenda meeting to allow NSHE to present a concept for a revised formula model (the “NSHE Formula”). ([See, A New Model for Funding Public Higher Education in Nevada.](#)) The concept was developed in late December at a staff retreat in which Dennis Jones of NCHEMS participated. During the presentation at the January 11, 2012 meeting, I clarified that the NSHE Formula I was presenting was only a framework, and would need much more work to complete. The Chair requested and I provided my commitment and that of my team to finish the NSHE Formula, make sure it worked and “understand” how it worked. ([See, January 11, 2012 Committee minutes, page 19](#)). I immediately began working with campus presidents, my staff and engaging in discussions with NCHEMS about extending their contract to assist me in complying with the Chair’s request to finish the NSHE Formula, to make sure it worked and to understand it so it could be explained to and vetted by the Committee, its consultant and others. Emails over the next month show that presidents, faculty senate chairs and student body presidents were all consulted about the draft NSHE Formula and informed that NCHEMS prepared the matrix for NSHE ([See, for example email from Dan Klaich to System Presidents dated January 12, 2014](#)) ([See, email dated February 13, 2012 from Dan Klaich to Faculty Senate Chairs and Student Body Presidents](#)) Dennis Jones from NCHEMS also met in February with presidents, their business officers and Chancellor’s staff to discuss formula issues and preparation of the matrix.

The next meeting of the Committee was on February 29, 2012. Again, the Chair permitted us to update our work for the whole committee, and NSHE made a presentation which was styled “The Road Travelled since January 11, 2012.” ([See, An Alternative Funding Formula: Funding the Nevada System of Higher Education](#)) (the “Alternative Formula”) The minutes of the meeting of the Committee reflect that I testified regarding some of the key elements of the new formula proposal and in particular the cost matrix. “Chancellor Klaich said that NSHE staff worked with the National Center for Higher Education Management Systems (NCHEMS) and asked them to prepare a draft instructional matrix that reflected various costs of clusters.” ([See, February 29, 2012 Committee minutes, page 11, emphasis added](#)). This particular testimony referred to slides seven and eight of the Alternative Formula presentation which clearly state the work NCHEMS had done for us on this proposal ([See, Alternative Formula presentation at slides seven and eight](#)). I don’t think I could have been more clear or up front about our relationship with NCHEMS, and I certainly did not intend to mislead anyone regarding NCHEMS status as a NSHE consultant.

Following my presentation of the slides on NCHEMS’ recommended discipline clusters and instructional matrix, the minutes reflect the following exchange with Chair Horsford (emphasis added):

Chairman Horsford asked about NCHEMS, who they were and their affiliation with NSHE. He thought they had produced some significant conclusions and although it was important to rely on information from other places, it needed to be an “apples to apples” comparison.

Chancellor Klaich said NCHEMS had consulted with the state of Nevada and with NSHE, including the Assembly Bill 203 (2003 Session) study. He had hired NCHEMS twice to obtain data from other states to help with policy information. He said NSHE did not have a formal affiliation with NCHEMS.

Chairman Horsford asked if NCHEMS was a consultant to NSHE and if it was a private company or associated with another organization or entity.

Chancellor Klaich said NCHEMS consulted the system as well as nationally. He indicated NCHEMS was located in Boulder, Colorado and he did not know the actual organization, but it was possibly a 501C-3. In his opinion, NCHEMS was more knowledgeable about higher education funding than any other entity he knew. Chancellor Klaich said it was critical for the selected consultant to the committee to take a hard look at the matrix. If the matrix was discovered not to work, then the whole proposed funding formula would not work, because it was the matrix that reflected the relative cost of the offerings, it differentiated the mission, and it funded the research component. He indicated it was a cost driven matrix and did not include any policy component.” ([See, February 29, 2012 Committee minutes, p. 11](#))

Since I had already told the Committee staff that we were working with NCHEMS and had just discussed with Committee during my presentation that we had worked together on a key piece of the formula, I assumed the Chair wanted to know if we were part of a common group or partnership. In response I answered that NCHEMS had consulted with NSHE but did not have a formal affiliation with NCHEMS. By contrast, see the websites of [SHEEO](#) which clearly shows Nevada as a “member” and [WICHE](#) which indicates that it has been “partnering [with Nevada] for over 55 years.” In contrast, [the NCHEMS website has a “member” category](#) and Nevada is not even a “member” of NCHEMS. It is unfortunate if Chair Hosford was confused about NCHEMS status as a NSHE consultant, but there was certainly no intent on my part, or on the part of my staff, to hide NCHEMS relationship as a consultant to NSHE.

The discussion during our presentation and the remaining record of the Committee deliberations clearly indicates that everyone knew of the work of NCHEMS. In the final report of the actions of the Committee, entitled *Funding Higher Education* ([LCB Bulletin 13-08, January 2013, the “Final Report”](#)), the Committee Chair closed with a letter to Board of Regents Chair Jason Geddes. In that letter while discussing the cost matrix, the Committee Chair wrote, “The committee adopted the credit hour weights recommended by the Nevada System of Higher Education, which was based on the National Center for Higher Education Management Systems four states’ cost study.” ([Final Report at page 221, emphasis added](#)).

In the months between the February 2012 meeting and its final report, the System’s relationship with NCHEMS was openly discussed in numerous meetings. On April 4, 2012, Committee staff asked for information from NSHE regarding the proposed formula, requesting, “A copy of the report or other work product NCHEMS prepared for NSHE on the matrix . . .” ([See, letter Dated April 4, 2012 from Alex Haartz to Daniel Klaich](#)). The minutes of the April 25, 2012 Committee meeting reflect my testimony that “...the National Center for Higher Education Management Systems was asked to help NSHE weight the various costs of course offering . . .” ([See, April 25, 2012 Committee minutes at page 6](#)) See also, [April 25, 2012 Committee minutes at page 9](#) for a similar discussion with the Committee Chair about NSHE’s relationship with NCHEMS. At its May 23, 2012 meeting, the Committee Chair commented in response to student and faculty public comment that the Committee needed to evaluate these policy issues including those

“...proposed by the chancellor based on the approach used by NCHEMS.” ([See, May 23, 2012 Committee minutes at page 26, emphasis added](#)).

At the February 29, 2012 meeting discussed above, the Interim Committee also interviewed and selected its independent consultant. One of the bidders on the project was WICHE. If all of the above disclosures by NSHE and references were not clear enough to state the relationship between NSHE and NCHEMS, under the section entitled “Use of Subcontractors,” WICHE indicated in its proposal dated February 21, 2012 and reviewed by the Committee at the February 29, 2012 meeting:

“The project will also contract with the National Center for Higher Education Management Systems (NCHEMS) for the data collection and analysis required to fully analyze the impact of the NSHE proposed alternative analysis. Because NCHEMS has been used as a consultant to NSHE on its planning activities, NCHEMS will not have a role in analyzing the policy proposal, but only to produce the data necessary to do so. In this fashion we believe we avoid any possible conflict of interest, while still retaining the organization best able to collect and display the data.” ([See WICHE Response to RFP at page 11](#))

I do not see how the full record of the Committee proceedings supports any conclusion other than that I fully and publicly disclosed the relationship with NCHEMS and that everyone knew of it at all times during the process from beginning to end.

In addition to the disclosure of the relationship, it is important to understand how NCHEMS was viewed by SRI International, the independent consulting firm selected by the Committee to guide and inform its deliberations. At the August 15, 2012 Funding Formula Subcommittee meeting, Dr. Roland Stephen of SRI comments that “NCHEMS is an outstanding organization that has served the public good for decades,” and that, based on his experience, he stated “[i]f NCHEMS claimed that the weights provided were the best synthesis of the four states, that was undoubtedly true.” ([See, August 15, 2012 Subcommittee minutes at page 23](#)). Later in the same meeting during a discussion about the Chair wanting additional information from NCHEMS to explain the data on which the weights in the NSHE Formula matrix were based, Dr. Stephen responded that he “did not know whether that kind of information was available” and that “NCHEMS was the expert on this topic and [he] would defer to them”. ([See, August 15 Formula Funding Subcommittee minutes at page 25](#))

I believe that the larger issue here is whether or not NSHE fully and transparently worked with the committee and its consultant so that the Committee had the information to form an independent judgment based on the consultant’s work. A few examples are helpful to answer that question. Below, I will discuss a memo which transmitted the NCHEMS data to the Committee in August of 2012. It is important to note that the cost study attached to that memorandum had already been given to Committee staff in January of 2012 ([See, January 10, 2012 email from Vic Redding to Alex Haartz](#)). NSHE presented to the Committee or engaged in Committee discussions at every meeting of the Committee and its Subcommittees. As is the typical practice in legislative hearings, we received questions after every hearing if there was any confusion or if our presentation prompted the desire for more data. During the course of these hearings we provided four bound volumes of material and data in response to committee inquiries (See, [NSHE Responses to LCB Questions dated April 16, 2012](#); [June 25, 2012](#); [July 20, 2012](#); and [August 1, 2012](#)), including specific details on the methodology that NCHEMS used in recommending the matrix used in the formula ([See, NSHE Response to LCB Questions on New Formula Funding Model Proposed by NSHE dated April 16, 2012, response to Question 1](#)). We

had regular discussions with the Committee consultant Dr. Roland Stephen of SRI to provide any information he wanted from us. An excellent example of this cooperation is found in our response to an email from Dr. Stephen in April of 2012 requesting information that he needs to “thoroughly evaluate” the NSHE Alternative Model ([See, email dated March 27, 2012 from Roland Stephen to Dan Klaich; see, email dated April 2, 2012, with attachments from Vic Redding to Roland Stephen in response](#)) and pursuant to which he asked for and received a great deal of data from NSHE, including “the NCHEMS instructional Matrix and information on its development.” This is only one of many exchanges with SRI to provide all information they requested. All of these efforts were our attempt to inform the Committee, never to mislead it. I believe that if viewed as a whole the record shows that we did just that.

5. The Drafting of the August 23, 2012 Memorandum Regarding Nevada’s Discipline Matrix. A final issue raised in connection with the NSHE relationship to NCHEMS concerns the drafting of a memorandum to me from Dennis Jones, entitled, “Nevada’s Discipline Matrix”, dated August 23, 2012. The memorandum was part of a longer response to the Committee transmitted with an NSHE memorandum dated August 27, 2012. ([See, August 27, 2012 memorandum from Daniel J. Klaich to SRI International, members of the Board of Regents and Alex Haartz of the Legislative Counsel Bureau entitled “Formula Funding Information.”](#)) As you can see the summary memorandum was a short explanation of the data and methodology used by NCHEMS in developing the Nevada Discipline Matrix. It did not in any way alter NCHEMS’ study, data or matrix. The memorandum was based on materials and information provided by NCHEMS and it was explicitly approved by them for accuracy before NCHEMS placed it on their letterhead and it was sent out to the Committee. That said, as reported, the memo was initially drafted by my staff based on the information provided by NCHEMS. My staff incorporated the NCHEMS information into the summary memo which was then reviewed and approved by NCHEMS before being submitted to the Committee. I understand the concern over the manner in which the memorandum was created and in hindsight I wish we had followed a different procedure. Trying to accommodate Mr. Jones’ travel schedule and provide information to the Committee on a timely basis, we prepared the initial draft of the memorandum based on and incorporating information NCHEMS provided to us.

Unfortunately our participation in the initial drafting of the summary memo for review and approval by NCHEMS, is being used to attempt to taint the independence and credibility of NCHEMS’ work and its recommendations, and I regret that. But I want to emphasize that our participation in drafting the two page summary memo had absolutely no effect on the study and matrix of NCHEMS. It was merely a summary memo explaining the methodology and transmitting the NCHEMS study, matrix and the resume of Mr. Jones. For some of the material attached to the memo it was a re-transmission of data. As noted above, the four state cost study had been transmitted to staff in January of 2012; the April 16 responses to LCB had already reviewed the basic methodology; and the matrix and information used in its development had been provided to SRI.

At the August 15, 2012, meeting of the Formula Funding Subcommittee meeting there were a number of major issues raised about which we understood the Committee requested clarification, including questions about the data and methodology NCHEMS used in preparing the NSHE discipline matrix. Committee staff subsequently confirmed the Committee requests to me, requesting a response by August 27, 2012. ([See, email from Alex Haartz to Dan Klaich dated August 26, 2012](#)) This request came only two weeks before the next and last committee meeting. Trying to be responsive to the Committee requests, NSHE immediately forwarded the Committee concerns to Dennis Jones of NCHEMS and Mr. Jones and I had a conversation in

which he informed me he was “off on an assignment that does not give him a lot of time.” ([See email from Dan Klaich to Jane Nichols dated August 16, 2012](#)) During that conversation, we agreed that Mr. Jones would send materials to NSHE that were responsive to the Committee’s concerns and NSHE would use that information and the earlier response to the Committee to prepare a draft memorandum for NCHEMS review that would be used to summarize and transmit the additional NCHEMS data requested by the Committee. Mr. Jones responded the next day providing the additional materials to NSHE, along with information that was incorporated into the NCHEMS draft memorandum. This work product included his bio, more information about the weights and Mr. Jones’ statement that **“At the end, there is judgment involved. I feel that 40 years of experience in this gives me a pretty good basis for making informed judgments.”** ([See, email from Dennis Jones to Dan Klaich dated August 16, 2012, emphasis added](#)).

The memorandum was reviewed by Mr. Jones throughout its drafting for its correctness and consistency with the methodology used and materials provided by NCHEMS. It was a NCHEMS memorandum and NCHEMS took ownership of the memorandum by placing it on NCHEMS letterhead only after reviewing and confirming it was an accurate response. The Committee data request specifically asked NSHE to obtain a response from NCHEMS. Consistent with the process throughout the formula study, NCHEMS provided the memorandum to NSHE for submission to the Committee by NSHE along with other responsive documents to the Committee’s data request. The draft memo was sent to NCHEMS for its review multiple times as changes were made to ensure it properly interpreted the NCHEMS data. I specifically asked Mr. Jones each time if he was okay with or had edits to the memorandum. For example, in an email dated August 18, 2012, I transmitted to Mr. Jones a draft of the memo stating, “[i]f you think we have missed the mark on the cover memo let us know and we will make edits.” ([See, email from Dan Klaich to Dennis Jones dated August 18, 2012](#)) Additional revisions were made between August 18 and August 21 to ensure the information being provided was accurate and responsive to Committee questions, and each time the memorandum was submitted to Mr. Jones for his review and acceptance. When the final version was sent to Mr. Jones on August 21, 2012, I said to him “I apologize for the multiple copies here but I want to be very sure you are comfortable since it is your letterhead.” ([See, email from Dan Klaich to Dennis Jones dated August 21, 2012](#)) In addition, Mr. Jones has recently confirmed to the Review Journal, with a copy to Vice Chancellor Nielsen, that the memorandum is reflective of his work product. ([See, email dated April 14, 2016 from Dennis Jones to B. Barnes](#)). In retrospect, I wish NCHEMS had prepared the summary memo with their own staff without our assistance, but there was nothing false or made up about the content of the NCHEMS memorandum or its presentation to the Committee.

6. A Note on My Emails. Lastly I want to express my regret for the tone and content in some of my emails. These events and emails occurred over four years ago and one of the lessons I have learned since is to work to be more careful, disciplined and respectful in my email communications. One of the dangers of quick email communications is the lack of context and tone. Humor is often not evident in emails. In addition, when dealing with important issues with strongly held and differing opinions, emails sometimes contain an intemperate tone. Although I believe many of the emails reported have been taken out of context resulting in a misleading impression, I regret the distraction they have caused for NSHE. As an example, I want to address an August 21, 2012 email from me to Mr. Jones that has received considerable attention.

In the process of finalizing the summary memorandum and for NCHEMS’ review and approval, I forwarded what I thought would be the final version of the summary memorandum to Mr.

Jones. Mr. Jones then requested a redlined version with the latest changes so he could review exactly what had been changed to verify its accuracy. I responded, let me check. To which Mr. Jones responded “Just so you know, I’m in Boston and booked non-stop for the next couple of days. As a result, I may not be all that responsive if you send me anything else.” I responded in jest,

“No problem, I will just figure out what you would say and put it on your letterhead. :)

I may even generate a bill form you and send it to me.”

Mr. Jones responded, also in jest: “Make the bill a big un.” To which I responded, again in jest, “It will be worth it I assure you.” ([See August 21, 2012 email chain](#)) The “joke” (which no longer seems funny) was that of course I would never “just figure out what Mr. Jones would say and put it on his letterhead.” Nor would Mr. Jones permit that to occur. What actually happened was I sent him every change to the memorandum regardless of how minor, and Mr. Jones reviewed and approved it before he authorized his staff to finalize it on his letterhead. Similarly, of course I never generated a bill from NCHEMS to NSHE, big or small.

7. Response to Specific Questions. In a separate response to the Board Members submitted concurrently with this written statement, I have answered 14 specific questions that were asked via email. Those responses incorporate some of the information from this statement.

8. Conclusion. In summary, NSHE participated actively in the legislative Interim Study on the Funding of Higher Education and in the development of a NSHE Alternative Formula proposal. To assist in this effort NSHE hired nationally renowned consultants, the National Center for Higher Education Management Systems. NSHE’s hiring of NCHEMS was disclosed to the Interim Committee from the outset, as well as their previous consulting work for the State of Nevada and the NSHE system. NCHEMS work on the study and matrixes were referenced repeatedly throughout the process. The Interim Committee hired its own independent consultants, SRI International, through an RFP process to independently assist the Committee in the Study of the Funding of Higher Education. I never intended to nor do I believe that I did mislead any members of the legislative Committee concerning NSHE’s relationship with NCHEMS or its hiring of NCHEMS. I was transparent in disclosing the hiring of NCHEMS and in their work throughout the process. I enjoyed a good working relationship with NCHEMS, but that relationship did not influence their work. NCHEMS primary function was to provide reliable data from other states for use in developing the proposed Nevada discipline matrix. The quality of the data provided by NCHEMS has not been questioned. As Chairman Hosford stated in the August 29, 2012 minutes, “he did not have an issue with NCHEMS or the credibility of their work.” ([See, August 29, 2012 Committee minutes at page 19](#))

Finally, while I hope that NSHE assisted the Committee and its consultant, it is clear that the Committee was well informed from a variety of sources and independently reached its own recommendations. Public comment was taken at every meeting, the Committee even set an agenda item for input from faculty and students of the system. Regents were active participants in the process and the president of CSN and business dean at UNR served on subcommittees together with the Graduate Student Body President from UNLV. A great deal of input was received from the public, both inside and outside of the system. SRI provided the Committee with a tremendous amount of independent data and research that is well summarized in the Committee’s final report (See, Final Report at pages 29-188). The Committee had lively debates on key issues and in the end accepted some recommendations from NSHE, rejected others and

modified still others. As reported by the Chair to the legislature the Committee produced a great body of work and recommended sweeping changes to the funding of higher education which is serving the state and students well.

I am saddened that all of the excellent work done could be tainted by our participation in drafting the summary memorandum. Although the memorandum was based on information provided by NCHEMS, was reviewed and approved by NCHEMS prior to being sent to the Committee, and was an accurate summary of NCHEMS' data, matrix and methodology, I wish I did not have my staff participate in the drafting. I regret the difficulties and distraction it has caused. That said it is important to remember that summary memorandum was only a short explanation of the data and methodology used by NCHEMS in developing the Nevada Discipline Matrix. The summary memorandum was prepared based on information provided by NCHEMS, which was incorporated into the memorandum. The summary memorandum was reviewed and approved at every step of the way by NCHEMS before they ever placed it on their letterhead. The summary memorandum did not in any way alter or affect the NCHEMS data or proposed matrix.

I believe NCHEMS did excellent work for NSHE, and the new funding formula they helped design is a vast improvement for the State of Nevada and its system of higher education.

In light of the controversy over these matters, I recognize that the Board may desire to transition to new leadership in preparation for the next legislative session. For that reason, I instructed my counsel to work with the Chair and Board counsel to prepare a short Retirement Agreement, providing for my retirement following this year's graduations should the Board deem that in the best interest of NSHE. The proposed Retirement Agreement provides for the early termination of my employment for convenience in accordance with the terms of my Employment Agreement. I understand and respect the Board's decision if that is the direction they want to head.

It has been an honor and privilege to represent and advocate for the NSHE over the last thirty years.

I look forward to our discussion on Thursday.

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Daniel J. Klaich
Chancellor

Written Responses of Chancellor Daniel J. Klaich to Questions Received by Email
(May 12, 2016 Special Meeting of the Board of Regents)

I received a series of questions from a member or members of the Board which recommended written responses to the Board for the May 12, 2016, special meeting. The questions and answers are set forth below.

1. **Q: Was the first meeting of the interim legislative formula funding committee on November 29, 2011? If not, what was the date?**

A: Yes, that is what the minutes reflect.

2. **Q: What date did the Committee award the contract to SRI?**

A: The minutes reflect the SRI award was at the February 29, 2012 meeting. ([Minutes p. 42, see Attachment 1 to these Responses](#)) The vote was 6-5 to approve SRI as the committee's first choice consultant and WICHE as the second choice consultant. If the terms of a contract could not be worked out with SRI, then WICHE would be selected. The WICHE proposal included the following language: "contract with the National Center for Higher Education Management Systems (NCHEMS) for the data collection and analysis required to fully analyze the impact of the NSHE proposed alternative analysis. Because NCHEMS has been used as a consultant to NSHE on its planning activities, NCHEMS will not have a role in analyzing the policy proposal, but only to produce the data necessary to do so. In this fashion we believe we avoid any possible conflict of interest, while still retaining the organization best able to collect and display the data." ([Meeting packet for 2/29/12 meeting, P. 240, see Attachment 2 to these Responses](#))

3. **Q: Why did NSHE hire NCHEMS as the System consultant after they lost their bid to be consultant for the State?**

A: As disclosed in my written statement to the Board and also in the WICHE bid discussed in the answer to question 2, NSHE had already hired NCHEMS before the February 29, 2012 meeting. NSHE wanted to make proposals to the Committee, for review with the assistance from the Committee's consultant, SRI. I considered NCHEMS the best qualified to assist us in that regard. As SRI stated in the August 15, 2012 subcommittee meeting in response to a question from Chair Horsford: "NCHEMS is an outstanding organization that has served the public good for decades." ([August 15, 2012 Subcommittee Minutes, P. 23, see Attachment 3 to these Responses](#))

4. **Q: IF NCHEMS had been awarded the contract by the State would we have hired SRI or any other independent consultant to assist the System?**

A: If WICHE, using NCHEMS as a subcontractor for data collection and analysis, had been selected I would probably have asked the Committee if NSHE should quit using NCHEMS as its consultant or continue having them assist NSHE these matters. If the Committee saw that as a conflict we would have probably needed help from another national expert to formulate our proposals to the Committee.

5. **Q: Why did you believe it was necessary for the System to secure a separate independent consultant?**

A: NSHE wanted to make proposals to the Committee, for review their consideration and review. We needed assistance from the best national consultants to do that. I considered NCHEMS the best qualified to assist us in that regard and felt they would add value to the process.

6. **Q: What did you mean when you wrote that “NCHEMS was your special consultant?”**

A: That is a misreading of my emails. As explained in my written statement, the references to my “special consultant” are not references to NCHEMS. They are references to Dr. Jane Nichols who was retiring and was going to act as my “special consultant” because of her expertise.

7. **Q: What did you mean when you thanked NCHEMS for giving you “ammo in your fight?”**

A: I meant that they had provided us with national data and expertise necessary to develop the best funding formula for our state and answer questions posed by the Committee.

8. **Q: What did you mean when you wrote to NCHEMS President Dennis Jones in August 2012, “I will just figure out what you will say and put it on your letterhead :)”? Were you serious or were you joking?**

A: It was a joke. I tried to explain the context in my written statement. In the process of finalizing the summary memorandum for NCHEMS’ review and approval, I forwarded what I thought would be the final version of the summary memorandum to Mr. Jones. Mr. Jones then requested a redlined version with the latest changes so he could review exactly what had been changed to verify its accuracy. I responded, let me check. To which Mr. Jones responded “Just so you know, I’m in Boston and booked non-stop for the next couple of days. As a result, I may not be all that responsive if you send me anything else.” I responded in jest, “No problem, I will just figure out what you would say and put it on your letterhead. :)” The joke (indicated by the smiley face) was that of course I would never put something on his letterhead without his review and approval. And of course I did not. I continued to point out any final minor changes. He then approved the changes and had his staff place the final summary memo on his letterhead after he had reviewed and approved every word. The references to the bill were also a joke.

9. **Q: Does the Board have a copy of the “memo” and what parts if any were written by NSHE staff versus NCHEMS?**

A: The Board was copied with the summary memo which was attached to my August 27, 2012 memorandum. I have also linked to the summary memo in my written statement as well as explaining in detail how it was prepared. In brief, the summary memo was a short explanation of the data and methodology used by NCHEMS in developing the Nevada Discipline Matrix. The memo was based on materials and information provided by NCHEMS and it was explicitly approved by them for accuracy before NCHEMS placed it on their letterhead and it was sent out to the Committee. My staff took the written and oral information provided by NCHEMS and used it to prepare a draft of the summary memo. The memo went through several revisions as additional information came in and questions were answered. NCHEMS reviewed and approved every word of the memo, and every edit, before they finalized it and put it on their letterhead. The summary memo did not in any way alter or affect the NCHEMS data or proposed matrix.

10. Q: Depending on your answer to question 9, do you feel it was ethical or consistent with higher ed best practices for NSHE to write any or all of the “memo” and place it on NCHEMS letterhead?

A: I do not feel it was unethical for my staff to have assisted in the preparation of the summary memo based on information NCHEMS provided to us. The summary memo did not in any way alter or effect the NCHEMS study, data or matrix and it was explicitly approved by NCHEMS before they ever put it on their letterhead. It was merely a summary transmittal of the data, study and matrix and an explanation of their methodology. Although my staff participated in drafting the memo, it was based on the information and materials provided by NCHEMS. That said, in retrospect it was not the best choice. I regret that I did not push NCHEMS harder to write the summary with their own staff and without any assistance from my staff.

11. Q: Should NSHE have notified the Committee that the NCHEMS “memo” was written in whole or in part, by NSHE?

A: In retrospect it may have been a good idea to inform the Committee that NSHE staff assisted in the preparation of the memo, based on the information provided by NCHEMS. But our primary focus was to make sure NCHEMS verified that the summary correctly explained NCHEMS methodology and accurately transmitted NCHEMS data, study and matrix. In my mind, the important point was to get an accurate explanation of NCHEMS methodology, and its data, study and matrix to the Committee in accordance with the Committee’s time line.

12. Q: What did Crystal Abba, vice chancellor for academic and student affairs mean when she wrote, “that she didn’t think that anyone had a good answer about why they used certain methodology to reach a desired conclusion”? Why did the vice chancellor then suggest that NCHEMS write, “this is the same basic architecture written for Nevada because it is simple, transparent and easy to understand,” which seems to conflict with her earlier statement?

A: You would need to ask her what she meant, but I can give you my supposition. She may have meant that she did not know why NCHEMS chose architecture for the matrix that was

based primarily on the Texas model. Prior material submitted to the Committee from NCHEMS had referenced the Texas architecture and we had tried to develop a model that was “simple, transparent and easy to understand.” Beyond that I believe she thought that Mr. Jones would have to review this information for its correctness and completeness which he did.

- 13. Q: What did Renee Yackira, vice chancellor for legal affairs (note, Brooke Nielsen was then and is vice chancellor for legal affairs not Renee Yackira) mean when she wrote that her and vice chancellor Constance Brooks, “felt that it would be very bad” if Chancellor Klaich had to defend or even explain the document written in-house on NCHEMS letterhead?**

A: Again you would have to ask Renee what exactly she meant. But the context of that email was a debate over whether we should have Dennis Jones come to the Committee to testify at the August 29, 2012 meeting. I assume Renee probably felt I would not have the expertise to explain and defend the NCHEMS methodology, study, data and matrix since it all came from NCHEMS. As indicated, although my staff participated in drafting the summary memo, the information contained in it came from NCHEMS, as did all of the study, data and matrix.

- 14. Apparently Dennis Jones, then president of NCHEMS asked NSHE to write the “memo” because he was too busy. Was NCHEMS paid for the work they didn’t do? Why didn’t NSHE cancel the contract with NCHEMS if they were too busy to do the work?**

A: The work NCHEMS did was in the study, data and matrix. They also provided all of the information for the summary memorandum explaining their data, study and methodology which was incorporated into the memo. Based on the size of the NCHEMS bills I do not believe we were billed for any work they did not perform. Although in retrospect I wish NCHEMS had prepared the summary memo with their own staff without our assistance, I do still believe they provided high quality work in connection with their study, data and matrix.

Attachment 1

plenty of higher education experience as well as public policy experience. Mrs. Smith was comfortable with SRI as the first choice selection, noting that the committee had clearly outlined its expectations of SRI if chosen as the consultant.

Chairman Horsford asked for a roll call vote in favor of approving SRI as the committee's first choice consultant and WICHE as the second choice consultant. The voting was as follows:

Senator Kieckhefer	absent
Senator Parks	Yea
Assemblyman Aizley	Yea
Assemblyman Hickey	Nay
Assemblywoman Smith	Yea
Mr. Anderson	Yea
Mr. Dillon	Nay
Mrs. Gansert	Nay
Dr. Geddes	Nay
Mr. Page	Yea
Mr. Wixom	Nay
Chairman Horsford	Yea

THE MOTION CARRIED 6 YEAS TO 5 NAYS.

Chairman Horsford thanked all the bidders and the committee. He appreciated all the members input because it was an important part of the work the committee would do going forward.

Mrs. Gansert commented that SRI did an excellent job on Nevada's economic development plan and she had full confidence in their ability.

VI. DISCUSSION REGARDING FUNDING OF HIGHER EDUCATION FROM NEVADA SYSTEM OF HIGHER EDUCATION STAKEHOLDERS:

- a. STUDENT REPRESENTATIVES**
- b. FACULTY REPRESENTATIVES**
- c. OTHER INTERESTED STAKEHOLDERS**

Tim Porter, Dean of the College of Sciences, Physics Professor, UNLV thanked and appreciated the committee, the Chancellor's Office and the Board of Regents for taking on the important task of examining the funding formula. His background was in science so his comments would primarily focus on science and engineering at UNLV, which was a research-intensive university, but the remarks would also be applicable to other scholarship-oriented disciplines within NSHE. He had the upmost respect for all the

Attachment 2

periodic publication of state budget and finance policies, which will be updated and used to provide the information requested in section 1 of the proposed scope of work.

Dr. Lingenfelter is a recognized national expert in higher education finance, both for his current work in this area and because of his prior work as budget and finance director for the Illinois Board of Higher Education. Dr. Lingenfelter knows Nevada higher education well, having been engaged as a consultant in the 2004-05 Legislative study of higher education. Mr. Carlson was the principal analyst for budget and finance at the Colorado Department of Higher Education before joining the SHEEO staff. This organization and the principals it brings to this project provide the professional expertise and access to data and information necessary to assure exceptional performance on this contract. Resumes for both Dr. Lingenfelter and Mr. Carlson are included in this proposal.

The project will also contract with the National Center for Higher Education Management Systems (NCHEMS) for the data collection and analysis required to fully analyze the impact of the NSHE proposed alternative analysis. Because NCHEMS has been used as a consultant to NSHE on its planning activities, NCHEMS will not have a role in analyzing the policy proposal, but only to produce the data necessary to do so. In this fashion we believe we avoid any possible conflict of interest, while still retaining the organization best able to collect and display the data.

XIV. CONFIDENTIALITY OF INFORMATION

The successful consultant must agree to maintain the confidentiality of any information, records, and data obtained for the purpose of performing its duties under the contract. The successful consultant must further agree not to use such information for any purpose other than its performance under the contract and that it will require its employees and subcontractors to comply with the confidentiality requirements of this section.

WICHE and its partner on this proposal, SHEEO, will abide with the confidentiality requirements specified by the Legislative Counsel Bureau. Given the public nature of the work of both organizations and their work serving many states, we request that those requirements include consideration of the following understanding. All Nevada-specific information and Nevada recommendations will be confidential property of the LCB, which will determine how, when, and whether they will be publicly released. Data corresponding to other states for the comparisons requested for this project may be shared with other states in consideration of their cooperation in providing freely data for the benefit of Nevada. WICHE and SHEEO will clearly identify work products that consist

Attachment 3

Mr. Anderson referred to page 3 (Exhibit E) to the historical norm of the optometry discipline in the doctoral sector, which had been weighted at 19, but jumped to 51 in 2011.

Dr. Stephen said NCHEMS was an outstanding organization that has served the public good for decades. If NCHEMS claimed that the weights provided were the best synthesis of the four states, that was undoubtedly true.

Regarding the data provided by the State of Texas, Dr. Stephen pointed out that the weights at every level of the engineering discipline rose dramatically over the past four years; although not as dramatically as in the optometry discipline. He noted that the costs underlying the weights were driven by faculty salaries. He explained that if there was a policy decision by the higher education system in Texas to build its STEM capacity, funding for new faculty and new facilities would be allocated to that end. That policy decision would be embodied in the weights assigned to those discipline clusters for 2011. The weights showed a measurement of cost, but that cost also reflected Texas' policy choices, rather than simply the market for engineers. He commented that engineering programs were very expensive.

Dr. Stephen said the NCHEMS provided Nevada with cost-informed weights that embodied both the costs and the policies of the states from which they were derived. He pointed that out to address Chairman Horsford's comment that the policy objectives in the state should be met through the base as well as through the performance pool. Dr. Stephen agreed with Mrs. Gansert's suggestion to increase the size of funding in the performance pool, because that was where the economic development policies resided. He said it must be acknowledged that there is a mix of policy and cost in the base formula.

Chairman Horsford agreed, and noted either approach was better than the current formula. He said, he was not comfortable using the NCHEMS assumptions without more information as to the cost and the policy considerations underlying the weights. He did not agree with applying the weights developed by other states without cost study information that was specific to Nevada. He agreed that the weights for Texas were specific to Texas, but noted the information behind the weights was data driven.

Chairman Horsford said he had asked at a prior meeting for a list of the degree programs within the weighted categories of the NSHE proposal. He noted there were some degree programs in the Texas model, such as teacher education, that were not included in the NSHE proposal. He pointed out that Nevada was ranked at the bottom of the states for K-12 education, there was ongoing talk about the need for qualified teachers and educational leaders, yet there was no extra weight given to that discipline in the NSHE proposal. He said discussion was needed to develop recommendations as to what part of the weights should be policy driven rather than cost informed.

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