

**NEVADA SYSTEM OF HIGHER EDUCATION
ad hoc COMMITTEE ON HIGHER EDUCATION FUNDING**

Legislative Building, Room 4100
401 S. Carson Street
Carson City, Nevada

November 14, 2023

Video or Telephone Conference Connection from the Meeting Site to:
Grant Sawyer State Office Building, Room 4401
555 East Washington Avenue
Las Vegas, Nevada

Members Present: Justice James W. Hardesty (Ret.), Chair
Chancellor Patricia Charlton, Vice Chair
Regent Byron Brooks
Senator Carrie Buck
Mr. Glenn Christenson
Mr. Richard Combs
Regent Carol Del Carlo
Senator Marilyn Dondero-Loop
Ms. Betsy Fretwell
Assemblyman Ken Gray
Regent Stephanie Goodman
Assemblywoman Erica Mosca
Mr. Tony Sanchez
Ms. Yvette Williams
Dr. Kyle Dalpe
Dr. Peter Reed
Ms. Lindsay Sessions
Ms. Suzanna Stankute
Mr. Chris Viton
Ms. Stacy Wallace

Members Absent: Ms. Amy Stephenson

Others Present: Crystal Abba, Committee Staff
Chris Gaub, Budget and Contract Director, NSHE
Heidi Haartz, Committee Staff
Lynda King, Associate General Counsel, NSHE

Chair Hardesty called the meeting to order at 9:30 a.m. with all members present except Ms. Stephenson. Chair Hardesty welcomed the members and expressed gratitude for their willingness to serve on the Committee. He acknowledged NSHE Associate General Counsel Lynda King, who was present to ensure compliance with the Nevada Open Meeting Law. He noted that the agenda included a presentation on the Open Meeting Law and its requirements.

1. PUBLIC COMMENT

There was no public comment provided.

2. WELCOME AND INTRODUCTIONS – Information Only

Chair Hardesty again welcomed the members and the public to the meeting. He stated although we were meeting in legislative meeting rooms, this was not a legislative study. This study was advanced by the NSHE Chancellor's office. The Chair noted that the Chancellor would provide more information on the Committee's charge during agenda item number 3. The Chair indicated that it is important for the Committee to be together to complete this work, so committee members should plan to attend in person - either in Carson City or Las Vegas – not by other virtual mechanisms. The Chair indicated he would alternate his attendance for meetings, alternating between Carson City and Las Vegas. The next scheduled meeting would be on February 12, 2024, in Las Vegas, and the Chair would be attending that meeting in Las Vegas. The Chair thanked Ms. Abba and Ms. Haartz for their assistance supporting the work of the Committee.

At the Chair's request, each member introduced themselves and shared who appointed them to the Committee and why they agreed to participate in the study of the higher education funding formula. Chair Hardesty thanked each member for sharing.

Chair Hardesty indicated that the Legislative Counsel Bureau Bulletin #13-08, Funding of Higher Education, was included in the reference materials for this meeting to provide background on how the current formula was established. The Bulletin was not intended to be discussed in detail today; however, he encouraged each member to review the report because it would be referenced in future meetings and served as a baseline for the current funding formula. The Chair also noted that the Committee will also review the use and reporting for NSHE's self-supporting accounts.

Chair Hardesty commented that many people, who have served on committees like this in the past, may have wondered if the work was used in the future to make a difference. The Chair affirmed his belief that this committee and its charge represented a unique opportunity for the members to have an impact on the future of higher education in Nevada. He hoped the Committee would support the recommendations that result from their collective work by making a personal commitment to see the recommendations through to implementation. He hoped committee members would make themselves available to work with the Regents, the Chancellor, and others to convey the underlying discussions, considerations, goals, objectives, and outputs of the Committee leading up to and during the upcoming Legislative Session.

The Chair concluded by asking that members provide their own materials for future meetings, understanding that some may prefer electronic copies of documents, while others may prefer to have hard copies.

3. COMMITTEE CHARGE – Information Only

Vice Chair and Chancellor Charlton read the Committee’s Charge into the record. The Chancellor clarified that the original charge, developed by the former Chancellor, included a deliverable about governance. That was removed based on direction from Legislative Counsel Bureau (LCB) staff, who clarified that governance was outside the scope of the funding approved by the legislature to support the interim review of the funding formula.

Ms. Betsy Fretwell stated it is difficult to disconnect the application of the funding formula from governance and asked if it was possible to shed more light on the distinction made by the LCB to ensure that the Committee does not head into an area it shouldn’t, while formulating recommendations for the future of the funding formula.

Chancellor Charlton stated that while funding, governance, and allocation go hand in hand, the legislation appropriating the funds for this study was specific to the funding formula; therefore, that would be the focus of the Committee. The Committee could look at how the allocation model functions and how that compared to states and systems similar to Nevada.

Mr. Combs clarified that the bill itself (AB493) states the \$2 million appropriation can be used for reviewing the funding formula. Mr. Combs indicated that there probably wasn’t anything that would prohibit NSHE from studying governance in some other manner or method.

Chancellor Charlton stated the bill was specific as it relates to the funding formula, so the Committee charge was revised to align with the intended use of the funds appropriated by the state legislature.

Chair Hardesty indicated it would be possible for recommendations regarding governance to be included the Committee’s recommendations as it pertains to the funding formula or the self-supporting accounts.

4. REVIEW OF OPEN MEETING LAW – Information Only

NSHE Associate General Counsel Lynda King provided an overview of the Nevada Open Meeting Law. Ms. King explained that the intent of the Open Meeting Law is to ensure that public bodies, such as this committee, conduct work through a public and transparent process. Ms. King highlighted some of the technical requirements included in the Open Meeting Law, including how and when notice of meetings must be given to the public. Ms. King reminded members that it is important to use caution when communicating with fellow committee members using electronic devices, because this could lead to a “constructive quorum,” which is a violation of the Open Meeting Law.

Chair Hardesty encouraged members of the committee to contact him or the Vice Chair (Chancellor), ideally by email, with suggestions for agenda topics and to share resources that may be of interest to the Committee. He also indicated that members may reach out to Ms. Abba and Ms. Haartz regarding agenda items and materials. In conclusion, Chair Hardesty indicated

that he and the Vice Chair (Chancellor) are looking for Committee input, understanding it needs to be channeled properly.

There was a break at 10:55 a.m.; the meeting reconvened at 11:07 a.m.

5. REQUEST FOR PROPOSAL PROCESS – Information Only

Chair Hardesty introduced this agenda item, noting that there is a process that must be followed by NSHE when securing consulting services, including for the Committee's work. He also acknowledged the appropriation approved by the 2023 Legislature to fund the review of the funding formula and the use and reporting of self-supporting funds. Then, the Chair introduced NSHE Budget and Contract Director Chris Gaub, who would provide an overview of the request for proposal (RFP) process at NSHE and an update on that status of the current solicitation. The Chair also explained that the solicitation process was initiated by the Chancellor before the Committee was convened in order to quickly secure a vendor to assist with the evaluation of the current funding formula and to provide recommendations for improvements based on experiences in other states.

After introducing himself, Chris Gaub outlined his presentation, which would include information on the following:

- A Quick Look at AB493 of the 82nd (2023) Session;
- What Do We Seek? (goals of the RFP);
- Duties of the Consultant;
- Request for Proposal process; and
- Answer any questions of the Committee.

Mr. Gaub reminded the Committee that Assembly bill (AB) 493 of the 82nd (2023) Session appropriated \$2 million to NSHE for a formula funding study. The results of the study are due to the LCB prior to the start of the 83rd Legislative Session, in 2025. Mr. Gaub indicated that while NSHE has until June 30, 2025, to commit the funds, the timing of the study dictates the work be completed much earlier.

Through the RFP, NSHE seeks proposals from qualified consultants with significant experience in evaluating and analyzing higher education funding models to advise and collaborate with the Committee. The RFP includes four high level tasks to be completed by the consultant, which directly align with the charge of the Committee, previously discussed by Chancellor Charlton. The first task is a comparative analysis of models for higher education funding that are used in other states to support institutions similar to NSHE institutions with the current funding model used in Nevada. The second task is determining if other funding allocation methods would be appropriate for NSHE, taking into consideration of the different missions of each NSHE institution. The next task is a review of how other states' higher education systems use and report revenue and expenses outside of state-supported operating budgets, also referred to as self-supporting or non-state budgets. The fourth task for potential vendors is the transmittal of a report of their work to the Chancellor.

Mr. Gaub continued: NSHE is not bound to use the State of Nevada's Purchasing Division. According to Chapter 333.470 of *Nevada Revised Statutes*, NSHE is exempt from the general provisions of the State Purchasing Act but allows NSHE to use the State Purchasing Division on a voluntary basis for any purpose. Mr. Gaub explained that for this RFP, NSHE is using its own purchasing offices, specifically the office located within the Business Center North, and following NSHE's established policy for the RFP process.

Mr. Gaub discussed the RFP timeline, noting that some of the milestone had already been achieved. Mr. Gaub explained that the evaluation process and members of the review committee are confidential until after an award is made to the selected (final) bidder. The RFP review committee consider a set of pre-determined evaluation criteria when reviewing each proposal. For this RFP, NSHE established four evaluation criteria, and they were established before the RFP was published. The evaluation criteria included: the proposed cost and payment terms, evidence of ability to successfully perform the services requested, compliance with RFP specifications, and the applicant's qualifications, experience, and financial stability.

Ms. Fretwell asked who would make the final selection of the successful bidder? Would that selection go through the Board of Regents. Mr. Gaub stated the RFP review committee will make the decision; it will not go to the Board of Regents.

Ms. Williams suggested that the selected vendor reflect the values of our institutions. She then clarified that equity, diversity, inclusion should be reflected as a value. Mr. Gaub responded that he would follow up with the Business Center North to determine if this could be added to the evaluation criteria.

Assemblyman Gray asked how many proposals have been received. Mr. Gaub responded that most responses are submitted very close to the deadline and there are still two to three days remaining before the deadline.

Mr. Christenson asked for more information about the review committee, including their background and association with NSHE. Mr. Gaub indicated that he could not discuss the members of the review committee in detail at this time, other than to share that the review committee is principally made up of NSHE representatives, with one member from a state agency.

Chair Hardesty added that he had previously asked about the makeup of the review committee and received a very similar response. He noted that the review process is fairly rigid and closely monitored. The Chair added that he had been assured that the review committee had been apprised of the Committee's objectives and desire for the selected consultant to have independence in its assessment of our current systems, access to data and information necessary to complete this work, and knowledge of what is occurring in other states.

Chair Hardesty also noted that some members of the Committee have already begun to share information on similar work that has occurred in other states. He asked that any committee member who learns of or has information about other jurisdictions that have undertaken studies of their funding formulas or information that provides a basis for review and examination, notify

him or the Chancellor. He would like to share information such as this with the entire Committee, so the Committee can consider this information, as well.

Ms. Fretwell asked if consult will provide the Committee with information regarding formula compliance during the preceding ten years. She would be interested in a review of how the funding formula is being applied. Chair Hardesty agreed that this was an important point and noted that under Agenda Item #8, the Committee could further discuss the goals of the work.

Chair Hardesty indicated that it would be helpful to the Committee to have a separate presentation at its next meeting regarding the current goals of each institution and if and how those goals have been achieved over the last decade.

Chancellor Charlton added that the February 12, 2024, meeting will include presentations from the institutions, specifically their individual institutional missions, how those missions align with their budget decisions, and if the funding formula contributes to successes or impediments to fulfilling their missions.

6. MEETING SCHEDULE AND WORK PLAN – Information Only

Chair Hardesty provided an overview of the work plan document included in the meeting materials. He explained that one side of the document identified the topics to be considered during each Committee meeting, while the reverse side organized the review and discussion process by topic (funding formula review and self-supporting accounts use and reporting). The Chair also explained that the Committee will have an opportunity to develop preliminary recommendation throughout the process. The Committee will finalize its recommendations during the work session, which will also be the final meeting for this group. Following the work session in July, Committee staff will finalize the report and submit it to the Chancellor, who will then transmit it to the Board of Regents, the Governor and the Director of the Legislative Counsel Bureau.

Chair Hardesty invited the Committee to identify additional agenda items for discussion. He also elaborated on points raised previously by Ms. Fretwell, Mr. Combs and others concerning the issue of governance, explaining that discussions could be incorporated within one or two of these meetings, if the Committee would like to do so. He added that governance is a very broad topic, so the Committee needs to remain focused when discussing that area. This focus is also important because the governance is outside the scope of work for the consultant that will be hired to review the funding formula methodology and the self-supporting accounts uses and reporting.

Senator Dondero-Loop indicated that there are usually national conferences at the end of July and beginning of August, so it may be necessary to reassess the July 25th date, as it gets closer. Chair Hardesty requested that at the next meeting members identify any potential conflicts for the July meeting date.

Regent Del Carlo asked if there is a virtual mechanism available, if someone cannot attend a meeting due to being out of the state. Chair Hardesty indicated Zoom access may be an option under these circumstances, but it would should be requested in advance.

7. OVERVIEW OF THE NSHE FUNDING FORMULA – Information Only

NSHE Chief Financial Officer Chris Viton presented an overview of the NSHE funding formula, including how state General Fund appropriations are allocated to NSHE teaching institutions and the historical allocations of state appropriations under the current formula.

He began by noting that his presentation would provide an overview of the history of the funding formulas, the objectives and features of the current formula and a review of an example of the formula. The current formula, and prior formulas for NSHE, have not been set in in statute, but rather established as budget policy approved by the Legislature’s money committees. Funding formula reviews occur every ten to fifteen years, with the most recent review occurring in 2011. That study was authorized in 2011 through Senate Bill (SB) 374. The report from that study was distributed to the Committee in advance of the meeting.

The goal of the formula is to equitably distribute General Fund appropriations to the seven instructional institutions. The funding formula does not apply to the professional schools at UNR and UNLV, nor does it apply to other budget accounts, such as System Administration and the Desert Research Institute. The current formula is a distribution formula, it is used to allocate base funding. It is not used to establish a required level or a need-based level of funding for the institutions.

Similar to other state agencies, the budget for teaching institutions consists of three basic parts: Base, Maintenance and Enhancement. For NSHE, the maintenance decision unit includes inflationary adjustments, such as fringe benefit costs, and adjustments for the small institution factor, research operating and maintenance (O&M), and caseload growth. Caseload growth is based on changes in Weighted Student Credit Hours earned. Enhancements may be funded outside the formula or funding may roll into the formula in future years. Enhancements may also apply to all teaching institutions or be institution specific.

Funding approved through the formula is primarily allocated based on the Weighted Student Credit Hours for Nevada resident students. The distribution methodology excludes the credit hours for non-resident students. Additionally, F grades for non-attendance are excluded from the Weighted Student Credit Hours used to distribute funding. The credit hours are weighted by discipline. For example, higher cost programs, such as engineering and allied health, have higher weights because they cost more to teach. Liberal arts programs that may be provided at a lower cost will have a lower weight. One important feature of the NSHE funding formula is that the course weighting is common across institutions delivering the same courses.

Weighted Student Credit Hours earned through Upper graduate courses taught at UNR and UNLV include a research factor, which adds 10 percent weighting. Additionally, in 2017, an adjustment to the weights for career and technical education courses taught at the community

college level was approved by the Legislature, in recognition of the higher costs associate with providing those courses.

The Weighted Student Credit Hour value is a derived value, calculated by dividing the total appropriations for the teaching institutions, less Small Institution Funding and Research O&M, by the number of WSCH. With the exception of caseload adjustments, the WSCH value does not drive changes in appropriations.

Once the appropriations have been allocated to each institution, based on the WSCH value, 20 percent of each institution's base funding is set aside in the Performance Pool. The funding in the Performance Pool is then earned back by each institution, based on its attainment of established metrics.

Assemblywoman Mosca asked if the weights used for WSCH are the same for all students or if they consider the diversity of students, such as those who are Pell eligible versus those whose parents are professors. Mr. Viton responding that the formula considers all students similarly. WSCH are based on the course the student completed, not on the student's attributes.

Assemblywoman Mosca asked who determined the Performance Pool metrics. Mr. Viton responded the Performance Pool metrics were established based on recommendations from the institutions and approved by the Board of Regents. Chancellor Charlton added that the original metrics were established in the 2013 budget, then those targets were adjusted through collaboration with the institutional research department within NSHE. The Performance Pool point targets change each biennium, as well.

Ms. Williams stated that since these metrics were established as part of the 2013 formula, the Committee should have an opportunity to discuss the metrics. Chair Hardesty responded, noting that his intent is to have a separate agenda item on performance metrics during the February meeting.

Chair Hardesty asked for confirmation that the Performance Pool is equal to a 20 percent carve-out of each institution's base General Fund appropriation. Mr. Viton confirmed that the carve-out is equal to 20 percent of the total appropriation for each institution. Chair Hardesty stated that it seems interesting to take 20 percent of the money appropriated for an institution to operate and return it only if the institution earns it back. He noted that the process does not reward institutions for achieving success, rather it jeopardizes their base budget. Mr. Viton responded that the goal is for each institution to achieve the objectives associated with the metrics, so funding is not impacted.

Dr. Dalpe stated one of things he noticed at WNC was that when they hit 112 percent, they did not get 12 percent more funding. The institution received its 20 percent carve-out. He also explained that a 20 percent reduction in funding would create serious issues for a community college from an operational standpoint. The focus becomes hitting the target to prevent a 20 percent budget deficit, rather than working to excel and generate more credentials in the metrics that Mr. Viton shared.

Chair Hardesty noted more information would be needed to better understand this process, because it seems like it does incentivize institutions to reach higher performance outcomes.

Regent Goodman stated she feels institutions need to have what they need to operate.

Ms. Williams added that the Department of Education utilized the star rating system that changed the way schools are incentivized to teach all students and recognizing there is a large disparity based on student groups. There was a lot of push back, but it is working and the students are getting the attention they need.

Mr. Christenson asked what happens to the 20 percent carve-out if an institution only earned 12 percent of the performance metrics. Mr. Viton stated that since 2013 the Performance Pool funds have always been earned, so it hasn't had a consequence. He clarified that if the Performance Pool funding was not earned the first year, it balanced forward and was earned in the second year. Mr. Viton indicated he would need to check his notes regarding what happens to the Performance Pool funds if they are not earned after the second year.

Mr. Christenson asked for clarification: if an institution got 12 percent of the metrics, it got 12 percent of the money, which is less than the carve-out. That means the institution is short funding. Please explain where that funding goes, does it go to another institution or back in the Performance Pool. Mr. Viton clarified that if an institution did not achieve 100 percent of its targets, it would not receive 100 percent of its funding from the Performance Pool for that year. However, under the current formula, all of the institutions have achieved 100 percent of their metrics (within the two-year period), so there has not been an occasion where an institution did earn back all of its Performance Pool funding.

Chair Hardesty asked if an institution failed to achieve its goals, would its funding revert back to the state's General Fund? Mr. Viton believed that is the case, but he would need to confirm. Chair Hardesty stated this would be discussed at the February meeting.

Ms. Fretwell asked for additional conversation at the February meeting about the research and O&M space consideration and how that is determined. Specifically, is the square footage cost allocation based on gross or net? She noted that a lot of times the research institutions are receiving significant grant funding from other sources, but there may also be state investment into the expansion of the square footage used for this particular outcome, as well philanthropic funding. Ms. Fretwell also requested more information on how the metrics apply and to understand if this a gross or net calculation for the institution. Mr. Viton stated he would need to confirm if this is gross or net. He offered that the base at the per square footage value at the expenditure level is consistent with the square footage value being used to determine the allocation.

Chancellor Charlton added that the Performance Pool has been described as a stick versus a carrot approach, which requires each institution to earn back base appropriation just to sustain general operations. She affirmed that each institution has met or exceeded its targets. She also noted that if an institution overachieves, to 20 to 30 percent above, it will only receive its base

allocation. Those are critical funds that are funding salaries, instructors, faculty and even some building (research) space.

Regent Carol Del Carlo stated she has always had a problem with that part of formula, because it feels punitive.

Chair Hardesty observed that an institution that overperforms may have incurred greater expenses to overperform, but it does not get reimbursed for that expense. Somewhere a student, faculty member is getting shortchanged in that process, and we need to look at that issue.

8. NEXT STEPS – Information Only

Chair Hardesty acknowledged that throughout the meeting members identified topics they would like to consider in further detail. This agenda item is intended for members to elaborate on prior requests or to identify additional information requests. He also reminded members that additional information could be shared with him or the Chancellor or Ms. Abba via email.

Regent Byron Brooks stated that it would be important to hear from the those who are most impacted by the funding formula, including students. He suggested that there are some individuals with a lot of working knowledge and experience dealing with budgets who could offer new or different perspective on the funding formula and how it really works when we get down to the base layer of the institution.

Additionally, Regent Brooks requested that committee members receive a contact list so that members could communicate with each other, at least via email. Chair Hardesty stated that as long as members don't slip into serial communications, it is important to have a contact list. He indicated that the contact list will be distributed to the members in two weeks, and that anyone who did not want their information shared should notify him or the Chancellor within that timeframe.

Regent Del Carlo stated that she would like the Committee to look at is possibly two funding formulas, separating the community colleges from the universities, because the missions are so different and because one serves a full-time student while the other serves a part time student. Regent Del Carlo asked why we are graduating students in four years, rather than in less time. She asked if it would be possible to fund summer school, so students could graduate in three years. Regent Del Carlo also observed that the students of 2023-24 are not the same as they were 10 years ago; today's students are facing food insecurity issues, childcare issues, transportation issues. She suggested that it may be necessary to look at a weighted student equity hour. That would take into consideration students that are Pell eligible, on scholarships, all the things that factor into equity, based on measurable outcomes. Regent Del Carlo also indicated that she would like to learn more about the best practices for the timing of funding formula reviews, noting that the last review was completed 10 years ago. Regent Del Carlo asked to review the Small Institution Funding for WNC and GBC, because \$30 in 2013 is not the same as \$30 in 2023, and an inflation factor may need to be built into that adjustment. Lastly, she shared that the Regents have some very difficult decisions coming up at their December meeting, because their COLA was not funded the same as all the other state agencies and it is really going

to hurt the institutions. NSHE is projected to have a \$63 million shortfall, because there was a mistake made two sessions back that has never been corrected. So, instead of having the COLA funded at 80 percent, it is funded at approximately 61 or 62 percent.

Mr. Christenson stated he would be interested to hear what the presidents have to say about the funding formula. While he was concerned, they may not want to do that in a public setting, he was confident the consultants could meet with the presidents. Mr. Christenson indicated that he would really like it if the presidents could come up with a collective suggestion. Mr. Christenson shared that he chaired the Governor's Transition on Higher Education, and there were some incredible suggestions that came out that work. Through that process, he learned that if you really want to find out what is going on in an organization, you need to talk to the people who are on the front lines. Mr. Christenson also shared that he was struck by the discussion around the metrics and incentives. He would be curious to learn if the metrics are appropriate and how they have changed since being established 12 years ago.

Ms. Williams stated that she would like to readdress students and access to higher education. It is important to present the Legislature with information so that the policy that they establish serves students equitably, so all students can access higher education. She added that she believes it is important to be looking at this from a lens of equity, diversity and inclusion, so all students can access.

Ms. Fretwell agreed with Mr. Christenson's recommendations to review the incentive structures. She also stated that it is important to consider governance within the context of administrative and functional governance, not structural governance. She believes that it would be beneficial to have a conversation on how administrative governance works.

Regent Goodman added that this is a changing landscape, and it is important to look at different pathways to the workforce. She would also like to look at how to potentially incentivize institutions working with industry in creative ways and providing paths to workforce development.

Mr. Reed made note of something that was in Mr. Viton's presentation, which was that the current funding formula is a distribution formula and not intended as a way to determine the required level of funding. He shared that if this Committee figures out a more creative way to divide up the existing pie, then it has missed an opportunity to fully fund higher education in this state. Mr. Reed would like to look at how the Committee can ensure that institutions have the resources they need to meet the goals this state has regarding higher education.

Chair Hardesty stated that developing a formula that divides minimal dollars, is not a satisfying outcome. The funding formula for higher education institutions should advance education, not just divide the minimal dollars appropriated to education. Chair Hardesty indicated that he is interested in learning about the approaches being taken throughout the country. His ultimate goal is to identify or contribute to a funding formula that is innovative, creative and more forward thinking. He concluded by noting that if the rest of the country doesn't take that approach, then Nevada can be another leader.

9. PUBLIC COMMENT

There was no public comment.

The meeting adjourned at 12:45 p.m.