

MINUTES OF THE FEBRUARY 8, 2021
SPECIAL MEETING OF THE
INTERIM FINANCE COMMITTEE

Chair Chris Brooks called a special meeting of the Interim Finance Committee (IFC) to order at 10:02 a.m. on February 8, 2021, via videoconference. Pursuant to Sections 2 through 9, inclusive, of Chapter 2, *Statutes of Nevada 2020*, 32nd Special Session, pages 9 through 11, there was no physical location for this meeting.

COMMITTEE MEMBERS PRESENT:

Senator Chris Brooks, Chair
Assemblywoman Maggie Carlton, Vice Chair
Senator Nicole Cannizzaro
Senator Moises Denis
Senator Marilyn Dondero Loop
Senator Pete Goicoechea
Senator Scott Hammond
Senator Ben Kieckhefer
Senator Julia Ratti
Senator Heidi Seevers Gansert
Assemblywoman Teresa Benitez-Thompson
Assemblyman Jason Frierson
Assemblywoman Michelle Gorelow
Assemblyman Greg Hafen
Assemblywoman Sandra Jauregui
Assemblyman Glen Leavitt
Assemblywoman Brittney Miller
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Robin Titus
Assemblywoman Jill Tolles
Assemblyman Howard Watts

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Brenda Erdoes, Director, Legislative Counsel Bureau
Wayne Thorley, Fiscal Analyst, Senate
Sarah Coffman, Fiscal Analyst, Assembly
Alex Haartz, Principal Deputy Fiscal Analyst
Brody Leiser, Principal Deputy Fiscal Analyst
Bryan Fernley, Legislative Counsel
Eileen O'Grady, Chief Deputy Legislative Counsel
Carla Ulrych, Fiscal Analysis Division Secretary

EXHIBITS:

[Exhibit A:](#) Meeting Packet

[Exhibit B:](#) Public Comment - Chris Daly, Nevada State Education Association

A. ROLL CALL.

Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), called the roll; all members were present.

B. PUBLIC COMMENT.

Pursuant to Sections 2 through 9, inclusive, of Chapter 2, *Statutes of Nevada 2020*, 32nd Special Session, pages 9 through 11, there was no physical location for this meeting. The meeting was broadcast on the Nevada Legislative website at www.leg.state.nv.us. Public comment was accepted live via telephone. Written comments were also accepted by e-mail, facsimile, and mail before, during, and after the meeting.

CHRIS DALY (Deputy Executive Director of Governmental Relations, Nevada State Education Association) provided public comment for the record ([Exhibit B](#)).

C. WORK PROGRAM REVISIONS IN ACCORDANCE WITH NRS 353.220(5)(b) - REQUIRES EXPEDITIOUS ACTION WITHIN 15 DAYS.

1. Department of Business and Industry - New Markets Performance Guarantee - FY 2021

Transfer of \$2,500,000 in Qualified Equity Investment (QEI) funds from the Reserves category to the QEI Performance Costs category to refund applicants. Requires Interim Finance approval since the amount added to the QEI Performance Costs category exceeds \$75,000. **Work Program #C53941**

There was no discussion on this item.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO APPROVE
AGENDA ITEM C-1.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

2. Department of Business and Industry - Housing - Account for Low-Income Housing - FY 2021

Addition of \$124,853,714 in federal Consolidated Appropriations Act 2021, Emergency Rental Assistance Program grant funds transferred from the CARES Act account to support Nevadans who have demonstrated financial need for residential rental support resulting directly from the COVID-19 pandemic. Requires Interim Finance approval since the amount added to the Emergency Rental Assistance category exceeds \$75,000. **RELATES TO AGENDA ITEM D.1. Work Program #C53959.**

Agenda Items C-2 and D-1 were discussed jointly. Refer to discussion and motion for approval under Agenda Item D-1.

D. REQUEST FOR APPROVAL TO ACCEPT GIFTS AND GRANTS PURSUANT TO NRS 353.335(2)(b) - REQUIRES EXPEDITIOUS ACTION WITHIN 15 DAYS.

- 1. Office of the Governor - CARES ACT - FY 2021** - Request for approval to accept \$124,853,714 in federal Emergency Rental Assistance Program grant funds established by the Consolidated Appropriations Act 2021 to support the Emergency Rental Assistance program related to the COVID-19 pandemic. **RELATES TO AGENDA ITEM C.2. Work Program #C53940.**

Agenda Items C-2 and D-1 were discussed jointly.

STEVE AICHROTH (Administrator, Housing Division, Department of Business and Industry):

This work program allows for the transfer of funding already received by the state from the Office of the Governor to the Department of Business and Industry (B&I), Housing Division for emergency rental assistance (ERA). The federal Consolidated Appropriations Act of 2021 provided the state with approximately \$208 million in ERA funding. Of this funding, 45% went to local jurisdictions including Clark County and Washoe County and the Cities of Las Vegas, Henderson, North Las Vegas, and Reno. The remaining 55% of funding went directly to the B&I Housing Division. In consultation with the Office of the Governor and the Office of the State Treasurer, the division has developed allocation formulas for administering the ERA funding to each subgrantee. This state funding will be coupled with funding received directly by local jurisdictions to provide statewide emergency rental assistance.

The federal Appropriations Act requires that 90% of ERA funding must be used in one or more of the following areas: rent, rent arrears, utility, utility arrears and other housing-related expenses incurred directly or indirectly from the COVID-19 pandemic as defined by the Secretary of the U.S. Department of the Treasury (Treasury). The federal Appropriations Act also limits the eligibility of renters to those who earn 80% of the average median income (AMI), with priority given to the unemployed population, those who have not been employed for 90 days, or renters whose income does not exceed 50% of the AMI.

Upon receipt of ERA funding, the division plans to allocate \$93.8 million to Clark County Social Services (CCSS), with this amount being combined with the \$68.9 million provided directly from the federal government to local jurisdictions in Clark County; this will provide approximately \$162 million in combined emergency rental assistance. The CCSS is working with all the local jurisdictions in its area to provide a one-stop portal for anyone living in Clark County.

The division plans to allocate \$10 million to the Reno Housing Authority (RHA), which will be combined with \$14.3 million provided by Washoe County and the City of Reno, for an estimated \$24 million in combined emergency rental assistance for people residing in Washoe County. The division plans to allocate \$14.8 million to the Nevada Rural Housing Authority (NRHA) for assistance in areas of the state outside of Washoe and Clark Counties. There are no local

jurisdictions outside of Washoe and Clark Counties that received direct funding from the Treasury. The amount of ERA funds allocated to the NRHA represents the entire amount of funding available to Nevada's rural communities.

The division is requesting \$6.2 million in ERA funds for use in housing stability services, which are currently undefined by the Treasury. This allows the division certain flexibilities should appropriate housing stability services become available, which will align with the definitions established by the Treasury.

Within all the agreements the division is going to make with its subgrantees, it will have clawback provisions allowing for reallocation of funds based upon the demands of the subgrantees. The timeframe in the obligation of using funds from the COVID-19 Emergency Rental Assistance Program plays a central role in the activities of subgrantees. Of the ERA funds allocated to subgrantees, 65% need to be obligated by September 30, 2021. Should ERA funding not be obligated by that time, the Treasury will recapture the funds for national redistribution. If the division obligates 65% of the ERA funds, the money can be expended until December 31, 2021, after which time the division can request a 90-day extension, which would close the Emergency Rental Assistance Program on March 31, 2022.

The division has not yet received the Treasury's definition of the term "obligation." We do not know if the Treasury defines obligation as current agreements that obligate ERA funding or funds already allocated to subgrantees.

The division plans to use the same funding structure it created for the Coronavirus Aid, Relief, and Economic Security Housing Assistance Program (CHAP), while encompassing the changes in the requirements mandated by the Treasury. We are also using the guidance provided by the Treasury through the release of its *Frequently Asked Questions*, published January 19, 2021, to design the parameters of the Emergency Rental Assistance Program. Per the Treasury, new guidance will be released shortly.

There is a great demand for assistance and time constraints accompanying the use of ERA funds. The division and its subgrantees are preparing to make ERA funds available for use by those with rental and utility arrears, and those with continuing rent and utility burdens, as quickly as possible. I am grateful to the agencies who participated in CHAP and extend thanks to the agencies who will be participating in the Emergency Rental Assistance Program should funding be approved.

CHAIR BROOKS:

I acknowledge the challenges the Housing Division faces resulting from the everchanging guidance of the Treasury. The division and its state partners have done well in making the ERA funds available to those in need.

ASSEMBLYWOMAN TITUS:

Many people are unemployed because of the COVID-19 pandemic. It is important they do not lose their homes. Consequently, Governor Sisolak issued *Declaration of Emergency Directive 008*, which placed a moratorium on evictions, and the Housing Division is establishing the Emergency Rental Assistance Program. How do we track the ERA funds used as rental payments to landlords so that landlords can also make their mortgage payments and meet financial obligations? I want to ensure the ERA funding is being used to pay rent.

MR. AICHROTH:

If funding for the Emergency Rental Assistance Program is approved, it will go to landlords on behalf of tenants. Landlords will receive rental arrears and potential utility arrears. The use of the ERA funding is a two-part process requiring cooperation between tenants and landlords.

ASSEMBLYWOMAN TITUS:

Does a renter need to apply for assistance before the landlord can receive the ERA funds, or can the landlord apply directly for payments in arrears?

MR. AICHROTH:

Through CHAP, landlords could apply for ERA funding on behalf of the tenant, which required tenant participation and was completed through self-attestation. A struggle the Housing Division is having with the Emergency Rental Assistance Program is that under current guidance, self-attestation by the tenant is not indicated or allowed; however, that may change. The division must be careful not to compromise the personally identifiable information of tenants when allocating the ERA funds to landlords through the Emergency Rental Assistance Program. We are working through this process, but the Emergency Rental Assistance Program currently requires tenants to first apply for the ERA funds before a landlord can receive assistance. This does not prevent a tenant from applying for the ERA funds in cooperation with their landlord.

ASSEMBLYWOMAN TITUS:

For a landlord or tenant to receive the ERA funding, a tenant must first apply for assistance through the Emergency Rental Assistance Program. Is that correct?

MR. AICHROTH:

Correct, that is how the Emergency Rental Assistance Program is currently constructed.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

There are many moving pieces related to the Emergency Rental Assistance Program, and the results may be different when compared to how funding was appropriated through CHAP in the IFC meetings that took place during the summer of 2020. Can you explain the clawback provision and the type of notice that went out to the housing partners through CHAP? Will the same process be used for the Emergency Rental Assistance Program?

MR. AICHROTH:

A clawback provision existed in CHAP, and the Housing Division anticipates having a clawback provision in the Emergency Rental Assistance Program. This will be necessary for the division to obligate 65% of funds to subgrantees by September 30, 2021. Through CHAP, the division established a regulation stating that if a subgrantee was not able to expend the ERA funds by a certain date, the division could reclaim the funds.

In developing the allocation formulas for administering the ERA funds, the division is in discussions with the Office of the Governor and the Office of the State Treasurer regarding the possibility of not providing subgrantees a lump sum of funding. Hypothetically, if the division wants to allocate \$10 million in ERA funding to the City of Reno, the funding will not be given in a lump sum. Like the allocation of funding through CHAP, the division is considering providing six weeks of upfront funding to subgrantees to draw from monthly. This will allow the division to move the ERA funds around and have more control over the allocations.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

During the IFC meeting on December 18, 2020, we discussed the need for a concrete definition of the term "obligation." We did not know if the ERA funding had to be allocated to subgrantees by December 31, 2020, or if entities could complete a letter of award to meet obligation requirements. It sounds like we still do not have a true definition of the term "obligation." The Housing Division has not yet heard back from the Treasury regarding whether the division appropriately allocated the ERA funds through CHAP to subgrantees in December 2020 and January 2021. Is the division going to continue obligating the ERA funds like it did through CHAP?

MR. AICHROTH:

Regarding the allocation of funding through CHAP, the Housing Division did receive clarity by the deadline that the division had to obligate the ERA funds to subgrantees. Fortunately, at the last minute the date was extended to December 31, 2021, when the federal Appropriations Act was signed on December 27, 2021. This provided stakeholders a lifeline regarding the use of ERA funding allocated through CHAP. We have heard the Treasury will define the term "obligation" at a later date. As the date by which the ERA funds must be obligated draws closer, the Treasury is trying to figure out upfront processes as well as define "obligation."

ASSEMBLYWOMAN BENITEZ-THOMPSON:

The supplemental information provided by the Housing Division to this Committee regarding the work program shows that moving forward, entities will have differing levels of success in enacting the Emergency Rental Assistance Program and disbursing the ERA funds into the community. Since the Emergency Rental Assistance Program will in some ways continue CHAP, there should be a smooth transition, and processes should continue in a timely manner. At the beginning of CHAP, discrepancies existed among agencies regarding the

number of applications approved and what percentage of AMI renters could be deemed eligible to receive the ERA funds. I believe we will be mindful of this information moving forward.

ASSEMBLYWOMAN GORELOW:

How many households are projected to receive emergency rental and utility assistance through the Emergency Rental Assistance Program? What is the timeline for approving applications?

MR. AICHROTH:

This question may be better answered by people on the frontlines. Approximately \$2,000 to \$5,000 worth of assistance will be disbursed to approved households through the Emergency Rental Assistance Program; occasionally that amount is higher. Regarding timelines, after an application is received and depending on the geographic location of the applicant, an entity could receive ERA funds in approximately two weeks. Disbursing the ERA funds into the community was a difficult task, and our partners performed their duties with maximum efficiency and capability. The Housing Division has a one-stop portal on its website (housing.nv.gov) through which homeowners, renters and landlords can be directed to resources at local agencies.

MICHAEL HOLLIDAY (Chief Financial Officer, Housing Division, B&I):

If approximately \$118 million in ERA funding is being directly allocated to subgrantees through the Emergency Rental Assistance Program, this will leave approximately \$112 million after 5% in administrative costs are accounted for. This averages approximately \$5,500 in ERA funds per household split, which can be split among 20,000 recipients.

CHAIR BROOKS:

It appears the Housing Division does not intend to utilize administrative allowance fees in its operations. This will result in more ERA funding for the community.

ASSEMBLYWOMAN MONROE-MORENO:

Regarding the anticipated number of applicants seeking assistance, the ERA funding is disbursed directly to the landlord, property owner or utility provider, not to the applicant. Is that correct?

MR. AICHROTH:

Correct.

ASSEMBLYWOMAN MONROE-MORENO:

What resources will be used to support the outreach efforts of the Emergency Rental Assistance Program? The Housing Division has worked hard during the 2019-20 Interim to bring CARES Act funding into the state. Moving forward, what will the division do to ensure people know the Emergency Rental Assistance Program has been extended past December 2020?

MR. AICHROTH:

There has not been a push to disburse the funding as the Housing Division is currently working on establishing the Emergency Rental Assistance Program. The Governor's eviction moratorium will potentially expire on March 31, 2021. As we move forward, outreach will be conducted by the RHA, the NRHA, and the CCSS. A press release will occur at the same time. The Emergency Rental Assistance Program has received excellent coverage through press releases; therefore, minimal advertising was required.

When funding was allocated through CHAP, the CCSS directed beneficial outreach services to the Clark County School District (CCSD). The Housing Division will primarily use low-cost outreach efforts such as social media to advertise the Emergency Rental Assistance Program. Minimal outreach efforts were required to encourage the community to apply for ERA funding.

ASSEMBLYWOMAN MONROE-MORENO:

What type of outreach activities did the CCSS perform at the CCSD? How was information regarding the Emergency Rental Assistance Program provided to households without children? You stated the Housing Division did not have to conduct many outreach activities for the Emergency Rental Assistance Program, but many of my constituents are saying they are having trouble getting ERA funding. Does the division work with nonprofit organizations to reach families in need of assistance? What other activities has the division conducted to reach families and households in need of assistance?

MR. AICHROTH:

The Housing Division has worked with nonprofit organizations to perform outreach activities. In Clark County, the CCSS has worked with 14 nonprofit organizations; these organizations, along with the CCSS, administer ERA funding. If a family in Clark County needs assistance, chances are they will interact with one of those entities. Additionally, Nevada Legal Services has provided information regarding ERA funding at the Las Vegas Justice Court. Many avenues are being used for outreach, and the division encourages using judicial channels to reach families.

ASSEMBLYWOMAN MONROE-MORENO:

Would a household that received assistance in the past be able to qualify for ERA funding again?

MR. AICHROTH:

Yes. However, a household cannot receive a duplication of benefits. For example, if a household was approved to receive ERA funding through November 2020 and they apply for funding again after this time, they would only be eligible to receive assistance from December onward.

SENATOR GOICOECHEA:

Does the Emergency Rental Assistance Program only apply to residential properties?

MR. AICHROTH:

Correct, the Emergency Rental Assistance Program is only available to residential properties.

ASSEMBLYWOMAN TOLLES:

How can the Housing Division mimic the success it found when performing its beneficial outreach services within the CCSD, the Washoe County School District, and rural school districts? How does the division reach out to people without families or to families without children enrolled in school? Has the division considered using postcards or other outreach activities in certain areas?

Can the division supply the Committee with a chart to help us visualize how many applicants existed in 2020 during the period leading up to the state's receipt of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding? I would like the chart to show how many people applied for ERA funding, how many applicants received the funding, and how much ERA funding was provided directly by the state, versus how much additional funding came from local jurisdictions. Certain local jurisdictions and organizations allocate funding differently. This historical information will help the Committee develop questions over the next 12 months to evaluate how ERA funding is being allocated.

MR. AICHROTH:

We will provide the information to the Committee.

SENATOR RATTI:

As the Chair of the Advisory Committee on Housing, I had the pleasure of working with the Housing Division during the 2019-20 Interim on rental assistance programs. I want to thank Mr. Aichroth and his team, State Treasurer Zach Conine, and all the local partners for their work in making the Emergency Rental Assistance Program available to communities.

Is the Housing Division still intent on using an attestation process to help people move through the Emergency Rental Assistance Program?

MR. AICHROTH:

The Housing Division would prefer to use a self-attestation process, but guidance provided by the Treasury does not allow it. This presents challenges, and the division is looking forward to new guidance. Information regarding self-attestation has been provided to the Treasury by several agencies, not just the Housing Division, and the division hopes the Treasury will take this into consideration.

SENATOR RATTI:

It is disappointing that current guidance does not promote self-attestation. Please let us know if there is a way for the Committee to advocate self-attestation to the Treasury.

The work program defines household income in two different ways. Will subgrantees be able to use both definitions, or must they choose one?

MR. AICHROTH:

Subgrantees can use either definition of household income when processing applicants. They will decide which definition is most beneficial to the tenant. Any information tenants can provide to the subgrantees regarding household income will be used in determining eligibility for emergency rental assistance.

SENATOR RATTI:

Is the Emergency Rental Assistance Program first come, first serve or will there be prioritization levels?

MR. AICHROTH:

The Emergency Rental Assistance Program is effectively first come, first serve but prioritization is given to applicants who have been unemployed for 90 or more days or those making under 50% of the AMI. The Housing Division is still establishing the Emergency Rental Assistance Program, and places applicants into one of two queues: people making under 80% of the AMI, and people making under 50% of the AMI or currently unemployed. Through CHAP, over 80% of applicants were making less than 50% of the AMI. With most applications coming from those who make less than 50% of the AMI or are unemployed will make it easy to prioritize applicants.

SENATOR RATTI:

Through CHAP, the AMI was calculated for the given year, so applicants did not have to use information from their previous tax returns when completing the paperwork. This could make it difficult for applicants to be approved for higher levels of assistance, as they may have been employed when they filed their tax return but have since become unemployed. Does the Emergency Rental Assistance Program allow for the AMI to be calculated for the given year as well? The time that a person applies is usually when the greatest economic impact to their finances is occurring.

MR. AICHROTH:

Yes, the Emergency Rental Assistance Program allows for a tenant's AMI to be calculated at the time they apply for assistance. The Housing Division hopes this will expedite the approval process. Most everyone must file a tax return, and this should be demonstrative of what their AMI or earned income was when they applied for emergency rental assistance.

SENATOR RATTI:

Is there a definite start date for the Emergency Rental Assistance Program, or will the Housing Division start the program when new funding is available?

MR. AICHROTH:

Currently there is not a set start date. The Housing Division is waiting for ERA funding to become available through the federal Appropriations Act.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Regarding the submittal of documents pertaining to an applicant's income, it can be burdensome for agencies to realistically process applications because one set of documents can beget another; there may be many income statements and financial reports an agency must review. The Treasury guidance states that to the extent administratively feasible, certain components of an application must be reviewed. I hope partners of the Housing Division are encouraged to keep these processes in mind to ease their workload and get money to those in need in an efficient manner. If self-attestation cannot be utilized in the Emergency Rental Assistance Program, hopefully the division can devise other procedures for reporting income to make the process easier on agencies and applicants.

MR. AICHROTH:

I agree. This has been a distinct challenge with the Emergency Rental Assistance Program. The Housing Division hopes to receive clarity from the Treasury regarding which components of an application must be reviewed.

ASSEMBLYWOMAN TOLLES:

By February 1, 2021, the RHA had utilized \$4.8 million in ERA funding over a period of four months. We are now looking at authorizing \$10 million in ERA funding for the RHA to use over a 12-month period. Will \$10 million be enough for the RHA? Based on the need of the community, there is a slow startup time regarding the initial use of funding. When the Housing Division supplies the chart showing the usage of ERA funding to the Committee, I would like it to reflect if the amount of funding approved for agencies is commensurate and sufficient with the amount of funding available moving forward.

MR. AICHROTH:

The Housing Division will provide this information to the Committee.

ASSEMBLYMAN HAFEN:

I am an owner and employee of the Pahrump Utility Company, and the federal Appropriations Act affects the utility repayment assistance program my company offers. However, the federal Appropriations Act affects all utility companies in Nevada. Therefore, pursuant to Assembly Standing Rule No. 23, I do not feel that I have a conflict of interest in this matter, and I will be participating in the motion.

SENATOR CANNIZZARO MOVED TO APPROVE AGENDA ITEMS C-2 AND D-1.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (Assemblywoman Carlton was not present for the vote.)

2. ~~Office of the Governor CARES ACT 2020~~ **Department of Education – CARES Act ESSER Funds - FY 2021** - Request for approval to accept \$31,385,542 in federal Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA Act), 2021, Governor's Emergency Education Relief (GEER II) funds for providing emergency assistance to non-public schools, school districts and charter schools in supporting activities related to the safety of reopening schools, continuing instruction and addressing learning loss, including educational technology and reimbursement for COVID-19 related costs. **Work Program #C53987. REVISED 2-1-21.**

HEIDI HAARTZ (Deputy Superintendent for Business and Support Services, Nevada Department of Education):

This work program seeks permission to receive funds allocated to the state through the federal Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021. The funds in this work program are specific to the Governor's Emergency Education Relief Fund II (GEER II) and are intended to provide emergency assistance to school districts and nonpublic schools as we move safely to reopen schools, continue instruction, and address learning loss. Funding will be used to purchase educational technology and to reimburse schools for expenditures related to the COVID-19 pandemic.

This work program requests \$12,009,992 for GEER II activities and requests \$19,375,550 specifically for the purpose of providing Emergency Assistance to Non-Public Schools (EANS). Of the \$19,375,550, the state education agency of Nevada and all state education agencies across the country may subtract \$200,000 for administrative costs specifically related to administering this component of the work between now and the expiration of the grant. Spending EANS funding will be the Nevada Department of Education's (NDE) top priority. Federal guidelines indicate there are very short and prescriptive requirements for developing an application, making the application available to nonpublic schools, and selecting which public schools will be receiving money for which purposes.

The EANS has intense workload requirements associated with it, as all funds administered by the state must be issued through a contract and not through a subgrant.

SENATOR SEEVERS GANSERT:

Regarding EANS, the \$19,375,550 is supposed to be prioritized for low-income students. How does the NDE define low-income? Do individual

schools and groups of schools need to show the number of low-income students they have in attendance, or is defining a school as low-income based on the geographical location of where the school is located?

JHONE EBERT (Superintendent of Public Instruction, NDE):

Private schools do not use the same mechanism for reporting the number of low-income students that public schools use. In public schools, low-income students are identified by the amount of funding a school receives through Title I of the Elementary and Secondary Education Act (Title I). The NDE will put out an application for EANS funding and ask private schools to identify low-income students through the application process.

SENATOR SEEVERS GANSERT:

I am familiar with how schools identify low-income students through the U.S. Department of Agriculture, Food and Nutrition Service, National School Lunch Program. Regarding EANS, are low-income students identified by comparing the income of their families with a certain percentage of the federal poverty level? Will a standard be set for defining low-income students?

MS. EBERT:

Comparing the income of a student's family to the federal poverty level is one methodology for defining low-income students that EANS may use. The federal government has allowed the state to make those determinations as funds are distributed.

SENATOR SEEVERS GANSERT:

Does EANS funding have to be used strictly for nonpublic schools, or will the funds rollover into public schools if the NDE is unable to distribute the funding to nonpublic and private schools?

MS. EBERT:

Funding through EANS must be obligated to nonpublic schools within six months of receipt. If funding is not obligated within the first six months, the money can be used in public schools along with the \$12,009,992 for GEER II activities. At that point, both public and nonpublic schools could still access EANS funding. The first portion of the \$19,375,550 must be strictly used for nonpublic schools.

SENATOR SEEVERS GANSERT:

If a nonpublic school accepts EANS funding, are there different reporting conditions or maintenance of effort (MOE) requirements the school would be subject to other than using the funding for secular, neutral, and nonideological programs?

MS. HAARTZ:

While federal Elementary and Secondary School Emergency Relief (ESSER) funding and GEER II both have MOE requirements, these requirements are placed on the state educational agency and on the state itself instead of being passed down to local education authorities or nonpublic schools. However, for funds

awarded through EANS, there are limitation requirements regarding the purchase of equipment. If a nonpublic school chooses to purchase equipment, the state will hold the title on the equipment and can reclaim it later if necessary. Both GEER II and EANS funding will contain reporting requirements to the federal government.

SENATOR SEEVERS GANSERT:

Considering the state holds the title on the equipment purchased with EANS funding, what is the timeframe during which the state can ask for the equipment back? If a nonpublic school purchases 100 computers, does the school ever assume ownership of the equipment, or will the product always be in a position where it can be taken back by the state?

MS. EBERT:

The state will own any equipment purchased with EANS funding, but specific guidance has not been provided regarding the length of ownership. At a certain point the equipment will reach the end of its lifespan. However, as long as the equipment exists, it will be the property of the State of Nevada.

ASSEMBLYWOMAN MILLER:

You stated that meeting federal reporting requirements, dates, and guidelines has forced the NDE to prioritize administering EANS funding to nonprofit, private schools over administering GEER II funding to public schools. What kindergarten through grade 12 (K-12) education funding needs are being considered for the GEER II program? Even though the NDE has not yet developed a plan for spending the GEER II funding, what ideas will be considered when the funding is administered?

MS. EBERT:

There are several different sources of funding currently available. I want to thank this Committee for approving \$9 million that the NDE is now allocating to school districts. Agenda item D-3 also requests additional funding. This is simply a matter of prioritizing timelines and funds and ensuring the funds are allocated as quickly as possible.

ASSEMBLYWOMAN MILLER:

Do you have an idea of what the specific K-12 education funding needs will be?

MS. HAARTZ:

The NDE is focusing on prioritizing and using GEER II and ESSER funding to reopen schools as quickly and safely as possible while assessing and addressing the educational needs of Nevada's students. We do not want the educational needs of students to suffer due to the COVID-19 pandemic. Additionally, the NDE is always focusing on addressing the social and emotional needs of students in Nevada's school districts and nonpublic schools.

SENATOR KIECKHEFER:

I am concerned about the MOE requirement, as it seems like this is based on the percentage of state funding dedicated to K-12 education. Through

The Executive Budget, the Governor is proposing to reduce the share of state funding used to support K-12 education. A waiver from the MOE requirement is available to states from the newly appointed Secretary of the U.S. Department of Education. What is the status of the MOE, and will the state be eligible for a potential waiver from this requirement?

MS. HAARTZ:

The GEER II funds do include an MOE requirement that prohibits all states from reducing education spending at a greater proportion than any other part of the state budget. If a state is in a situation where it is necessary to reduce spending allocated for education in a disproportionate manner when compared to other portions of its budget, the state will have an opportunity to request a waiver from the MOE requirement. The waivers from initial ESSER I and GEER I MOE requirements will not be available until the end of FY 2021. The waivers from ESSER II and GEER II MOE requirements will also be available after this date.

SENATOR KIECKHEFER:

Regarding the GEER II funding timeline, when would Nevada have to apply for a waiver from the MOE requirement?

MS. HAARTZ:

The state would not be able to apply for a waiver from the MOE requirement until after the NDE knows what the expenditures will be for K-12 education in FY 2022.

SENATOR KIECKHEFER:

Will this be at the same time the NDE's budget for FY 2022 is legislatively approved?

MS. HAARTZ:

The NDE is waiting for more guidance from the federal government regarding exactly how the MOE requirement will be measured for GEER II funding. The MOE requirement for GEER I funding was based on expenditures. Therefore, the NDE must wait until the end of each fiscal year to provide the federal government with requested data and the determination of whether a waiver is needed.

SENATOR DONDERO LOOP MOVED TO APPROVE AGENDA
ITEM D-2.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (Assemblyman Frierson
was not present for the vote.)

3. **Department of Education - CARES Act ESSER Funds - FY 2021** - Request for approval to accept \$477,322,438 in federal Coronavirus Response and Relief Supplemental Appropriations Act, (CRRSA Act), 2021, Elementary and Secondary School Emergency Relief (ESSER II) funds for providing emergency financial relief to school districts and charter schools to address the impact of the COVID-19 pandemic. **Work Program #C53938**

HEIDI HAARTZ (Deputy Superintendent for Business and Support Services, NDE): This work program seeks permission to accept \$477,322,438 allocated to the state through the CRRSA Act. This money comes from ESSER funds and will be referred to as ESSER II funding. Of the amount awarded to the state, \$429,590,194 has been designated for direct distribution to school schools and the State Public Charter School Authority based on Title I allocation information from FY 2020. The remaining funds, totaling \$47,732,244, will be designated as state education agency reserve funding, and can be distributed to best meet the needs of the state based on priorities established in the ESSER II grant. Of the \$47,732,244, the NDE can utilize up to \$2,400,000 for administrative costs related to the administration of the ESSER II grant to the end of the funding period which extends through September 30, 2023.

ASSEMBLYMAN WATTS:

Given the limitations resulting from federal guidelines, does the NDE have concerns that school districts and charter schools will not be able to expend all the ESSER II funding subgranted to them? Has the NDE heard any concerns from school districts or charter schools regarding expenditure timelines and deadlines?

JHONE EBERT (Superintendent of Public Instruction, NDE):

Nevada school districts are looking forward to receiving ESSER II funding. The expenses incurred from implementing and having in-person schooling during the COVID-19 pandemic has created increased educational costs. Expanded learning hours during the school day and summer, coupled with the fiscal crisis within the State of Nevada, has increased the need for more funding in school districts. School districts are in the process of expending the first round of ESSER funding, which must be obligated by September 30, 2022. If approved today, the second round of ESSER funding will extend through September 30, 2023.

ASSEMBLYWOMAN CARLTON:

Where does the NDE stand regarding MOE requirements for ESSER II and GEER II funding, and will it be able to apply for a waiver from these requirements if necessary?

MS. HAARTZ:

The MOE requirements are the same for both ESSER II and GEER II funding. This means the state should not reduce funding or spending for education at a greater proportion than is reduced for any other area of state government. If it becomes necessary to reduce funding for education at a greater proportion when compared to other areas of government, the state can then apply for a waiver. Based on the

way the MOE requirement looks at spending, I believe the state's need to apply for a waiver cannot be determined until the end of each fiscal year.

ASSEMBLYWOMAN JAUREGUI:

Can ESSER II funding be used to provide meal support to students?

MS. EBERT:

Due to the other funding sources that are available, I do not believe that is allowable. However, we will need to research this question and provide the information to the Committee.

CHAIR BROOKS:

This work program allows for \$477,322,438 to go into the state's education system at a time when the state needs it most. Additionally, the purposes for which the state can use the funding are very flexible. The NDE will use a distribution formula which truly reflects Nevada's educational needs when disbursing ESSER II funding across the state. Considering the needs of the state's educational system, especially in the CCSD, any percentage of this funding that goes directly towards schools and school districts will help. I see how great the need is for more funding in CCSD daily.

ASSEMBLYWOMAN TITUS:

Nevada is asking to receive close to a half billion dollars in funding for use in its school system, which is a significant addition to the NDE's budget. I understand that this funding will be spread out among various NDE budgets. Is the NDE going to supplement or supplant its budgets with the \$477,322,438? I would like the NDE to provide a detailed report to the Committee regarding where the ESSER II funding will be spent detailing best practices for how it is being used. I want to ensure there is equity across the state for all students, and I would like to see what the actual benefits are that come from this additional funding. I want to ensure students in Nevada are receiving an appropriate education with the addition of ESSER II funding.

ASSEMBLYMAN ROBERTS:

There is much leeway regarding where Nevada's school districts can expend the ESSER II funding. Will the NDE be verifying this funding is spent within the guidelines provided by the U.S. Department of Education? Is the state liable if the funding is not spent appropriately by school districts and charter schools?

MS. HAARTZ:

The NDE is very attentive to all its subgrantees to ensure that every time it issues a subgrant agreement the recipients are expending the funds in a reasonable and appropriate manner in alignment with the funding source. These same standards and expectations will be applied to the ESSER I and ESSER II grants. The NDE processes payments to school districts and subgrantees on a reimbursable basis and is proactive in ensuring expenditures are allowable before any payment is made back to the subgrantee.

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE AGENDA
ITEM D-3.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (Assemblyman Frierson
was not present for the vote.)

E. PUBLIC COMMENT

Pursuant to Sections 2 through 9, inclusive, of Chapter 2, *Statutes of Nevada 2020*, 32nd Special Session, pages 9 through 11, there was no physical location for this meeting. The meeting was broadcast on the Nevada Legislative website at www.leg.state.nv.us. Public comment was accepted live via telephone. Written comments were also accepted by e-mail, facsimile, and mail before, during, and after the meeting.

ZACH CONINE (State Treasurer, Office of the State Treasurer):

I thank this Committee for its constant support of the Emergency Rental Assistance Program. The state works with many partners to make this program available to communities in need of assistance. I am grateful to the Housing Division for offering excellent public service.

F. ADJOURNMENT.

Chair Brooks adjourned the meeting at 11:17 a.m.

Senator Chris Brooks, Chair
Interim Finance Committee

Brenda Erdoes, Director, Legislative Counsel Bureau,
and Secretary, Interim Finance Committee