



**NEVADA LEGISLATURE
COMMITTEE TO CONDUCT AN INTERIM STUDY CONCERNING
COMMUNITY COLLEGES' SUBCOMMITTEE ON
GOVERNANCE AND FUNDING**

(Senate Bill 391, Chapter 494, *Statutes of Nevada 2013*)

SUMMARY MINUTES AND ACTION REPORT

The second meeting of the Nevada Legislature's Committee to Conduct an Interim Study Concerning Community Colleges' Subcommittee on Governance and Funding was held on Tuesday, March 11, 2014, at 9 a.m. in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas and Room 137, High Tech Center of the Great Basin College, 1500 College Parkway, Elko. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/77th2013/committee/>. In addition, copies of the audio or video record are available through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Debbie Smith, Chair
John McKenna, Supervisor, Carson City
Mary Pierczynski
Bus Scharmann, Commissioner, Churchill County

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Joyce Woodhouse
Assemblyman Paul Aizley
Marcus Conklin
Chris Giunchigliani, Commissioner, Clark County
John J. Lee, Mayor, City of North Las Vegas
Allison Stephens, Regent, Nevada System of Higher Education

COMMITTEE MEMBER PRESENT IN ELKO:

Chris J. Johnson, Mayor, City of Elko

COMMITTEE MEMBER ABSENT:

Michael Brown

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Alex Haartz, Principal Deputy Fiscal Analyst, Fiscal Analysis Division

Brody Leiser, Program Analyst, Fiscal Analysis Division

H. Pepper Sturm, Chief Deputy Director, Research Division

Kelly S. Richard, Senior Research Analyst, Research Division

Karly O’Krent, Deputy Legislative Counsel, Legal Division

Sally Trotter, Principal Administrative Assistant, Research Division

OPENING REMARKS

- Chair Smith welcomed members, presenters, and staff to the second meeting of the Subcommittee on Governance and Funding (S.B. 391). She announced there will be subsequent meetings and a final report made to the Committee to Conduct an Interim Study Concerning Community Colleges chaired by Senator Joyce Woodhouse. She asked subcommittee members for introductions.

PUBLIC COMMENT

- Chair Smith called for public comment; however, no testimony was presented.

APPROVAL OF MINUTES OF THE MEETING HELD ON JANUARY 28, 2014, IN LAS VEGAS, NEVADA

- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

CHAIR SMITH ASKED FOR APPROVAL OF THE MINUTES OF THE JANUARY 28, 2014, MEETING HELD IN LAS VEGAS, NEVADA. THERE WERE NO OBJECTIONS BY MEMBERS PRESENT.

OVERVIEW OF FUNDING OF THE COMMUNITY COLLEGES OF THE NEVADA SYSTEM OF HIGHER EDUCATION

- Vic Redding, Vice Chancellor, Finance and Administration, Nevada System of Higher Education (NSHE), presented an overview of the major funding sources for community colleges ([Exhibit B](#) and [Exhibit B-1](#)) that included State supported operating budgets; self-supporting budgets; grants and contracts; and non-operating funds for Fiscal Year (FY) 2012-2013. He discussed non-general fund actual receipts, which consist of:
 - Non-resident tuition;
 - In-state registration fees;
 - Miscellaneous student fees; and
 - Interest income.

Mr. Redding provided details on registration fees. He explained that the per-credit-hour base registration fee is divided between the State operating budget and the “campus retained” self-supporting budget. Mr. Redding pointed out a surcharge, approved by the Board of Regents (BOR), which is allocated to the State supported operating budget. He testified that 100 percent of the non-resident tuition fee collected for State supported courses goes to the State supported operating budget and is collected in addition to the registration fee.

In response to Regent Stephens’s request for clarification regarding the distinction between tuition and registration fees, Mr. Redding explained that both Nevada resident and

non-resident students pay a base registration fee but non-resident students pay additional tuition.

There was discussion between Commissioner Giunchigliani and Mr. Redding regarding certificates fees and the per-credit surcharge. Mr. Redding described the criteria for a course to qualify for the State supported operating budget. Commissioner Giunchigliani wondered whether there is a per-credit fee assessed for workforce certificates. Mr. Redding explained the per-credit fee would only apply for a per-credit certificate. He added not all certificates are credit based and offered to provide more information. Mr. Redding testified that in 2014, the surcharge was rolled into the base per-credit fee.

Responding to Commissioner Giunchigliani, Mr. Redding affirmed that the College of Southern Nevada (CSN), Great Basin College (GBC), and Western Nevada College (WNC) all offer upper division courses.

In response to Commissioner Scharmann's request for the definition of enterprise funding, Mr. Redding explained that the self-supporting budgets (or enterprise funds) are generally funds earned and expended for a specific activity. He discussed the four major activities within the self-supporting budget: (1) capital improvement fees; (2) general improvement fees; (3) student access funds and financial aid; and (4) activities, programs, and student government.

Mr. Redding commented that other activities in the self-supporting budget include athletic programs, childcare centers, lab fees, summer school, testing, and certifications. He provided a breakdown by college of revenue source and amounts for FY 2012-2013.

- Commissioner Scharmann wondered whether the self-supporting funds were discretionary funds that could be diverted to other areas of need.
- Mr. Redding stated the Board's policies dedicate many of the revenues. He added that some programs such as athletics or student housing are considered individual activities, which could have money transferred. Mr. Redding said it depends on the activity. He cautioned that if a program were cut, corresponding revenues would be eliminated.

Further discussion ensued among Chair Smith, Commissioner Scharmann, and Mr. Redding regarding self-supporting funds and the ability to use athletic funds for other areas. Chair Smith asked how closely the self-supporting funds are regulated. Mr. Redding testified the funds are generally restricted by Board policy. He affirmed that funds for athletics could be used for other areas. Commissioner Scharmann remarked if athletic scholarships were eliminated, the portion of students' tuition directed to those scholarships could be diverted to another location.

Discussion ensued in response to Assemblyman Aizley's inquiry regarding out-of-state tuition charges for non-credit courses. Mr. Redding said he is not aware of charges being assessed for continuing education courses. He added that courses included in the State

supported budget would be subject to charges under the non-resident tuition policy. Assemblyman Aizley asked what the charges are based on for a “non-credit” fee. Mr. Redding explained the charges are based on a “break-even” or “cost to provide services” analysis for self-supporting budgets. Assemblyman Aizley asked for further clarification regarding tuition charges for non-credit courses. Mr. Redding offered to provide detailed information to staff.

- Mr. Redding continued his presentation on major funding sources. He pointed out graphs that indicate revenue activity by type (see Slide 9 of [Exhibit B](#)). Mr. Redding explained that most of the revenue comes from the federal level, with additional funds from the State and local levels. He clarified that the figures shown are expenditures.
- Chair Smith requested a grant revenue and budget percentage comparison by campus. She commented on a recent article that indicated community colleges were not receiving a fair share of federal dollars. Chair Smith asked whether federal grant applications were the responsibility of the individual campuses or NSHE.
- Daniel J. Klaich, J.D., Chancellor, NSHE, responded that part of the responsibility lies with the individual campuses and faculty, with certain programs operated at the System level.

There was discussion between Chair Smith and Chancellor Klaich regarding the grants process. Chair Smith asked about assistance provided by NSHE to the campuses. Chancellor Klaich commented that most of the colleges have grants offices on campus. Chair Smith mentioned assertions of lack of responsibility at the System level. Chancellor Klaich stated that smaller campuses, such as GBC and WNC, do not have their own grants office. He talked about exploring shared services to provide better grant writing services to all of the colleges and its importance to the sustainability of the smaller campuses.

- Chair Smith commented on the value of shared services.
- Regent Stephens mentioned there are some preliminary results and project plans available for shared services. She requested that the federal grant process and shared services be included on a future agenda.
- Mr. Conklin opined individual institutions should not be responsible to apply for federal-level workforce grants because the population and needs are evaluated on a statewide basis. He favors colleges applying as a collective unit.
- Chancellor Klaich briefly discussed the Trade Adjustment Assistance Community College and Career Training (TAACCCT) Grant Program. He affirmed consortia models from the State are eligible for larger amounts of funding. Chancellor Klaich stated that community college presidents are working on concepts for consortia for the

fourth round of grants. He testified that more information would be available at future meetings.

- Commissioner Giunchigliani requested further discussion regarding administrative costs for TAACCCT grants. She asked for an update on the status of consideration for Hispanic-serving institutions.
- Chancellor Klaich responded that all institutions in the System are Hispanic-serving and minority-serving institutions. He will provide a detailed status report by institution.
- Assemblyman Aizley commented there are different grants and there should not be one policy to cover all of the grants. He brought attention to the amount of work individual faculty put forth to write grants.
- Mayor Lee remarked that we did not receive TAACCCT funding because we did not have a community representative. He commented on the policy of institutions having to wait their turn to apply for grants and stated that all colleges should be able to apply rather than making the process selective depending on the needs of the State.
- Chair Smith said the item could be added to a future agenda.
- Chancellor Klaich stated he is not aware of any specific grants that call for community partners. He explained the protocol for TAACCCT grant funding, which requires a lead institution along with other colleges' eligible as part of a consortium.

Responding to Chair Smith's question regarding whether all of the colleges would receive funds, Chancellor Klaich explained that in Phase I of the TAACCCT grant, the consortium was not successful in the grant process so the funds were allocated solely to the CSN.

Following comments made by Mr. McKenna regarding the disparity of grant funding to WNC and the disproportionate share to Truckee Meadows Community College (TMCC), Chair Smith stated the issue would be added for future discussion.

- Commissioner Scharmann commented on downfalls of colleges not having lead grant writers.
- Concluding, Mr. Redding discussed nonoperating funds, pinpointing federal financial aid. He directed attention to a graph that depicted the amount of aid received by each college (see Slide 11 of [Exhibit B](#)). Mr. Redding explained that federal financial aid is considered nonoperating because it is distributed by the federal government directly to the student.
- Regent Stephens pointed out the amount of indirect costs for TMCC. She asked for a definition of indirect costs.

- Mr. Redding discussed indirect costs. He stated TMCC received a TAACCCT grant, which explained the indirect recovery cost for that institution.

In response to Chair Smith's request for clarification of the TMCC indirect recovery cost of \$605,239 (see Slide 8 of [Exhibit B](#)), Mr. Redding affirmed the figure is correct.

- Chancellor Klaich explained that the new funding formula is based on weighted student credit hours (WSCH) for resident students. He pointed out that student fees are retained by individual institutions. Chancellor Klaich stated that the new formula provides an incentive to recruit out-of-state students. He mentioned two carve outs: (1) small institution factor for GBC and WNC, and (2) research operations and maintenance. Chancellor Klaich explained that the performance pool rewards institutions for graduating more students and is financed through a carve out of the base funding at each institution. He stated the carve out is scheduled to be phased in over four years. Chancellor Klaich noted the shift in funding from northern institutions to southern institutions (see Slide 17 of [Exhibit B](#)). Chancellor Klaich concluded with comments regarding mitigation figures.
- Chair Smith reminded the Subcommittee to keep questions relative to the impact of the funding formula on community colleges.
- Commissioner Scharmann opined that a matrix designed on achievement of degree and graduation is not effective at the community college level.
- Chancellor Klaich clarified the performance pool is based on costs to deliver instruction. He agreed that upper division courses carry more weight. Chancellor Klaich discussed degrees, certificates, and transfers to four-year institutions that are included in the matrix. He offered to provide an update to better calculate how community colleges succeed.

Responding to Commissioner Scharmann's inquiry regarding a sunset, Chancellor Klaich testified the small institution carve out would change as the WSCH changes, but would not sunset. He added that mitigation funding is for the current biennium and without further action would sunset.

Discussion continued between Commissioner Scharmann and Chancellor Klaich regarding the justification for two sources of funding for research. Chancellor Klaich explained the differences in the research operations. He said the new formula funding includes WSCH for operation and maintenance activities. Chancellor Klaich stated the other funding includes 10 percent for upper division courses used to fund research missions at the two universities. Commissioner Scharmann remarked that remedial education was not addressed in funding for community colleges. Chancellor Klaich testified that remedial education is funded but not at a greater weight.

- Commissioner Giunchigliani pointed out the importance of community college for workforce development and the community needs it serves. She opined that the cooperative extensions should be located within the community colleges.

Discussion ensued in response to Commissioner Giunchigliani's question regarding mining revenue to rural areas; Chancellor Klaich stated that he was not aware of any dedicated revenue. He commented there is discretionary gift revenue for support of certain programs. Commissioner Giunchigliani entertained soliciting mining dollars to assist rural community colleges and asked if there were any limitations. Chancellor Klaich stated that there might be for unequal levels of funding. Chair Smith suggested further investigation on this issue. Commissioner Giunchigliani wondered if there might be funds available to offset mitigation.

In response to Regent Stephens's request for clarification on the course completion factor, Chancellor Klaich noted the formula is based on the completion of WSCH. He explained that graduation rates, transfers, and certificates are included in the performance pool portion of the funding.

Discussion followed between Regent Stephens, Commissioner Giunchigliani, and Chancellor Klaich in response to Regent Stephens's request for clarification on graduation rate reporting. Chancellor Klaich stated the Integrated Postsecondary Education Data System (IPEDS) reports data for community colleges' first time, full-time students. He testified that data from SNC only includes about 1,200 students, which is a very small amount upon which to base graduation rates, which was recognized when other aspects of success were built into the formula. Commissioner Giunchigliani wondered whether credit was given for transferable course work. Chancellor Klaich discussed efforts by the University of Nevada, Las Vegas (UNLV), to provide counselors at CSN to offer advice. He emphasized the importance of a vertically integrated system of higher education governance.

OVERVIEW OF STATE CONSTITUTIONAL MATTERS RELATING TO COMMUNITY COLLEGES AND HIGHER EDUCATION

- Kevin C. Powers, Chief Litigation Counsel, Legal Division, Legislative Counsel Bureau (LCB), provided an overview of the State constitutional matters relating to community colleges and higher education (See [Exhibit C](#)). He discussed the constitutional roles and functions of the Legislature and the BOR concerning higher education under the *Nevada Constitution*. Mr. Powers said Article 11 of the *Nevada Constitution*, the "Education Article," sets forth the rules governing the BOR and the Legislature concerning education.

Mr. Powers provided a synopsis of three key judicial decisions dealing with the BOR in Article 11 of the *Nevada Constitution*. He stated that the BOR is a constitutional body and a state agency within the executive branch of government. Mr. Powers testified regarding competing opinions issued by the LCB (see Attachment A of [Exhibit C](#)) and

the Office of the Attorney General (see Attachment B of [Exhibit C](#)). He provided background information on Assembly Bill 22 (Chapter 25, *Statutes of Nevada 1968*), which established the Elko Community College governed by the Elko County School District (included as Attachment C in [Exhibit C](#)) and the subsequent repeal of the bill in 1969 (see Attachment D of [Exhibit C](#)). Mr. Powers commented that in the repealing legislation, the Elko Community College's funds were redirected to the BOR and the Legislature transferred the control and authority of the Elko Community College to the BOR.

Mr. Powers reaffirmed the original opinion of the LCB that the *Nevada Constitution* does not require the Legislature to place the control of community colleges under the BOR. He explained that the reason to support the original opinion was based on a three-level structure within the State education system created in Article 11, which includes common schools, universities, and normal schools. Mr. Powers elaborated that when the *Nevada Constitution* was adopted in 1864, normal schools were two-year, post-high school training programs for elementary school teachers akin to community colleges. Mr. Power opined that under the three-level system, Article 11 of Section 5 of the *Nevada Constitution* vests the Legislature with the power over all intermediate or "normal" schools such as community colleges, and therefore the Legislature has the discretion regarding who governs them.

He refuted the opinion made by the Attorney General because the LCB believed it was based on an unreasonable interpretation that all levels of schools, post-high school, would have to be considered a university. Mr. Powers discussed a review of the debates and proceedings from the 1864 Constitutional Convention, which provided support for the conclusion.

- Mayor Lee concurred with the LCB opinion. He proposed community colleges be autonomous with some ties to NSHE. Mayor Lee suggested some authority for local governments through its boards to form a relationship with community colleges regarding community needs.
- Mr. Powers said there is no reason that the Legislature could not distribute the control locally, regionally, on a statewide basis, and in conjunction with the BOR. He reiterated there is no express limitation in the *Nevada Constitution* regarding the Legislature's discretion over control of intermediate or "normal" schools, such as community colleges.

There was discussion between Regent Stephens and Mr. Powers regarding the policy reasons for remanding control of Elko Community College to the BOR in 1969. Mr. Powers testified there are no legislative histories available prior to 1970. He referred to the attachment provided (see [Exhibit C](#)) that defines the three-tier level of institutions. Mr. Powers explained that the LCB analysis is based on fundamental rules of construction for interpreting the *Nevada Constitution*.

Responding to Regent Stephens's query regarding "normal" schools in Nevada, Mr. Powers affirmed that "normal" schools were a form of post-high school institutions used to train "common" schoolteachers.

- Commissioner Giunchigliani pointed out that the Attorney General who wrote the opinion was counsel to the BOR. She stated that Article 11 was very clear regarding the power of the Legislature and wondered whether the Legislature would take action on the recommendations made by the Subcommittee.
- Mr. Powers explained that opinions do not create binding authority or precedent. He stated if the Legislature were to transfer governance of community colleges, it could result in a lawsuit that would have to be determined by the Courts. He reiterated that it is LCB's opinion that the Legislature has the power to transfer governance of the community colleges.
- Chair Smith said she had requested this agenda item so the LCB opinion would be on the record.

Discussion ensued between Mr. Conklin and Mr. Powers regarding any current regulation in statute regarding "normal" schools. Mr. Powers said there are no "normal" schools currently in operation in Nevada. Mr. Conklin had questions regarding liability for all schools between universities and K through 12. He asked if the State would be responsible for any challenges. Mr. Conklin opined that a relationship should be created for the sake of potential liability. Mr. Powers reported that current statutes provide for control of community colleges by the BOR. He reminded Mr. Conklin that the Legislature could transfer all or some of the governance power.

- Mr. McKenna read from [Exhibit C](#) regarding the support and maintenance of the university by direct legislative appropriation from the General Fund and asked whether that enables direct assessment by counties. Mr. Powers responded that although Article 11, Section 6 of the *Nevada Constitution* directs the Legislature to provide from the General Fund to support universities, there is an introductory clause in the section, which provides that such support be in addition to any other means of support and maintenance. He testified that counties could impose taxes if the Legislature approved and there were no other legal barriers. Mr. McKenna wondered whether the Legislature could provide for counties to have control of community colleges. Mr. Powers stated it would be a legislative policy decision.

There was discussion between Regent Stephens and Mr. Powers regarding the Attorney General serving as legal counsel to the executive agencies. Mr. Powers stated that the BOR retains their own general counsel.

- Commissioner Scharmann suggested researching information from the 1971 Legislature, which he stated was when the first community colleges were placed

under the BOR by the Legislature. He provided a history on the community college governance structure.

Responding to a query from Assemblyman Aizley, Mr. Powers said the Legislature has enacted statutes governing postsecondary education. Assemblyman Aizley remarked there should be a definition since some courses could be community college-level courses.

In response to Commissioner Scharmann's inquiry regarding governance of Nevada's private institutions, Crystal Abba, Vice Chancellor, Academic and Student Affairs, NSHE, affirmed the Commission on Postsecondary Education oversees licensure for all private institutions in the State.

- Chair Smith called for discussion regarding suggestions for the next meeting agenda.
- Dr. Pierczynski requested a presentation by the Northwest Commission on Colleges and Universities regarding the governance structure in other states.

Responding to a comment from Mr. McKenna regarding goals, Chair Smith stated the Subcommittee is charged with looking at the governance system and making recommendations. Daniel J. Klaich, previously identified, stated that the BOR's goal is for a 60 percent graduation rate with a degree or certificate by 2020.

There was a discussion between Chair Smith and Mayor Lee regarding recommendations made in interim committees and the lack of implementation.

Responding to a request from Senator Woodhouse, Alex Haartz, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, LCB, provided a list of items requested for the next meeting. The issues included

- Overall funding of community colleges, specifically federal grants (application and awarding);
 - Administrative charges and costs (how they are assessed by each institution);
 - Hispanic- and minority-serving institutions;
 - Funding for federal and other grants and the differences among institutions;
 - Shared services approach for grant writing;
 - System versus institution approach on federal workforce development grants;
 - Availability of mining dollars for community colleges;
 - Transfer of credit hours; and
 - Governance structure and best practices in other states (provided by the Northwest Commission).
- Chair Smith discussed the future agenda that would include fiscal issues, spending needs, governance structure, and shared services.

- Senator Woodhouse and Regent Stephens requested Dr. Aimes C. McGuinness (National Center for Higher Education Management Systems) present information on the topic of governance structures.

In response to Commissioner Giunchigliani's recommendation for focus on governance structure, national best practices, and a review of the mission of each community college in the State, Chair Smith clarified that the larger discussion about the college's mission will be held in the Interim Study Concerning Community Colleges (S.B. 391).

- Senator Woodhouse emphasized the importance of the Subcommittee's attention to governance issues.
- Mr. Conklin requested extending invitations to university research agencies and the Lincy Institute at UNLV.

There was discussion between Chair Smith and Assemblyman Aizley regarding a report from the Chancellor's office concerning research grants. Chair Smith clarified her intent to confine the subject to changes that would benefit the community college structure. Assemblyman Aizley said he would be interested in knowing who is requesting the grants.

- Chair Smith and Senator Woodhouse discussed future meetings of the Subcommittee and the full Committee to Conduct an Interim Study Concerning Community Colleges.

PUBLIC COMMENT

- Brian McAnallen, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce, testified regarding the importance of finding a governance model that works for community colleges. He agreed on the focus of governance by the Subcommittee first followed by funding. Mr. McAnallen asked for consideration of further discussion on the TAACCCT grant program.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 11:46 a.m.

Respectfully submitted,

Sally Trotter
Principal Administrative Assistant

Alex Haartz
Principal Deputy Fiscal Analyst

APPROVED BY:

Senator Debbie Smith, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Revised Meeting Notice and Agenda” provided by Alex Haartz, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is a Microsoft PowerPoint presentation titled “Community Colleges Financial Overview,” dated March 11, 2014, submitted by Daniel J. Klaich, J.D., Chancellor, Nevada System of Higher Education (NSHE) and presented by Vic Redding, Vice Chancellor for Finance and Administration, NSHE.

[Exhibit B-1](#) is a document titled “Higher Education Funding Formula Summary,” furnished by Daniel J. Klaich, J.D., Chancellor, NSHE.

[Exhibit C](#) is a memorandum dated March 11, 2014, to Senator Debbie Smith, Chair, Committee to Conduct an Interim Study Concerning Community Colleges’ Subcommittee on Governance and Funding, from Kevin C. Powers, Chief Litigation Counsel, Legal Division, LCB, titled “Overview of State Constitutional Matters Relating to Community Colleges and Higher Education.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits and other materials distributed at the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.