

MINUTES OF THE JULY 21, 2010
MEETING OF THE
INTERIM FINANCE COMMITTEE
LEGISLATIVE COUNSEL BUREAU
Carson City, Nevada

Cochair Steven Horsford called a special meeting of the Interim Finance Committee (IFC) to order on July 21, 2010, at 11:15 a.m. in Room 4401 of the Grant Sawyer Office Building in Las Vegas. The meeting was videoconferenced to Room 4100 of the Legislative Building in Carson City, the IGT Knowledge Center at the University of Nevada, Reno, and the High Tech Center at Great Basin College in Elko. [Exhibit A](#) is the agenda, [Exhibit B](#) is the guest list, and [Exhibit C](#) is the meeting packet. All exhibits are available and on file at the Fiscal Analysis Division of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Steven Horsford, Cochair
Assemblyman Morse Arberry Jr., Vice Chair
Assemblyman Paul Aizley for Assemblywoman Koivisto
Assemblyman Kelvin Atkinson for Assemblywoman Buckley
Assemblyman Moises (Mo) Denis
Assemblyman Joe Hardy
Assemblyman Joseph Hogan
Assemblyman Richard McArthur for Assemblywoman Gansert
Assemblywoman Kathy McClain
Assemblywoman April Mastroluca for Assemblyman Conklin
Assemblyman John Ocegüera
Senator Bob Coffin
Senator Joyce Woodhouse

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblywoman Debbie Smith
Senator Mike McGinness
Senator William J. Raggio

COMMITTEE MEMBERS PRESENT IN RENO:

Senator Bernice Mathews, Cochair
Assemblywoman Sheila Leslie

COMMITTEE MEMBERS PRESENT IN ELKO:

Senator Dean Rhoads

COMMITTEE MEMBERS EXCUSED:

Assemblywoman Barbara Buckley
Assemblyman Marcus Conklin
Assemblywoman Heidi Gansert
Assemblywoman Ellen Koivisto

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN LAS VEGAS:

Lorne Malkiewich, Director, Legislative Counsel Bureau
Brenda Erdoes, Chief Legislative Counsel, Legislative Counsel Bureau
Alex Haartz, Program Analyst, Fiscal Analysis Division

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN CARSON CITY:

Tracy Raxter, Fiscal Analyst, Assembly
Michael Chapman, Principal Deputy Fiscal Analyst
Eileen O'Grady, Chief Deputy Legislative Counsel
Sherie Silva, IFC Committee Secretary
Cheryl Harvey, Fiscal Division Secretary

Cochair Horsford called the meeting to order at 11:15 a.m. and asked for a roll call.

A. ROLL CALL.

Lorne Malkiewich, Director, Legislative Counsel Bureau, and Secretary to the Interim Finance Committee, called the roll at each of the four locations; a quorum of each House was in attendance.

*B. APPROVAL OF GIFTS, GRANTS, WORK PROGRAM REVISIONS,
ALLOCATION OF BLOCK GRANT FUNDS AND POSITION CHANGES IN
ACCORDANCE WITH CHAPTER 353 OF NRS.

- 1. State Treasurer – College Savings Trust – Endowment Account – FY 2010 –** Transfer of \$200,000 from the Reserve category to the Transfer to Millennium Trust account category to facilitate an action approved by the College Savings Board in accordance with NRS 353B.350, Section 5. Requires Interim Finance approval since the amount transferred to the Transfer to 1085 Millennium Trust category exceeds \$50,000. **Work Program #C18113. This item was deferred from the June 24, 2010, IFC meeting.**
- 2. State Treasurer – College Savings Trust – FY 2011 –** Addition of \$187,500 in College Savings Endowment Account funds to cover the cost of an Investment Performance Monitoring contract. Requires Interim Finance approval since the amount added to the Operating category exceeds \$50,000. **Work Program #C18676**

3. **State Treasurer – College Savings Trust – Endowment Account – FY 2011 –** Transfer of \$187,500 from the Reserve category to the Transfer to College Savings category and transfer of \$312,500 from the Reserve category to the Transfer to Prepaid Tuition category to cover the costs of a new Prepaid Tuition computer system upgrade and an Investment Performance Monitoring contract. Requires Interim Finance approval since the amount transferred to the College Savings category exceeds \$50,000. **Work Program #C18665**
4. **State Treasurer – Higher Education Tuition Administration – FY 2011 –** Addition of \$312,500 in College Savings endowment account funds to cover the costs of a new Prepaid Tuition computer system upgrade and an Investment Performance Monitoring contract. Requires Interim Finance approval since the amount added to the Information Services category exceeds \$50,000. **Work Program #C18672**

Cochair Horsford announced the purpose of the meeting was to discuss the Millennium Scholarship Program, which was an agenda item that was deferred at the June 24, 2010, meeting.

Cochair Horsford stated the College Savings Board had met since the June 24, 2010, IFC meeting and was recommending a revision to the June request for an allocation of \$200,000 from the College Savings endowment account to the Millennium Scholarship Program. He asked Steve George from the Treasurer's office to outline the proposal for Committee discussion and consideration.

Steve George, Chief of Staff, Office of the State Treasurer, explained the first work program requested a \$200,000 transfer from the College Savings trust fund to the Millennium Scholarship account as a result of the reduced receipts from the tobacco settlement funds.

Mr. George said the second work program request was for the transfer of funds from the College Savings trust fund to the College Savings endowment account for an investment performance monitoring contract. As previously discussed at the June meeting, it was critical to the College Savings Board that there be an outside person providing oversight on how investment decisions were made.

Items 3 and 4, Mr. George continued, were requests to transfer funds for the purpose of upgrading the online computer system for the Prepaid Tuition Program. He explained the existing computer system was an old one from Virginia, and the fees for the system were consistently being increased. The board made the decision to try to develop its own system with the help of a vendor.

Senator Horsford asked the Fiscal Analysis Division to provide a step-by-step explanation of the new proposal.

Tracy Raxter, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, described the proposed revisions to Item 1, work program C18113:

- Revision of the category 14 amount, which was the transfer to the Millennium Scholarship trust fund, from \$200,000 to \$4,206,183.
- Reduction in category 86, in lieu of the \$200,000 reduction, of the full amount of \$2,562,321 that was in the reserve category and budget authority,
- Augmentation to the revenue authority in the endowment account, revenue GL 3803, contract services, of \$1,643,862.

Senator Raggio requested clarification of the dollar amounts. He asked what amount was actually being requested for transfer to the Millennium Scholarship Program.

Mr. Raxter explained the amount of \$200,000 in Item 1 was based on a projection prior to receiving the April 2010 tobacco settlement funds for the current fiscal year. Because the funds came in below the projected amounts, the \$200,000 would not provide enough cash to fully fund the Millennium Scholarship Program for the upcoming school year.

Senator Raggio again asked for the total amount being requested to transfer from the College Savings trust fund to the Millennium Scholarship Program at this time.

Mr. Raxter replied the total amount to be transferred from the endowment account would be \$4,206,183.

Senator Raggio affirmed the transfer would only fund the program through the current biennium. Mr. Raxter stated Senator Raggio was correct; funding would only be available through fiscal year 2011.

Senator Raggio asked if the transfer would allow the full tuition payments contemplated for the Millennium Scholarship for the entire school year.

Mr. Raxter said based on the current estimates, there would be sufficient funds for the 2010 summer and fall terms and the spring 2011 semester. He said it was possible that the 2011 Legislature would have to revisit the issue to ensure there would be sufficient funding for the spring 2011 semester.

Senator Raggio remarked it was important for Committee members to understand what they were being asked to do. He asked what impact the transfer would have on the College Savings trust. He still did not understand how the 2009 Legislature was given information that there would be sufficient funding for the Millennium Scholarship Program through 2014. To his knowledge, that information came from the Treasurer's office and the Fiscal Analysis Division. Sometime later, it was learned there would be a shortage, and it now appeared to be approximately \$4.2 million.

Senator Raggio asked how \$4.2 million was miscalculated when the 2009 biennial budget was approved. Secondly, he asked from what segment of the College Savings

Program the funds were being transferred and what the proposal was for repayment of the funds, if any, to the College Savings trust fund.

Cochair Horsford recalled that the 2009 analysis was done in cooperation with the Nevada System of Higher Education (NSHE) and the Treasurer's office.

In response to Senator Raggio's first question concerning the funding for the Millennium Scholarship Program for the current biennium, Mr. Raxter pointed out that the actual amount of tobacco settlement funds received by the state in fiscal year 2008 was \$18.2 million, and in fiscal year 2009 the actual amount was \$19.8 million. However, the actual amount in fiscal year 2010 was only \$16.5 million, approximately \$3.3 million below the amount received the prior fiscal year. He said the Treasurer's office estimate for fiscal year 2011 was \$15.6 million. He was not able to address why the amounts had dropped from the prior fiscal years.

Senator Raggio also wanted it clarified that funds from the unclaimed property fund had been utilized in the past to salvage some of the Millennium Scholarship payments. However, it was his understanding there was a legal opinion that, at this point in time, the unclaimed property fund could not be used in between sessions for that purpose, even though there were funds available.

Brenda Erdoes, Chief Legislative Counsel, Legislative Counsel Bureau, stated Senator Raggio was correct. The legal opinion was based on the fact that the Legislature took out the authority to use the unclaimed property fund for Millennium Scholarships for this biennium. The fund could be used after this biennium, but currently authority did not exist.

Cochair Horsford asked Mark Stevens to address the second part of Senator Raggio's question pertaining to the projections and the proposed plan.

Mark Stevens, Interim Vice Chancellor for Finance, Nevada System of Higher Education, explained the projections were developed in conjunction with the Fiscal Analysis Division and the State Treasurer's office. It was the best information available, and all of the offices agreed with the numbers. He said the Millennium Scholarships would be able to be granted at the full amount in fiscal year 2011 if the proposal was approved by Committee.

Cochair Horsford asked for further explanation of the revenues in the endowment account. He understood they were non-General Fund revenues, but he wondered where the funds came from and how they could otherwise be used. He also requested that Legal Counsel provide information to the Committee as to the authority within statute to use a portion of the endowment fund revenues for higher education purposes.

Mr. George explained people invested in College Savings funds, and they paid a fee to their broker; those fees were collected by the program managers, who paid a portion of the fees to the Treasurer's office, along with other fees. He said the money collected in

the College Savings fund was money provided to the state from the program managers. The funding was able to be used by the College Savings Board in a variety of different ways.

As discussed at the June 24, 2010, IFC meeting, Mr. George explained, the College Savings Board had made decisions on how it would like to have the money spent. There was approximately \$2.6 million left over at this point, which was the amount being proposed at this meeting to be used for the Millennium Scholarship Program.

Mr. George noted there were two other work programs for fiscal year 2011 that the College Savings Board desperately needed to go forward – the online system for the Prepaid Tuition Program and the financial monitoring system.

Cochair Horsford affirmed the brokerage fees were the fees collected by the company, they were not the actual investments made, and the fees were shared between the company and the state. The College Savings Board had authority to determine how best to utilize those fees and for what purposes. Mr. George indicated Cochair Horsford was correct.

Cochair Horsford asked Ms. Erdoes if use of the College Savings endowment fund for the Millennium Scholarship Program was an allowable use under statute.

Ms. Erdoes replied that it was an allowable use. It was very clear that NRS 353B.350 provided that money in the endowment fund that was not needed for administration may be used for three purposes, one of which was to provide more access to higher education to the citizens of Nevada. She confirmed the proposal being presented complied with specific statutory authority.

Assemblyman Hardy asked how the accumulated funds from the brokerage fees would normally be spent if this proposal was not being considered.

Mr. George replied the brokerage fees would be collected by the program managers and shared with the state. The state used the money to help administer the program and pay for marketing and program enhancements. The money had traditionally not been spent in the last few years, but the board was being more aggressive in what it wanted to do. In addition to marketing efforts and the computer system upgrade, the board wanted to go forward with the financial literacy program; the groundwork was currently being developed. Mr. George noted the Prepaid Tuition Program was currently funded at approximately 100 percent and doing very well, while programs in other states were either closed or not going forward because of different financial reasons.

Assemblyman Hardy said it was his understanding the fees were involved with getting people from other states to buy into Nevada's program, and therefore the bulk of the brokerage fees actually came from out of state.

Mr. George replied Assemblyman Hardy was correct, adding that the Nevada Prepaid Tuition Program was only for Nevada residents, and the College Savings Program was a program that the Treasurer's office administered for people from any of the 50 states. He thought that at least 90 percent of the fees came from out of state.

Cochair Horsford stated he wanted to hear testimony from the students, parents and members of the public before the Committee took action. He invited those wishing to speak to approach the testimony table.

The following students spoke in support of the Millennium Scholarship. Their verbatim testimony is attached as [Exhibit D](#).

Testifying from Las Vegas:

- Kyle George, President, Graduate and Professional Student Association, University of Nevada, Las Vegas, and Chair of the Nevada Student Alliance.
- J.T. Creedon, Student-Body President, College of Southern Nevada.
- Sebring Frehner, Senator, Nevada Student Alliance, Nevada State College.
- Aimee Riley, Vice President, College of Southern Nevada Capital Club.

Testifying from Reno:

- Matt Smith, President, Graduate Student Association, University of Nevada, Reno.
- Brandon Bishop, Speaker of the Senate, Associated Students of the University of Nevada, Reno
- Jesus Palmer, Senator, Associated Students of the University of Nevada, Reno.

Testifying from Elko:

- Paulette Batayola, President, Student Government Association, Great Basin College, and Vice-Chair of the Nevada Student Alliance.

Cochair Horsford thanked the students for their testimony. He called for a motion.

ASSEMBLYMAN OCEGUERA MOVED TO REVISE THE AMOUNT IN AGENDA ITEM B.1 TO \$4,206,183 AND TO APPROVE ITEMS 2, 3 AND 4 AS SUBMITTED.

THE MOTION WAS SECONDED BY SENATOR WOODHOUSE.

Assemblyman McArthur asked if the transfer of funds would cover fiscal year 2011 only and if the problem would have to be revisited the following year.

Cochair Horsford replied the transfer would cover 2010 summer and fall and 2011 spring semesters. The 2011 Legislature would have to address the issue of the Millennium Scholarship Program and determine how the life of the program should be best preserved beyond current funding.

Assemblyman McArthur affirmed that currently there was not a good steady stream of revenue to fund the program.

Cochair Horsford explained there were dedicated revenues: the tobacco settlement funds, which were declining, and the amount from unclaimed property, which was currently unavailable for use.

Mr. George further explained the funding shortage was made worse by the reduction of tobacco funds, but the non-transfer of \$7.6 million from the unclaimed property fund in 2009, 2010 and 2011, which totaled approximately \$22 million, and the \$5 million taken from the Millennium Scholarship fund in 2010 and scheduled to be taken again in fiscal year 2011 for the budget shortfall, added up to \$32 million. He said if the decision was made by the 2011 Legislature to transfer the \$7.6 million in unclaimed property funds, the tobacco money would still be coming, and there would not be a funding problem in the future based on both of those elements.

Assemblyman Hardy asked if he understood correctly that the 2011 Legislature could fund the Millennium Scholarship Program with tobacco settlement dollars and/or some other source of revenue such as unclaimed property.

Mr. George replied that based on current projections, if the \$7.6 million in unclaimed property could be restored in the 2011 Session and approximately \$16 million in tobacco settlement funds were received, funding for the program would be available. The annual cost of tuition was approximately \$25 million. He explained part of the funding process for the Millennium Scholarship Program had always included transfers from the unclaimed property fund; the change was made by the 2009 Legislature to address the budget shortfall.

Assemblyman Hardy remarked the scenario was based on the premise that funds from unclaimed property would be dedicated as they were in the past. Mr. George concurred, adding that another option would be for the Legislature to change the criteria for the scholarships and make them more restrictive. He stated that since the inception of the problem, State Treasurer Marshall had been pursuing ways to fund the Millennium Scholarships until the 2011 Session so that the Legislature could address funding for the program. Mr. George was pleased with the solution being proposed; it would not adversely affect the College Savings or Prepaid Tuition Programs and would fund the Millennium Scholarship Program through fiscal year 2011. He believed the Committee was making a good decision.

Assemblyman Hardy asked for assurance that the situation would not occur again and that there would be no misinformation or confusion during the 2011 Session for the program going forward.

Mr. George replied the Millennium Scholarship Program had been in existence for many years and had never experienced financial problems. The problem occurred as a result of no longer having the unclaimed property transfer and the \$5 million transfers in 2010 and 2011 from the program to the General Fund.

Cochair Horsford clarified that the motion on the table was to transfer \$4.2 million from the College Savings endowment account, and Assemblyman Hardy's concern was whether the transfer would adversely impact the Millennium Scholarship or any other program.

Mr. George replied it would not. He reiterated the Treasurer's office was very happy with the solution; there would be no impact to the College Savings or Prepaid Tuition Programs, and the Millennium Scholarship Program would be funded through 2011 when the Legislature could decide its future.

Cochair Horsford clarified there was ongoing funding for the Millennium Scholarship Program; there was the dedicated amount from tobacco settlement funds, and the 2011 Legislature would again provide funding from unclaimed property. If those two revenue sources were in place, the Millennium Scholarship Program would be funded for some years, at least until the tobacco settlement funds were depleted.

Mr. George added that all of the states were surprised by the shortage of tobacco settlement funds; Nevada was not alone in dealing with the impact of the shortage. He said the projections of the number of students always had an effect on the cost of the program but, historically, the tobacco settlement and unclaimed property funding had supported the program costs.

Assemblyman Goicoechea stated that technically, \$2.8 million was being taken from existing reserves, and an additional \$1.3 million would be committed from revenues anticipated to be received in the College Savings trust account this fall.

Mr. Haartz clarified that \$2.8 million would be committed this fiscal year and \$1.3 million-plus would be available in fiscal year 2011.

Senator Coffin thanked the Treasurer's office for working with the Committee and staff to arrive at a solution. He remarked no one could guarantee that the situation would not change; it was impossible to forecast the future of tobacco consumption or the economy. He was reluctant to support any transfer from the endowment fund prior to the meeting, but he would support the motion now that he understood the transfer was from fees. He encouraged members of 2011 Legislature to tighten restrictions on receipt of the scholarships and the criteria for keeping them. He believed the

scholarships should be granted based on the quality of education and not necessarily on financial need.

Assemblyman Grady read from the minutes of the March 18, 2010, meeting of the Board of Trustees of the College Savings Plan. He noted it had been questioned whether the \$200,000 would be a transfer or a loan. He wanted the record to reflect that the funds were a transfer and not a loan.

Karen Duddlesten, Senior Deputy Treasurer and Administrator for the College Savings Board, stated that at the March 18th meeting, the board had asked the Attorney General whether the \$200,000 could be a loan or if it had to be a direct transfer. The Attorney General's office had advised the College Savings Board that it had no authority to obligate the State Legislature to repay a loan; the funding could not be granted as a loan, and it was approved as a transfer.

Dr. Jane Nichols, member of the College Savings Board, testified she had made the motion to approve the funding, and the motion was made with the understanding that if it was not possible to make a loan, it would simply be a transfer.

Assemblyman Aizley noted the fiscal year would end June 30, 2011, right in the middle of the summer programs at all campuses. He asked if the summer session tuition would be fully covered.

Mr. George replied traditionally the summer programs had been paid for with the fall semester payment, and the University System billed the Treasurer's office for both semesters in September or October. Even though part of the summer sessions would take place in fiscal year 2010, tuition would be paid from 2011 funds.

Senator Raggio stated he had been one of the biggest supporters of the Millennium Scholarship Program; he was in the forefront when it was created at the behest of Governor Guinn. He believed it was a very important method of ensuring that there would not be "brain drain" of the state's better students, and it had been of great value to the higher education system. Senator Raggio noted that the University System had experienced some very serious cuts, and any further cuts would be extremely deleterious to the funding of higher education.

In hindsight, Senator Raggio speculated that the Legislature might have been wise to follow the advice of former Treasurers Bob Seale and Brian Kroliki, who had suggested securitization of the Millennium Scholarship Program. There would have been a steady assured stream of income, and the funding problem would not exist today. He cautioned that the Legislature might want to be more careful and analytical on some of the decisions it would make in the future.

Senator Raggio said he would support the motion with some reluctance. He disliked the idea of transferring funds from the College Savings trust fund, which had its own purposes. He thought the programs being considered by the College Savings Board

were valuable, but they would now be deferred or eliminated. More importantly, he was concerned about the 2011 Legislative Session. There would possibly be at least a \$3 billion shortfall, which was growing daily. He wanted to ensure insofar as possible the continuation of the Millennium Scholarship Program. The program may have to be tweaked, but the integrity of the program was important.

Senator Raggio recalled that after the program's inception, which was based solely upon tobacco settlement funding, as a result of diminishing proceeds, it was necessary to use funding from abandoned property, which was not a source of unlimited income either. He was concerned, not only with the Millennium Scholarship, but also with the College Savings trust fund and others, about how the enormous budget deficit was going to be dealt with. Some people were advocating more and more cuts, but he said that option was also unrealistic.

In summary, Senator Raggio said the 2011 Legislature would be facing some very tough decisions, and today's action would make decisions about the program more difficult. However, he believed the integrity and continuation of the Millennium Scholarship, at least for this biennium, was more important, and therefore, he reiterated, he would reluctantly support the measure. He was doing so with the understanding that the 2011 Legislature would have to take a serious look at the parameters for the Millennium Scholarship Program and how it would be funded in the future, as well as higher education as a whole, in view of limited resources.

Cochair Horsford asked for further comments on the motion; there were none. He thanked the Committee members, the stakeholders from the Nevada System of Higher Education, the Treasurer's office, the Fiscal and Legal Division staff members and, most importantly, the students and parents who attended. He remarked this was an example of the tough choices that had been made in the past and would be necessary in the future. He agreed with Senator Raggio that the next Legislature would have to address future obligations to the program.

Cochair Horsford wanted to underscore the fact that the funds were non-General Fund revenues, they did not impact that portion of the budget, and the transfer was an authorized use of the funds based on the priority of higher education. Students and their families were promised that if they graduated from a Nevada high school and met a certain grade-point average, they would receive scholarships. He believed the motion under consideration did that, and he appreciated the commitment of everyone to work together in the 2011 Legislative Session to preserve the Millennium Scholarship Program and fund it properly in order to meet the commitment to Nevada students who wanted to pursue a higher education degree in Nevada.

THE MOTION CARRIED UNANIMOUSLY.

Assemblywoman Smith announced that Tracy Raxter, Assembly Fiscal Analyst, would be retiring effective August 3, and this was his last IFC meeting. She said he had been a wonderful employee in the Fiscal Division and had been with the state for 24 years

and local government before then. He had been a very devoted employee and put forth heroic efforts during the past several months to work with the Committee while the Fiscal Division was going through a lot of transition. Assemblywoman Smith wanted to acknowledge Mr. Raxter for all of his years of service, especially over the last few months, and she thanked him for everything he had given to the state and everything he would leave behind. She added he had shown great leadership as he had taken over the position of Fiscal Analyst, and she knew the staff would miss him greatly. On behalf of the Committee, Assemblywoman Smith thanked him and wished him well. Cochair Horsford also thanked Mr. Raxter and wished him the best in his retirement.

C. PUBLIC COMMENT.

Public testimony from NSHE students was provided earlier in the meeting ([Exhibit D](#)). There were no further comments.

ADJOURNMENT.

ASSEMBLYMAN DENIS MOVED TO ADJOURN.

THE MOTION WAS SECONDED BY ASSEMBLYMAN ATKINSON.

THE MOTION CARRIED.

The meeting adjourned at 12:22 p.m.

Senator Steven Horsford, Cochair
Interim Finance Committee

Lorne Malkiewich, Director
Legislative Counsel Bureau and Secretary
Interim Finance Committee

**EXHIBITS
INTERIM FINANCE COMMITTEE**

Exhibit	Witness/Agency	Description
A	Fiscal Analysis Division Legislative Counsel Bureau	Agenda
B	Fiscal Analysis Division Legislative Counsel Bureau	Guest List
C	Fiscal Analysis Division Legislative Counsel Bureau	July 21, 2010, Meeting Packet
D	Students from the Nevada System of Higher Education	Verbatim testimony of students in support of the Millennium Scholarship.