MINUTES OF THE MAY 18, 2020
MEETING OF THE
INTERIM FINANCE COMMITTEE

Chair Maggie Carlton called a special meeting of the Interim Finance Committee (IFC) to order at 9:06 a.m. on May 18, 2020, via videoconference. There was no physical location for the meeting pursuant to the Governor's Emergency Directive 006.

COMMITTEE MEMBERS PRESENT:
Assemblywoman Maggie Carlton, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Chris Brooks
Senator Yvanna Cancela
Senator Moises Denis
Senator Pete Goicoechea
Senator Ben Kieckhefer
Senator David Parks
Senator James Settelmeyer
Assemblywoman Shea Backus
Assemblywoman Teresa Benitez-Thompson
Assemblyman Jason Frierson
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblyman Glen Leavitt for Assemblyman Hambrick
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Connie Munk
Assemblywoman Dina Neal
Assemblywoman Ellen Spiegel
Assemblywoman Heidi Swank
Assemblywoman Robin Titus
Assemblyman Jim Wheeler

COMMITTEE MEMBERS EXCUSED:
Assemblyman John Hambrick

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:
Brenda Erdoes, Director, Legislative Counsel Bureau
Cindy Jones, Fiscal Analyst, Assembly
Mark Krmpotic, Fiscal Analyst, Senate
Sarah Coffman, Principal Deputy Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Eileen O'Grady, Chief Deputy Legislative Counsel
Cheryl Harvey, Fiscal Analysis Division Secretary
Carla Ulrych, Fiscal Analysis Division Secretary

EXHIBITS:
(Exhibit A): Meeting Packet
(Exhibit B): Public Comment – Clark County Education Association
(Exhibit C): Public Comment – Jan Giles, Interim President, Education Support Employees Association
(Exhibit D): Public Comment – Jordan Ellico
(Exhibit E): Public Comment – Reverend Paul Hansen, Nevadans for the Common Good
(Exhibit F): Public Comment – Laura Martin, Executive Director, Progressive Leadership Alliance of Nevada
(Exhibit G): Public Comment – Royneqiuea Fields

A. ROLL CALL.

Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB) called the roll; all members were present except Assemblyman Hambrick, who was excused.

B. PUBLIC COMMENT.

Pursuant to the Governor's Emergency Directive 006, there was no physical location for the May 18, 2020, meeting of the Interim Finance Committee. 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.

The Clark County Education Association submitted written testimony for the record (Exhibit B).

Jan Giles, Interim President, Education Support Employees Association, submitted written testimony for the record (Exhibit C).

Jordan Ellico submitted written testimony for the record (Exhibit D).

Reverend Paul Hansen, Nevadans for the Common Good, submitted written testimony for the record (Exhibit E).

Laura Martin, Executive Director, Progressive Leadership Alliance of Nevada, submitted written testimony for the record (Exhibit F).

Royneqiuea Fields submitted written testimony for the record (Exhibit G).

Chair Carlton said due to the virtual setting of the meeting it was difficult to determine which members were present; therefore, a roll call vote would be taken on all action items to ensure each vote was recorded correctly. She asked that each Committee member be prepared to vote.

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

1. Office of the Governor – ~~Governor's Finance Office – Budget Division~~ – FY 2020

Addition of $51,442 in federal Coronavirus Aid, Relief and Economic Security Act (CARES) funding transferred from the CARES Act account to support two positions and associated operating costs in coordinating the states response to the COVID-19 pandemic. Requires Interim Finance approval since the Personnel Services category exceeds 10 percent of the legislatively approve amount for that category. **Work Program #C50739. REVISED 5-14-20**

Susan Brown, Director, Governor's Finance Office (GFO), introduced Michelle White, Chief of Staff, Office of the Governor.

Michelle White, Chief of Staff, Office of the Governor, said the Office of the Governor was requesting a transfer of $51,442 in Coronavirus Aid, Relief and Economic Security Act (CARES) Act funds to support two positions within the Office of the Governor to provide statewide coordination support of the state's efforts in preparing, sustaining and expanding response to the COVID-19 pandemic. Ms. White said COVID-19 response was a federally supported, state managed, and locally executed effort as outlined in the Governor's plan. Additionally, the Office of the Governor would work with federal, state and local partners to identify and coordinate funds that would benefit the state but may not be placed in a state account.

Chair Carlton said the Committee understood that the Office of the Governor determined its staff salaries. She asked the agency to discuss the intended responsibilities of each position and clarify the salary for each position.

Ms. White replied that the temporary positions would assist in coordinating the state's response to COVID-19. She said the first position, a Statewide Response Director, would be responsible for working with federal, state and local partners in coordinating coronavirus contact tracing and testing and resources. The Statewide Response Director would also support a robust and ongoing statewide effort and expansion to address the public health crisis. Additionally, the position would regularly communicate with agencies such as the Department of Health and Human Services, the Nevada National Guard, and the Department of Public Safety, Division of Emergency Management, all of which had been at the forefront of the response effort.

Ms. White said the second position, a COVID-19 Administrator, would be responsible for identifying all federal funding related to the pandemic. The Administrator would also act as the liaison for the Office of the Governor. She said the Administrator would work with the Governor's Finance Office (GFO), the Legislature, state agencies, and federal and local partners to ensure the funds were maximized and utilized effectively to address the crisis in the immediate and long term.

In response to a question from Chair Carlton, Ms. White confirmed the positions would be funded with CARES Act funds.

Ms. Brown said CARES Act funds could be used to support the Statewide Response Director and Administrator positions, because the positions were directly related to COVID-19 and all tasks would be solely dedicated to coronavirus-related issues.

Assemblyman Wheeler said he understood the positions would be funded with CARES Act funds and would not affect the state budget; however, it was still tax money, regardless of where the funds originated. He asked if the Office of the Governor had considered filling the positions with state employees who were currently unemployed.

Ms. White replied that the Office of the Governor had identified someone for the Statewide Response Director position who had been on loan since the beginning of the pandemic and was helping to manage the overall efforts. The agency wanted to formalize and expand that role due to the urgent need. However, during the recruitment process for the Administrator position, the Office of the Governor would look for people who were available through state government.

In response to a question from Senator Goicoechea, Ms. Brown said the $51,442 would cover the positions through June 30, 2020. The agency would submit another work program at the June 25, 2020, IFC meeting to fund the positions for an additional six months.

Senator Brooks noted that he was related to an employee at the Office of the Governor; therefore, he would abstain from voting.

> SENATOR WOODHOUSE MOVED TO APPROVE AGENDA ITEM C-1.
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> ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.
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> THE MOTION PASSED UNANIMOUSLY. (Senator Brooks abstained from voting.)

2. Department of Health and Human Services – Public and Behavioral Health – Communicable Diseases – FY 2020

Addition of $192,626 in federal Health Resources and Services Administration, Ryan White Part B COVID-19 grant funds provided through the Coronavirus Aid, Relief, and Economic Security Act to prevent and minimize the impact of Coronavirus pandemic on people with HIV. Requires Interim Finance approval since the amount added to the Ryan White COVID-19 category exceeds $75,000. **Work Program #C50706**

Julia Peek, Deputy Administrator, Division of Public and Behavioral Health (DPBH), Department of Health and Human Services (DHHS), introduced Tory Johnson, Program Manager, DPBH, DHHS, and Christina Hadwick, Chief Financial Officer, DPBH, DHHS.

Ms. Peek said the DPBH was requesting authority for the Ryan White HIV/AIDS Program Part B COVID-19 Response grant received from the U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA). The notice of award provided one-time funding to support the prevention, preparation and response to COVID-19, as outlined in the CARES Act. The HRSA authorized recipients to incur pre-award costs prior to the effective date of the federal award dating back to January 20, 2020. Ms. Peek noted that the grant did not include a match or maintenance of effort (MOE) requirement.

Ms. Peek said the Ryan White CARES Act grant was divided into five different parts. Part B provided grant funding to all states and territories to improve health equity for those living with the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS). The program provided medications and services to eligible Nevadans living with HIV/AIDS. Ms. Peek said the AIDS Drug Assistance Program (ADAP) was another program under Part B. The ADAP provided U.S. Food and Drug Administration-approved medications to people living with HIV who were either uninsured or underinsured. She said Nevada's ADAP formulary was geared toward optimum patient care. Medications were maintained in coordination with and at the recommendation of the Medical Care Advisory Committee within the DHHS Division of Health Care Financing and Policy.

Ms. Peek said the grant award would give Ryan White HIV/AIDS program recipients the flexibility to meet evolving needs in their respective communities, including extending operational hours, increasing staffing hours, purchasing additional equipment, enhancing workforce training and capacity development, and providing critical services to people with HIV during the coronavirus pandemic. She said funds would be subgranted to Northern Nevada HOPES and Access for Community and Cultural Education Programs and Training (ACCEPT). HOPES and ACCEPT were chosen as subgrant recipients, because both entities were established Ryan White Part B recipients. Both entities provided support services and had a proven track record of providing services to HIV-positive clients. The subgrantees would offer direct services, such as home-delivered meals, emergency housing, housing assistance and medical transportation to HIV-positive clients and their families. The number of clients served was currently unknown due to the evolving nature of the COVID-19 pandemic.

As noted, the anticipated service categories the Ryan White Part B was looking to utilize were food bank and home-delivered meals, which also allowed for the purchase and distribution of personal protective equipment to clients and personnel; housing, which allowed for payment of clients' rent; and medical transportation to core medical and supportive services.

Ms. Peek said the funding was delivered in Washoe County, but could change as client needs emerged. She stated that there were currently no rural providers in Ryan White Part B. Rural clients were assisted in Washoe County and often sought care at HOPES and ACCEPT.

Ms. Peek said Clark County received the Ryan White Part A grant. She said Ryan White Part B served the entire state including Clark County; however, as previously mentioned, the CARES Act funding received through the current work program would primarily serve Washoe County.

Chair Carlton asked the agency to provide the Committee with data regarding the expenditure of the funds as well as the people served by those funds. She said the information would be helpful to the Committee in the future.

In response to a question from Senator Denis, Ms. Peek confirmed that Clark County received Ryan White Part A grant funds, and Washoe County and the rural counties received Ryan White Part B grant funds.

SENATOR WOODHOUSE MOVED TO APPROVE AGENDA ITEM C-2 AND REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH TO PROVIDE DATA CONCERNING THE EXPENDITURE OF THE GRANT FUNDS.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

3. **Department of Employment, Training and Rehabilitation – Unemployment Insurance – FY 2020**

Addition of $5,073,075 in Pandemic Unemployment Assistance (PUA), $153,611 in Federal Pandemic Unemployment Compensation (FPUC), and $191,892 in Pandemic Emergency Unemployment Compensation (PEUC) federal grant funds provided through the Coronavirus Aid, Relief, and Economic Security (CARES) Act to support costs associated with implementing federally-enhanced unemployment compensation programs in response to the COVID-19 pandemic. Requires Interim Finance approval since the amount added to the Pandemic UI Admin – PUA category exceeds $75,000. **Work Program #C50726**

Christopher Sewell, Department of Employment, Training and Rehabilitation (DETR), said Work Program #C50726 requested the establishment of revenue and expenditure authority for Federal Pandemic Unemployment Compensation (FPUC) in the amount of $153,611, Pandemic Unemployment Assistance (PUA) in the amount of $5,073,075, and Pandemic Emergency Unemployment Compensation (PEUC) in the amount of $191,892. The funds would be used for one-time implementation costs for the FPUC, PUA and PEUC grant programs. The total of the implementation grant was $5,418,578.

Assemblywoman Benitez-Thompson asked what role Alorica staff would have in taking, adjudicating and handling appeals for PUA claims.

Kimberly Gaa, Administrator, Employment Security Division (ESD), DETR, said Alorica was specifically hired to assist with PUA through December 2020 for all aspects of PUA claims, including filing, payments, telephone assistance and adjudication.

Assemblywoman Benitez-Thompson asked what percentage of PUA-related work would be performed by Alorica staff compared to DETR staff.

Ms. Gaa replied that DETR provided management oversight for Alorica staff that was processing PUA claims.

Assemblywoman Benitez-Thompson thought the workload split between Alorica staff and DETR staff would be more apparent in the near future. Ms. Gaa confirmed that was correct.

Assemblywoman Benitez-Thompson asked what documentation had DETR obtained from the U.S. Department of Labor (DOL) to demonstrate that using a contract call center for PUA claims was permissible.

Heather Korbulic, Director, DETR, replied that DETR and its legal team had worked closely with the Office of the Attorney General (OAG) and the Governor's legal team on a directive to allow for the waiver of non-merit staff. She said the waiver allowed DETR to use the Alorica team to assist with claims adjudication. Ms. Korbulic said DETR also worked with the State of Indiana, which had an approved proclamation from the Governor of Indiana. She noted that DETR worked in lockstep with legal counsel to develop the proclamation.

Assemblywoman Benitez-Thompson thought it was reassuring that the waiver was developed in partnership with the OAG. She thought the federal government would most likely recognize that states were required to increase staffing quickly to meet the needs of the public.

Chair Carlton said the Legislature was wary when agencies subcontracted state functions, because it was the state's responsibility to perform those functions. She understood there were extenuating circumstances, but it was important to avoid setting a precedent. She said the state needed to manage the individuals that were making unemployment-related decisions, because unemployment benefits were critical to survival, especially during the pandemic.

Ms. Korbulic said the federal government allowed for the continuation of PUA claims through December 2020. She noted that the work would be performed in-house when the authority ended.

Chair Carlton said the Committee wanted to review the data after the grant expired.

Senator Brooks asked if the agency had received federal approval to use the grant funds for the three programs.

David Schmidt, Acting Deputy Administrator, ESD, DETR, said the supplemental budget request that was submitted to the DOL did identify contract staff. He said only a small piece of the portion that would pay for the call center was contained in the work program. That portion included implementation costs and call center training; however, other call center expenses would be paid for through the ongoing reimbursement for the PUA program. Because the training component of the call center time was included within the grant, DETR had not been questioned or received push back from the DOL about using Alorica for the PUA program. Further, the CARES Act explicitly allowed for relaxation of the use of merit staff through the end of 2020; therefore, the programs were federally approved.

Senator Brooks said it was his understanding that DETR did not require federal authority to use the funds for the three programs, because authority was already included in the grant requirements. Mr. Schmidt confirmed that was correct based on the department's understanding of the grant.

Senator Brooks asked the department to discuss the plans for the Personnel Services category, including projected overtime for existing staff, and the number and type of any additional positions DETR planned to hire, along with the timing of recruitment and training.

Ms. Gaa confirmed that DETR developed a staffing plan related to H.R. 6201 (Families First Coronavirus Response Act), which was explicitly designed to address staffing during the pandemic. She noted that DETR had submitted position requests for additional staffing augmentation to the GFO. Ms. Gaa indicated that the department requested approximately 12 positions related to the CARES Act, which would be absorbed back into Unemployment Insurance (UI) operations at the end of December 2020 to manage the expected workflow beyond December that related to appeals, overpayments and other tasks based on the department's experience during the previous recession.

Assemblywoman Neal recalled a recent press release that indicated it would take the department approximately four weeks to factor deductible income into unemployment claims. She asked how that would impact people seeking unemployment benefits.

Ms. Gaa replied that deductible income issues related to program integrity on the standard unemployment insurance system. She said DETR had processed some automated jobs for claims that included a deductible income component. The department held the first four weeks of those benefits to get through the adjudication process in compliance with law and regulations, and then released payments after the fourth week. Ms. Gaa said the department understood that could result in overpayments, but the decision was made in an effort to disburse benefits as quickly as possible. She said DETR had weighed the information along with potential severance pay and other ongoing pay during furloughed periods to make that decision. Ms. Gaa said the department began the method two weeks ago, and payments were now being released to individuals with deductible income issues on their claims. She said claims with deductible income issues must be adjudicated per DETR regulations; however, filers would continue to receive UI benefits during that process.

Chair Carlton understood that DETR was releasing PUA disbursements now and would rectify issues after adjudication was complete. She said that was not how it had been handled for individuals on standard unemployment. Many of those people were still waiting to receive unemployment benefits.

Ms. Gaa clarified that she had been referring to deductible income issues related to standard unemployment. As far as PUA claims, she thought payments would be deployed by the coming weekend. As soon as presumptive eligibility was determined, DETR would move to the minimum weekly benefit amount under the act and begin disbursing payments immediately. She said DETR would adjudicate on the backend to increase the benefit to the maximum amount allowable by state law if there was additional eligibility.

Chair Carlton said there were still approximately 50,000 claims that had not been processed. If DETR was disbursing UI payments now and truing up later, she asked why there were still that many outstanding claims. Chair Carlton said she spoke with people daily who were in tears, because they were still waiting for unemployment benefits. She asked about the status of those claims.

Ms. Gaa replied that DETR continued to review groups of claims with outstanding issues to see what additional automation jobs could be processed. Outstanding claims usually had multiple issues and had become more complicated with time. Additionally, those claims required full adjudication. Thus, she could not provide a specific date by which those claims would be processed. Ms. Gaa said DETR had been informed by the DOL that the Office of Inspector General was assessing the department's efforts to maintain program integrity; therefore, DETR was trying to stay in balance. However, DETR continued to address groups of claims and process them as quickly as possible.

Chair Carlton said it was critical that those 50,000 people receive unemployment benefits as soon as possible even if their claims were complex.

Assemblyman Frierson said the Committee was asking questions for the sake of clarity, not out of undue aggression. He understood and appreciated that DETR was working hard to process claims in an expedited manner. He indicated that members of the Committee were regularly receiving calls and e-mails and delivering food to people in need, so it was important for the Committee to gather as much information as possible.

Assemblyman Frierson asked if the department was processing UI claims in order of submission.

Ms. Korbulic outlined several priorities the department was focusing on to provide the Committee with context on the scope of work related to unemployment.

Ms. Korbulic said DETR recently rolled out a significant technological system for PUA claims and 38,000 PUA claims had been filed to date. She said DETR continued to work on the PUA claims system, which was a significant technological effort. Additionally, DETR was collaborating with vendors to implement a cloud-based call center. Lastly, the department was continually working to address the backlog of claims and resolve issues. Ms. Korbulic said data fixes were run on a weekly basis to address the income deductible issues. She said DETR was working toward a resolution for several other buckets of claims that fell within the 51,000 outstanding claims. Ms. Korbulic noted that claims were addressed in the order in which they were received.

Senator Brooks asked how the agency was currently funding operational costs associated with PUA, PEUC and FPUC given associated grants had not yet been approved.

Mr. Schmidt said DETR was currently awaiting approval of the grants. He explained that the DOL had received hundreds of applications, which had created a backlog in the approval process. Meanwhile, DETR was funding the programs through the Unemployment Administration grant, as well as $5.3 million in federal funding and above base funding of approximately $3.8 million for the UI Administration grant. Mr. Schmidt said funding for the three programs would be adjusted as necessary when the federal revenue was provided to the state.

Chair Carlton understood that guidance was provided earlier in the year concerning the allowable functions of a subcontracted entity. She asked if the waiver made it permissible for a subcontracted entity to perform adjudication, because it appeared that was not allowable under the CARES Act.

Ms. Korbulic said DETR had worked closely with the State of Indiana, which had a DOL-approved waiver of the same nature. The DOL was aware that DETR was allowing subcontracted staff to perform adjudication duties. Ms. Korbulic noted that the OAG was available to answer questions.

In response to a question from Chair Carlton, Ms. Korbulic replied that individuals had the right to appeal a denial of benefits. She stated that the department took full responsibility for the work being performed by Alorica.

Chair Carlton thanked the agency for putting that on the record. She said it would be helpful to have that information available for future reference.

> ASSEMBLYMAN FRIERSON MOVED TO APPROVE AGENDA ITEM C-3.
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> SENATOR WOODHOUSE SECONDED THE MOTION.
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> THE MOTION PASSED UNANIMOUSLY.

D. STATEMENT OF THE ACCOUNT TO STABILIZE THE OPERATION OF THE STATE GOVERNMENT BALANCE.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB, said the Account to Stabilize the Operation of the State Government was also known as the Rainy Day Account. Information pertaining to the balance of the account was located on page 71 of the meeting packet (Exhibit A).

Ms. Jones stated that the balance of the account was $331,694,833 on July 1, 2019. She said two transfers had been made to the Rainy Day Account. The first transfer of approximately $25.0 million was made pursuant to NRS 353.288(1)(a), which stated that if the General Fund balance exceeded 7 percent of the appropriations for the next fiscal year, 40 percent of the excess balance shall be transferred to the Rainy Day Account.

The second transfer of $44.5 million was made pursuant to NRS 353.288(1)(b), which stated that 1 percent of the anticipated revenue for the fiscal year as projected by the Economic Forum shall be transferred to the Rainy Day Account. Ms. Jones stated that the current balance of the Rainy Day Account was $401,186,220, which was the amount to be discussed under Agenda Item E.

E. REQUEST FOR APPROVAL TO TRANSFER FUNDS FROM THE ACCOUNT TO STABILIZE THE OPERATION OF THE STATE GOVERNMENT TO THE STATE GENERAL FUND PURSUANT TO NRS 353.288(7).

Chair Carlton said the balance of the Rainy Day Account would be transferred to the General Fund to support the operation of state government. She asked how the Governor's Finance Office (GFO) intended to address the remaining General Fund shortfall for FY 2020.

Susan Brown, Director, GFO, said the GFO was working through proposals put forth by state agencies. Based on those proposals, the GFO would develop a plan to capture those savings and present it to the Committee. She said the GFO would also assess ongoing costs as well as one-shot appropriations. Ms. Brown indicated that the GFO was currently researching several other items that may be valid options for addressing the shortfall.

Chair Carlton asked when additional information would be available. She encouraged the agency to communicate with the Committee and staff to ensure everyone was on the same page.

Ms. Brown replied that the GFO was awaiting answers from several agencies, but the FY 2020 data was solid. She said the GFO was happy to work with staff regarding the proposals that were currently being vetted. She noted that staff had already been provided some information related to budget reserve proposals.

Chair Carlton stressed the importance of communication between the GFO, the Governor and the Committee. She said the focus had to be on the best course of action for the state and its citizens.

Assemblyman Frierson understood the GFO was receiving many phone calls and requests. He noted that the Committee relied heavily on Fiscal staff. The decisions made by the Committee depended on the information that staff was able to obtain; therefore, any request from staff was on behalf of the Committee and should be treated as such.

Assemblyman Wheeler understood it was necessary to transfer funds from the Rainy Day Account; however, he preferred to see the proposed cuts prior to making a decision. Additionally, he wanted to consider other options such as CIP programs, Medicaid savings and furlough programs. Assemblyman Wheeler said without a two-to-one cut, he could not support the transfer. He said the state's bond rating would be negatively impacted without a reserve fund. If there was a need to re-bond, it would cost the state more money. He agreed that communication was critical during this time. Nevada was in a true state of emergency and the Committee needed more details about the proposed cuts before making a decision.

Chair Carlton said she had experienced budget cuts a couple times in her career as a legislator, so she understood the uncertainty. She recalled the uncertainty she felt the first time she had to vote for something like the item before the Committee today.

Continuing, Chair Carlton said the state needed to transfer funds from the Rainy Day Account to the General Fund to support the budget approved by the 2019 Legislature. Although the balance of the Rainy Day Account would not be enough to cover the entire cost of that commitment, it was a step in the right direction. Chair Carlton said she and other members of the Committee, as well as the Governor's Office, were considering additional resources. However, she thought it was incumbent upon the Committee to be prudent and ensure that programs and budgets were funded in the manner approved by the 2019 Legislature, which was the purpose of the Rainy Day Account. Chair Carlton said the first part of the discussion was focused on transferring the funds; the second part would focus on how to proceed after the transfer.

Assemblyman Wheeler agreed with Chair Carlton. He noted that the 2019 Legislative Session occurred during a time when the economy was solvent; however, circumstances had changed. Consequently, budgets had to be adjusted accordingly. He understood the GFO was developing a plan to address the shortfall, but it was important to know the details of that plan before transferring funds. Assemblyman Wheeler said he appreciated that the state was in an unusual situation. He was hopeful the Legislature as a whole and the Governor's Office would communicate and work in partnership, because there were a lot of good ideas.

Chair Carlton said the time would come to address the FY 2021 budget. She said Assemblyman Wheeler's suggestions about furloughs and CIP projects would not have a beneficial impact in the final six weeks of FY 2020. Further, state employees had to be provided 30 days' notice, so in essence it would only be a two-week impact. Chair Carlton said those types of changes would likely be considered for FY 2021.

Assemblyman Frierson said the shortfall was projected between $500.0 million and $600.0 million. He noted the Legislature put money into the Rainy Day Account for the first time during the 2017 Legislative Session, for which he was thankful. He said funds were available in the Rainy Day Account, and it was important to support the state's programs now, not wait to see what happens next month. Assemblyman Frierson said the matter of federal aid and how it would be used with respect to proposed budget cuts was a separate issue. He thought it was disingenuous to hold on to the funds in the Rainy Day Account, which was created for such a purpose, until more information was available. He thought that was essentially allowing families to go hungry. He thought the Legislature first needed to focus on essential needs and then move forward. Assemblyman Frierson said it was important to avoid politicizing the use of the Rainy Day Account, because that was not the way to govern the state. He said political gains were not appropriate when people were suffering. Assemblyman Frierson agreed that communication was essential. He noted that the GFO was developing a proposal to address the remaining shortfall, which would provide the Committee with information and direction. He said it was important to do right by the citizens of Nevada and honor the state's financial commitments, and subsequently work together to address what was forthcoming.

Senator Kieckhefer said he did not recall hearing that the state was currently experiencing a cash flow problem that would require a transfer from the Rainy Day Account. He said it would seem the state would only need to transfer funds if the General Fund was dwindling. Senator Kieckhefer asked if the General Fund was running low. He also asked when the GFO anticipated that additional funds would be necessary.

Ms. Brown said the Distributive School Account (DSA) payments exceeded $115.0 million per month. Between payments to the DSA and the Nevada System of Higher Education (NSHE), the state would need additional funds by the end of May 2020.

Senator Kieckhefer recalled guidance from the U.S. Department of the Treasury that allowed states to use CARES Act funds as cash flow. He said Nevada recently received approximately $836.0 million in federal funds; therefore, the state treasury should have an ample balance.

Ms. Brown confirmed that the federal funds could be used for cash flow; however, the balance of the General Fund would still be low by the end of the FY 2020.

Senator Kieckhefer said he understood that funds were needed in the current fiscal year to address the budget deficit. However, he was not convinced there was a need to transfer funds from the Rainy Day Account since there was money available in the General Fund. He thought it would make more sense to work together as a group to develop a comprehensive solution that would alleviate concerns of credit rating agencies when they saw drawdowns from reserve accounts. Declining revenues was an appropriate use of reserves, but it should be in conjunction with spending reductions and tax increases, if necessary. Senator Kieckhefer said credit rating agencies considered those three items necessary methods of stabilizing the state treasury during times of recession. If the state was only considering one of those methods, it presented some uncertainty about the state's plan to address the broader shortfall issues. Senator Kieckhefer said if the state did not currently have a cash flow problem, the transfer could be deferred, because those funds would be needed in the future. More immediately, the Committee could choose to draw down a portion of the Rainy Day Account. However, the funds could be drawn down at a subsequent meeting since the Committee was convening more frequently.

Assemblywoman Titus agreed with Chair Carlton's comments regarding the importance of communication. She appreciated Assemblyman Frierson's remarks about not politicizing the state's current financial situation. She thought it was critical for the Committee to be fiscally responsible. Assemblywoman Titus said the state learned many financial lessons during the Great Recession, lessons that should not be repeated. She thought it was important to maintain the state's bond rating or it would cost Nevada more in the end.

Continuing, Assemblywoman Titus agreed with Senator Kieckhefer that only a portion of the Rainy Day Account balance should be transferred. She thought incremental transfers might be a safer option. She said it was important for the state to be responsible about how the funds were spent. Assemblywoman Titus said she understood there was significant need throughout the state, but it was important to be fiscally responsible and learn from past mistakes.

Chair Carlton assured Assemblywoman Titus that everyone was being very thoughtful about the matter.

Senator Settelmeyer said he could not support the drawdown of the entire Rainy Day Account balance. He agreed the state needed to be concerned about its bond rating, because the drawdown could cause existing bonds to increase in cost. He said the state was facing a deficit in FY 2021 that could exceed $1.0 billion. Shortly after the closure of the MGM Grand and Wynn Resorts, the Governor made the appropriate decision to shut down all casinos in the state. Senator Settelmeyer said it was obvious at that time that Nevada would lose approximately $100.0 million per month in gaming revenue; however, a plan to reduce costs had not been addressed in March, April or most of May. He said he could not approve the transfer without a plan in place.

Senator Cancela said while it was true there was a significant amount of CARES Act funds available to the state, the funds could only be used to cover costs related to COVID-19. She asked the GFO to weigh in on the matter.

Ms. Brown said funds in the Rainy Day Account were General Funds that could be used to support the state's expenses. She said CARES Act funds could be used for cash flow purposes, but there were specific parameters concerning the expenditure of those funds. Specifically, the CARES Act funds could only be used for costs associated with COVID-19 response. Additionally, the funds were only available through December 31, 2020. Ms. Brown stated that the CARES Act funds would be disbursed as soon as plans were approved for the use of the funds.

Senator Cancela said the state had an opportunity to be thoughtful and progressive about the use of funds. She understood the state had financial obligations to meet. She said she appreciated the decision before the Committee and thought it was appropriate to transfer the balance of the Rainy Day Account to the General Fund. Senator Cancela said although it was important to ensure the CARES Act funds and Rainy Day Account funds operated for separate purposes, the state needed to be innovative about the use of those funds.

Chair Carlton said utilizing CARES Act funds to address the state's cash flow issues would prevent them from being used to address the immediate needs of Nevadans. However, the Rainy Day Account was available to address the budget shortfalls.

Assemblywoman Benitez-Thompson said the DSA and NSHE payments were large amounts. She asked if the balance of the General Fund would be adequate to cover payments in June.

Ms. Brown said, in addition to DSA and NSHE payments, there was a large Medicaid payment each month as well. However, she did not have the details of those payments.

Assemblywoman Benitez-Thompson remarked that the largest portion of the state budget was education and health and human services. She said the state would not be able to honor those commitments beyond May 2020 if the funds were not transferred from the Rainy Day Account. Ms. Brown confirmed that was correct.

Assemblywoman Benitez-Thompson said all the legal requirements for what constituted a shortfall had been met and the justification for accessing the Rainy Day Account fell within the parameters set forth by the 2019 Legislature. She thought the Legislature was very thoughtful about the Rainy Day Account during the 2019 Legislative Session without knowing that the state would be facing an economic crisis the following year. The Legislature wanted to ensure the Rainy Day Account could not be accessed without good reason. Assemblywoman Benitez-Thompson said she would hate to see school districts and Medicaid providers go without funds in June due to inaction by the Committee.

In response to a question from Chair Carlton, Ms. Brown replied that the DSA payment was approximately $115.0 million per month. However, the payment was higher in some months, because certain school districts received quarterly payments rather than monthly payments.

Chair Carlton asked if that amount included the shortfall from the Local School Support Tax (LSST). Ms. Brown stated that the $115.0 million did not include the LSST.

Chair Carlton said the state was also required to backfill the shortfall from the LSST. Ms. Brown confirmed that was correct.

Chair Carlton remarked that most of the $400.0 million from the Rainy Day Account would go toward education. Ms. Brown thought that was accurate. She said the General Fund was a large pool of money from which payments were disbursed, and education was one of the state's largest expenses.

Senator Kieckhefer noted that Ms. Brown indicated to Assemblywoman Benitez-Thompson that based on the amount of cash in the treasury, the state would not be able to pay the DSA and NSHE payments in June. However, he recalled that Ms. Brown indicated to him that the state would be able to honor those payments based on the cash flow flexibility allowed through the CARES Act and the General Fund balance.

Ms. Brown clarified that there was cash flow in the General Fund related to the CARES Act funds; however, those funds could not be used to balance the budget.

Senator Kieckhefer said he was not suggesting that the state use the CARES Act funds to supplant revenue. However, he thought the funds could be used temporarily to cover the DSA and NSHE payments knowing those funds would be replaced with funds from the Rainy Day Account or through budget cuts.

Ms. Brown said it was her understanding the CARES Act funds could be used for cash flow purposes.

Senator Kieckhefer said the state was not in immediate danger of not being able to pay the DSA and NSHE payments. Ms. Brown confirmed that was correct.

Chair Carlton said there were no guarantees the CARES Act funds would be replenished if they were used as cash flow, because management of state revenue was complicated. She thought it would be irresponsible for the Committee to delay the decision, because funds were available in the Rainy Day Account for cash flow purposes. She said the CARES Act funds could not be used to address General Fund-type issues. Chair Carlton said the state's economy could be worse in six months, so it was important to get ahead of the problem now.

Chair Carlton said many people were confused about how the two different funds operated parallel to one another but did not support each other. She thanked Ms. Brown for providing clarification.

Senator Goicoechea said everyone agreed there was a need to access the Rainy Day Account; however, it was a matter of how much and when. He said he could support transferring half the balance. With the Committee meeting more frequently, additional funds could be transferred later. Senator Goicoechea said he would feel more comfortable waiting until mid-June when it would be more apparent where the budget stood. Although half of the Rainy Day Account would not be enough, it would help in the short term. Senator Goicoechea said he did not want to try to balance the states' budget based on the hope of another federal stimulus package.

Senator Woodhouse thought Chair Carlton and Assemblyman Frierson had laid out excellent reasons for transferring the entire balance of the Rainy Day Account now. She thanked Ms. Brown and GFO staff for keeping the Committee informed about the plan to address the shortfall.

Senator Woodhouse said the state was fortunate that money was put in the Rainy Day Account during the 2019 Legislative Session, because that had not always been possible. The Rainy Day Account was the first resource to access to help address the state's significant deficit, which would inevitably increase. Beyond that, the state would consider reversions and one-shot funding. Senator Woodhouse said several Committee members remembered the budget cuts during the Great Recession between 2008 and 2011. She said it would be difficult to see people and services hurt as a result of the COVID-19 pandemic. Senator Woodhouse agreed that now was the appropriate time to transfer the entire balance of the Rainy Day Account, which was approximately $400.0 million. She said the total deficit would be exceedingly larger; therefore, it was time to begin addressing it.

Chair Carlton said each transfer from the Rainy Day Account required a Board of Examiners meeting and an IFC meeting; therefore, she thought it was more appropriate to transfer the entire balance at once, because it was apparent the full amount was necessary.

Senator Settelmeyer asked how much money would be required to cover the DSA, NSHE and LSST. Ms. Brown said she did not have an exact figure, but she believed it was a large amount. She did not want to provide an estimate to avoid misspeaking.

Chair Carlton said she had seen some forecasts, but the figures were not definitive. She thought it was best to avoid estimating a dollar amount that could not be substantiated. However, it was clear the number was substantial and there was a lot to manage before the end of the fiscal year.

Assemblyman Frierson said he appreciated that some Committee members wanted additional information prior to making a decision. He said it was important for those members to participate in the process through communication and collaboration.

Continuing, Assemblyman Frierson said it did not make sense to delay paying bills when there was money in the savings account. The proposal before the Committee was to transfer the entire balance of the Rainy Day Account, recognizing that it was still less than the projected shortfall. He stated that the Committee would still have an opportunity to discuss budget cuts and prioritization of ongoing obligations with the Governor. Assemblyman Frierson said it did not make sense to wait until Nevada was in dire straits before accessing money in the savings account. At some point the state may need to use the CARES Act funds for cash flow purposes, which would be available through the end of the year. Assemblyman Frierson noted there had not been money in the Rainy Day Account until 2017. Now that the funds were available, it should provide certainty that the state was doing everything possible to honor its financial commitments.

> ASSEMBLYMAN FRIERSON MOVED TO TRANSFER $401,186,220 FROM THE ACCOUNT TO STABILIZE THE OPERATION OF STATE GOVERNMENT TO THE STATE GENERAL FUND AS RECOMMENDED BY THE BOARD OF EXAMINERS ON MAY 14, 2020, IN ACCORDANCE WITH NRS 353.288(7).
>
> SENATOR WOODHOUSE SECONDED THE MOTION.

In response to a question from Senator Kieckhefer, Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB, confirmed that a resolution would be signed by Chair Carlton similar to the process used for Contingency Account requests. She said the resolution was prepared by the LCB Legal Division and would indicate that the balance of the Rainy Day Account would be transferred to the General Fund.

> THE MOTION PASSED. (Senator Goicoechea, Senator Kieckhefer, Senator Settelmeyer, Assemblyman Leavitt, Assemblyman Kramer, Assemblywoman Titus and Assemblyman Wheeler opposed the motion.)

F. REQUEST FOR APPROVAL TO ACCEPT GIFTS AND GRANTS PURSUANT TO NRS 353.335(2)(b) – REQUIRES EXPEDITIOUS ACTION WITHIN 15 DAYS – Department of Education – CARES ACT Elementary and Secondary School Emergency Relief Funds – Request to accept and expend federal Elementary and Secondary School Emergency Relief funds allocated through the Coronavirus Aid, Relief, and Economic Security Act in the amount of $117,185,045 to assist local educational agencies throughout the state and provide support for remote learning. **REVISED 5-14-20.**

Jhone Ebert, State Superintendent of Public Instruction, Nevada Department of Education (NDE), introduced Heidi Haartz, Deputy Superintendent, NDE. She said the NDE was requesting to accept and expend federal CARES Act Elementary and Secondary School Emergency Relief (ESSER) funds. Funds were allocated through the CARES Act in the amount of $117,185,045 to assist local education agencies (LEAs) throughout the state and provide support for remote learning.

Ms. Ebert said the U.S. Department of Education made the funding application available on April 24, 2020. The NDE submitted its application on April 28, 2020, and received the funds on May 1, 2020. Ms. Ebert noted that 90 percent of the funds must be allocated to LEAs according to FY 2019 Title I methodology, which amounted to $105,466,540. The NDE was permitted to set aside 10 percent of those funds, approximately $11.0 million, for statewide activities. Ms. Ebert noted the ESSER funds must be expended by September 2022.

Continuing, Ms. Ebert said the allowable use for the funds, even though they were allocated based on Title I designation, may be used across the entire LEA as well as State Public Charter School Authority (SPCSA) schools. She said the funds were also available to private schools.

Ms. Ebert said the NDE was working with school districts to coordinate expenditure of the ESSER funds. She provided the following list of permissible uses for the funds; however, the list was not exhaustive.

- All efforts and preparation related to COVID-19, such as coordination with school districts and local health officials.
- Professional development for educators

- Social and emotional health support for families and communities
- Procurement of educational technology
- Activities necessary to maintain the operation and continuity of services in LEAs, such as personal protective equipment (PPE) and other necessary equipment.

Funding may also be used to purchase educational technology, with Ms. Ebert noting that the state was approximately 100,000 short of providing an electronic device to every student in the state.

Senator Woodhouse asked what type of guidance and oversight the NDE would provide to school districts and charter schools concerning the use of the federal funds.

Ms. Ebert replied that the NDE created a committee to support the school districts. She noted that she spoke with school superintendents at least once per week. Additionally, superintendents were creating committees within their individual districts to focus on continuity of education, as it became known how the pandemic would affect the state and the nation.

Continuing, Ms. Ebert said to enable accountability, there was a requirement for the school districts to identify how they anticipated expending the funds. She said the application for the ESSER funds was not like a traditional application, which usually included a timeline for issuing the funds over many months. Once the NDE submitted its application, the federal government issued the funds within three days. The process on the front end built in the expectation of accountability on the backend. Ms. Ebert said the NDE used a similar method for the school districts to ensure they received funds in a timely manner. She reiterated that the districts were required to identify how those funds would be used, and the NDE would work with the districts to ensure accountability along the way.

Senator Woodhouse said she understood there was not a match requirement, but there was a maintenance of effort (MOE) requirement. She asked the NDE to explain the MOE associated with the funding and how the department planned to comply with or seek a waiver for the requirement.

Heidi Haartz, Deputy Superintendent, NDE, confirmed that the funds included an MOE requirement. The federal government was asking each state, to the extent possible, to continue the level of funding in FY 2020 and FY 2021 that would equate to the average funding for elementary, secondary and higher education in the three previous fiscal years. If states were unable to do that, the Secretary of Education for the U.S. Department of Education permitted states to request a waiver. Ms. Haartz said, to her knowledge, the NDE had not received guidance on how a waiver could be requested. Until such time, if any budget reductions were implemented, the department was uncertain if the NDE would be able to continue funding education at the average of those three fiscal years, or if a waiver would be required.

Senator Woodhouse asked if schools within mental health hospitals qualified for the ESSER funds. She indicated that some of the mental health hospitals had to purchase computers and other equipment for the purpose of distance learning.

Ms. Ebert replied that 90 percent of the funds were allocated directly to the school districts and the SPCSA; however, mental health hospitals could apply for funding from the 10 percent set aside.

In answer to a question from Senator Denis, Ms. Ebert confirmed that approximately 100,000 students were currently without an electronic device based on a recent survey of the school districts.

Senator Denis said the state had been adding technology for several years in an effort to provide electronic devices to every student. He recalled that some devices had been deployed during the pandemic.

Ms. Ebert confirmed that was correct. As of March 18, 2020, the school districts were short 130,000 electronic devices. Over the past six weeks the districts had deployed 30,000 devices, which meant that about 80 percent of students currently had access to a device. Ms. Ebert said approximately 20 percent, or 100,000 students, still did not have access to an electronic device.

Senator Denis asked if funds would be used for information technology support, staff training and curriculum development.

Ms. Ebert said it was not beneficial to provide a device to every student in the state if families and teachers did not have support. She said some educators had experience with distance learning while others did not; therefore, it was important to develop a system that included technology and Internet access, which was currently part of the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act. Ms. Ebert indicated that the HEROES Act would provide additional funds for broadband access for schools and families.

Continuing, Ms. Ebert stated that it was important to provide high-quality content and professional development for educators. The NDE was assessing the entire system to ensure all those pieces were in place. She said the school districts and the department were working together to establish partnerships between teachers with experience in distance learning and teachers without experience. Ms. Ebert said the NDE was building the system very thoughtfully over a short period of time, like so many other tasks during the pandemic.

In answer to a question from Senator Denis, Ms. Ebert replied that a one-to-one ratio for electronic devices specifically meant one child per device. She agreed it was not beneficial to require several children in a household to share a single device. That would be like providing them with one pencil to share. Ms. Ebert said she would be sure to convey that information to all the superintendents as well as the SPCSA.

Assemblywoman Neal said it appeared that ESSER funds could be used to supplant budget funds. She noted the Clark County School District (CCSD) would receive approximately $83.0 million. She asked if the CCSD had indicated how those funds would be distributed throughout the district's budget.

Ms. Ebert said there were a lot of moving parts. The school districts were considering budget reductions along with the ESSER funds, not as isolated pieces. She could not speak for the CCSD specifically; however, the district was aware of the ESSER funds and would proceed accordingly.

Ms. Ebert confirmed that the ESSER funds could be used to supplant rather than supplement funding. She said the federal government had made the ESSER funds extremely flexible. School districts were permitted to use the funds however they saw fit; however, it was incumbent upon district leaders to ensure a plan was in place that met the needs of the district. Ms. Ebert said each school district, as well as the SPCSA, was unique.

In response to a question from Assemblywoman Neal, Ms. Ebert replied that the funding was meant to focus on students with the highest needs. The school districts were required to identify how they would focus on and meet the needs of low-income students, students with disabilities, English language learners, racial and ethnic minorities that were often unsuccessful in the educational system, homeless students, and students in foster care. Ms. Ebert said each of those categories of students was a high priority within the ESSER funding.

Senator Cancela recalled that it had been difficult to procure equipment such as tablets and computers due to the high demand nationally. She asked when the NDE anticipated having the equipment available for students. She also asked if the Committee could assist in expediting the process.

Ms. Ebert replied that school districts were reporting anywhere from six to eight weeks for delivery of electronic devices. At present, it was a matter of funding. Without funding, the districts could not order equipment. Ms. Ebert said the sooner the districts could place orders, the sooner families would be provided devices and Internet connectivity.

SENATOR WOODHOUSE MOVED TO APPROVE AGENDA ITEM F.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

G. PUBLIC COMMENT

Pursuant to the Governor's Emergency Directive 006, there was no physical location for the May 18, 2020, meeting of the Interim Finance Committee. 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.

Jim Sullivan, Culinary Union Representative, thought the CARES Act funds should be used to help displaced employees return to work and protect those who remained unemployed. As gaming establishments prepared to reopen casinos, it was imperative that CARES Act funds be allocated for the purpose of testing all hospitality employees prior to returning to work. Additionally, testing must be done with sufficient time to receive results before the employee was scheduled to work. Further, CARES Act funds should also be set aside to assist workers facing long-term unemployment who would need food and housing assistance.

Mr. Sullivan said the culinary union demanded transparency as casinos and resorts prepared to reopen. He urged the Committee to contact the Nevada Gaming Commission and request that the culinary union's proposed public health guidelines be incorporated as the minimum standard in evaluating casino companies' individual reopening plans. Additionally, gaming companies should be required to publicize reopening plans. Mr. Sullivan said safety was a matter of life and death for hospitality workers. He said gaming companies had a responsibility to be transparent as the state fought to control the pandemic. He said the culinary union would continue to be vocal on the issue to ensure workers were protected.

H. ADJOURNMENT.

Chair Carlton adjourned the meeting at 11:21 a.m.

Assemblywoman Maggie Carlton, Chair
Interim Finance Committee

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

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