

THE BOARD OF TRUSTEES OF
THE COLLEGE SAVINGS PLANS OF NEVADA
MINUTES OF BOARD MEETING
February 22, 2018

Chairman Bob Seale called the meeting of the Board of Trustees of the College Savings Plans of Nevada to order at 10:00 a.m., on Thursday, February 22, 2018. The meeting was held by video conference from the Nevada Capitol Building, 101 N. Carson Street, Carson City, Nevada to the Grant Sawyer Building, 555 East Washington Avenue, Suite 5100, Las Vegas, Nevada. Other attendees participated in person or by conference call.

Board members present:

Chairman Bob Seale – Carson City
Vice Chair Jeff Haag – Carson City
Susan Brown – Carson City
Stephanie Shepherd – Carson City
Ned Martin – Las Vegas
Grant Hewitt – Las Vegas, Ex-Officio Non-Voting Board Member

Others present:

Tara Hagan, Chief Deputy Treasurer
Holly Primka, Treasurer's Office – North
Beth Ann Yeats, Senior Deputy Treasurer - South
Sheila Salehian, Deputy Treasurer - South
Blanca Platt, Treasurer's Office – South
Troy Watts, Treasurer's Office – South
Daniel Carter, Eide Bailey
Ardie Hollingsworth, Ascensus
Justin Gardner, ARDI

Roll was taken, and it was determined a quorum was present. Ms. Hagan indicated the meeting had been properly noticed and the agenda was posted in accordance with the Open Meeting Law in both Carson City and Las Vegas.

1. **Public Comment**

There was no public comment in Las Vegas, Carson City or telephone.

Consent Agenda

2. **For possible action:** Board review and approval of the minutes of the College Savings Board of Trustees meeting of December 14, 2017.

Vice Chair Haag motioned to approve Agenda Item #2 of the Consent Agenda. Susan Brown seconded the motion. Motion passed unanimously.

Discussion Agenda

3. **For possible action:** Board review and approval of the Fiscal Year 2017 annual audit of the Nevada Prepaid Tuition Program by Eide Bailey LLP.

Dan Carter with Eide Bailey presented an overview to the Board of the 2017 financial statements for the Nevada Higher Education Prepaid Tuition Trust Fund.

Chairman Seale wanted to know what deferred outflows referred to.

Dan Carter stated that the deferred outflows were related to the trust fund's portion of the PERS liability.

Ned Martin wanted to know what the Board's obligation of PERS is related to.

Dan Carter explained it is the portion of the PERS liability that the trust fund, itself picks up and that it's a statutory allocation similar to all other funds of the State.

Ned Martin motioned to approve Agenda Item #3. Vice Chair Haag seconded the motion. Motion passed unanimously.

4. **For possible action:** Board review and approval of the Fiscal Year 2017 annual report for the Nevada Prepaid Tuition Program.

Sheila Salehian presented the annual report of the Nevada Higher Education Prepaid Tuition Trust Fund as of June 30, 2017 to the Board. She noted that the market value rate of return was strong with a rate of about 10% which helped increase the assets under management to ~\$251 million. She stated that there are over 3,000 beneficiaries using benefits in Program and that 924 families enrolled into the program in the last fiscal year. She noted that the Program continues to grow and is one of the top programs in the country.

Chairman Seale stated that there has been some federal legislation that has occurred recently relative to the 529 programs and wanted to know these changes impacted the Prepaid program.

Sheila Salehian explained that the Tax Act passed in December 2017 only affected the 529 savings accounts and did not impact the prepaid tuition programs. She noted that Prepaid Tuition program will continue as a higher education institution program only and not allow savings for K-12.

Stephanie Shepherd motioned to approve Agenda Item #4. Ned Martin seconded the motion. Motion passed unanimously.

5. **For possible action:** Board review and approval of amendments to Nevada Administrative Code 353B for codification of federal law changes to Internal Revenue Code 529 as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) which include participant self-reporting requirements for distributions.

Jamie Canup, outside counsel to the Nevada programs, stated staff requested that he review the current regulations (Nevada Revised Statute) which was being amended as a result of AB475 to ensure that it was consistent with current law and to determine if any changes need to occur based on the passage of the Tax Act. He noted that he did find that the 2002 federal legislation which changed the distribution requirements to place the burden on the beneficiary for 'qualified' or 'unqualified' withdrawals rather than the Program had not been incorporated. Therefore, the amendments being recommended ensure compliance with the federal statutes.

Tara Hagan noted that the Board has seen the majority of the amendments and noted that Section 18 is the new language.

Susan Brown motioned to approve Agenda Item #5. Ned Martin seconded the motion. Motion passed unanimously.

6. **For possible action:** Board discussion regarding AB475 concerns regarding College Kick Start funding in future biennium budget years and reclaiming questions.

Wayne Howle, Deputy Attorney General, was present to answer any questions regarding AB475 concerns specifically regarding two main questions which are outlined in the draft memorandum which was supplied to staff yesterday.

Ned Martin stated that his basic question relates to the Board's fiduciary responsibility as it relates to the Prepaid Tuition Program and the 529 savings plans for which the Board is statutorily required to oversee as stewards for the programs. He noted that with the passage of AB475 the Board is now required to fund the College Kick Start accounts, noting that he understands the legislation does allow for budgetary constraints which may prevent funding. However, he questions if the Board does determine it can't fund a cohort in a given year what politically would

the Legislature do in this situation. He noted that he is concerned that the Board would then be required to pull the monies from another area of responsibility to fund the accounts even though it didn't think funding was prudent or in the best interest of the plan. He noted the question stems around the potential conflict between the fiduciary responsibilities of the Board versus something the Legislature is compelling the Board to.

Wayne Howle noted that the Legislature's authority is predominant in its ability to allocated funding. He noted that Legislatures are unconstrained by previous Legislatures and that one Legislature cannot bind another. He stated that the Legislature's authority with respect to trust funds is only constrained by Constitution or contract.

Ned Martin noted that he didn't see how that answered his question in relation to his and the Board's fiduciary duty as it related to overseeing the billions in 529 savings plans and millions in the Prepaid Tuition plan. He noted that the Board's fiduciary duty could be comprised if monies were taken from these accounts.

Tara Hagan noted that the Board has several statutory funds under its purview. She noted that AB475 doesn't affect the trust funds for either Prepaid Tuition or the 529 savings plans; NRS 353B.140 is the trust fund which holds the assets for the Prepaid Tuition fund and NRS 33B.340 is the trust fund which holds the billions of assets for the hundreds of thousands of 529 savings plan participants. She stated that monies cannot be removed from these trust funds by the Board or the Legislature under current statute. However, the fees which the program receives from its 529 savings plan partners fund the Endowment which amounts to about \$5 million per year. The Endowment accounts funds the administrative account which is used for day to day operations at the Treasurer's office for the College Savings division. She noted that both the administrative and endowment accounts are general portfolio funds and therefore, both the Governor's Finance Office and the Legislature oversee these funds and can and do make amendments to the funding. She noted that the Governor and Legislature have nearly always had this authority over the Board's budget which includes the College Kick Start funding. She stated the AB475 takes the Board's notion of reclaiming the funds which aren't claimed by a certain grade year and returns these to the endowment fund; the purpose of which was to set up a self-sustaining program.

Grant Hewitt noted that the Board over one year ago voted to reclaim accounts which ensures the College Kick Start program could continue because without reclaiming funds, the Board would not be able to sustain the ~\$1.8 million expenditure each year in perpetuity. He noted that currently the program has about 13% of the total accounts have been claimed to date across all the cohorts. He noted that the program would then return a significant amount each year to the

endowment, although staff and its partners will continue to strive to increase the claimed rate through education and outreach.

Ned Martin stated that he understands the mechanics of the program and asked the Attorney General representative, Wayne Howle, if he would be willing to write an opinion regarding the notion that AB475 does not negatively affect the Board's fiduciary duty or conflict of interest.

Wayne Howle noted that the Board can obtain a legal opinion from the Attorney General and noted that he is not the Attorney General but as the Board's counsel he concurs with the notion that the Board does not have a conflict of interest regarding its fiduciary duty as it relates to AB475 and the changes to NRS 353B.

No motion required.

7. **For possible action:** Board review and approval of Fiscal Year 2018 Financial Literacy initiatives which include online training and awareness of 529 college saving options for families with children who have disabilities and development of a Financial Literacy Website in support of SB249 Summits.

Sheila Salehian presented this agenda item the Board and requested approval of two Financial Literacy initiatives:

- Financial Literacy & College Savings for Families who have children with disabilities or special health needs (\$10,450). The goal of this program is to increase access for families with children who have disabilities with financial literacy materials, resources, and support services in addition to providing information and access to college saving resources, leading to 529 enrollments, and increasing the number of claimed Kick Start accounts.
- Financial Literacy Website & College Savings Curriculum in Support of SB249 requirements and May Summits. (\$18,550 with ~\$1,500 in additional in ongoing annual maintenance for the site starting in fiscal year 2019.)

Chairman Seale questioned if there is a way to measure the effectiveness of the programs.

Sheila Salehian stated that two meetings ago the Board's direction, on any future initiatives, was to ensure that there were three components: 1) pre and post testing to measure knowledge and assessment of what the participants gained from the exposure to the initiatives; 2) to ensure they are statewide and not just in the north and south; 3) to understand, engage and report on the awareness with respect to College Savings Programs, including the number of families who knew about the programs initially and then after the financial literacy initiatives. She noted that this direction by the Board helps to ensure that these three

components are present in all financial literacy initiatives which are presented to the Board for consideration and approval.

Vice Chair Haag wanted to know where we get the list of families with disabilities.

Justin Gardner explained that they work with their partners such as the Department of Health and Human Services and their various divisions. They've worked with providers across the state as well as advocacy groups and other entities that work with these families. He noted they have a fairly extensive network across the state which helps communicate to these families on its behalf.

Vice Chair Haag question why the vendor isn't working with the Nevada Department of Education (NDOE). He stated that this seems to be a critical missing component and asked if we knew why we're not getting the level of participation from NDOE.

Justin Gardner stated that there have been attempts made to work with NDOE but have been met with some legal issues, such as privacy rights which prevent the department from sharing data.

Vice Chair Haag stated he would like staff and the Board to work with NDOE to work with us on this initiative so we ensure we reach our targeted audience. He noted that he would gladly participate in any meetings with staff and NDOE representatives.

Grant Hewitt stated staff will reach out to the Superintendent but would caution the Board to realize the limitations of NDOE. He noted that it does have legal constraints and resources constraints; noting that staff has generally had better luck with dealing directly with the various schools districts.

Vice Chair Haag asked if the website is something we will develop on our own.

Justin Gardner stated that the website will be a custom built enterprise on an existing website.

Stephanie Shepherd asked if there was any thoughts on any of the outreach going to the directly to the educators themselves who are working with these children to make sure they are aware of these resources.

Justin Gardner stated there are a number of ways they can deploy that and will work on designing something within the proposal. He noted that he will report

back directly to the Board at any time to continue to answer these types of questions surrounding the initiative.

Vice Chair Haag motioned to approve Agenda Item #7. Susan Brown seconded the motion. Motion passed unanimously.

Informational Agenda Items

8. Discuss and provide update regarding federal 529 savings plan amendments.

Jamie Canup reviewed two changes in the 2017 tax act that affect the 529 plans. These include allowing distributions from the 529 savings plans for tuition expenses for K-12 up to \$10,000 per year and rollovers from 529 savings plans into ABLE (Achieving a Better Life Experience) accounts are also now allowable.

Vice Chair Haag asked if Staff worked with the Attorney General's office to make sure they were in agreement with this interpretation.

Tara Hagan stated yes the Attorney General's Office was in agreement with outside counsel, and we have both outside counsel and the Attorney General's Office opinion in writing.

9. Staff Notes

Sheila Salehian reviewed the staff notes for the Board.

Chairman Seale asked if the College Savings programs continue to increase.

Sheila Salehian stated that we won't know for sure until open enrollment closes. Explaining that they have done things with marketing to help and have done a lot of outreach.

10. Public Comment. There was no public comment in Las Vegas, Carson City or telephone.

Meeting was adjourned at 11:24 a.m.

Attest:



Tara Hagan, Secretary to the Board