NEVADA LEGISLATURE

Thirty-first Special Session, 2020

SENATE DAILY JOURNAL

THE THIRD DAY

CARSON CITY (Friday), July 10, 2020

Senate called to order at 10:28 a.m.
President Marshall presiding.
Roll called.
All present.
Prayer by Senator Pat Spearman.

Let us pray. Creator of the universe, Giver of all that is good and Champion for the poor, the downtrodden and those living in the social margins, we come this morning, first of all, thanking You for the gifts of life, love, safety and Your protection.

We are asking for Your guidance as we deliberate the economic challenges that face us during these dual pandemics. The health crisis has been revelatory for it is through the COVID-19 lens that we all now see the injustices of inadequate healthcare, underemployment and trauma faced by children living in generational poverty or scarcity. These issues, and many more, have relegated hundreds of thousands of our neighbors to a land of despair and hopelessness.

God, we pray this morning that You will not allow us to be comfortable with our blessings while suffering, discrimination, oppression and castigation exist in the world. Trouble our hearts and our minds to work for justice, equality and equity for all of Your children. Agitate us to consider the plight of the poor, the sick, the weak and the infirmed. God, this is our prayer. This is our hope. This is our petition. We trust You have heard our concerns.

Now, empower us to accomplish the tasks set before us with truthfulness and without deceitful motivation. It is in the Name of the Creator who is concerned about all of creation. God of the universe, we declare this prayer answered for all of Abraham's children, Isaac, Ishmael and Christian descendants.

It is in that Name, we pray.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the following person be accepted as an accredited press representative, and that he be allowed the use of appropriate media facilities: KRNV-TV: Ty O'Neil.

Motion carried.

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bills Nos. 2 and 4 and any other matters relating to the State's budget shortfall, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 10:35 a.m.

Senator Cannizzaro presiding.

Senate Bill Nos. 2, 4 and any other matters relating to the State's budget shortfall considered.

The Committee of the Whole was addressed by Senator Cannizzaro; Crystal Abba, Vice Chancellor, Academic and Student Affairs, Nevada System of Higher Education; Senator Ohrenschall; Senator Harris; Senator Pickard; Senator Denis; Senator Hammond; Senator Spearman; Senator Kieckhefer; Senator Seevers Gansert; Renee Davis, Assistant Vice Chancellor, Nevada System of Higher Education; Senator Ratti; Zach Conine, Treasurer, State of Nevada; Senator Cannizzaro; Mark Krmpotic, Principal Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau; Peggy Bohn; Sabra Smith-Newby, University of Nevada, Las Vegas; Adam Barrington; Senator Hardy; Senator Scheible; Senator Settelmeyer; Michael Duff.

SENATOR CANNIZZARO:

We will open the hearing on Senate Bill No. 2.

CRYSTAL ABBA (Vice Chancellor, Academic and Student Affairs, Nevada System of Higher Education):

The Nevada System of Higher Education (NSHE) is recommending revisions to the Nevada Revised Statues (NRS) to provide authority to the Board of Regents to take actions to minimize the impact of the COVID-19 emergency on recipients of the Millennium Scholarship. This scholarship program is a merit-based program and was originally created in 1999. It is about to turn 21 years old.

Eligible students are funded on a per-credit basis, at $40 per credit at the community colleges, $60 per credit at State colleges and $80 per credit at universities for a maximum of up to six years. The statute provides exceptions to the six years and a number of provisions regarding eligibility are outlined in statute. University and State college students must enroll in at least 12 credits to be eligible for the program and may be funded up to a maximum of 15 credits. For community colleges, the minimum-enrollment requirement is 9 credits, and the maximum funding is also up to 15 credits.

As a result of the coronavirus pandemic and the subsequent shutdown, NSHE institutions closed their campuses and moved students to remote instruction. Due to circumstances beyond their control during the spring 2020 term, many students receiving the Millennium Scholarship who originally enrolled in traditional, face-to-face courses were transitioned to remote instruction. In addition to the shift from in-person instruction to distance learning due to the pandemic, Millennium recipients faced additional stressors including loss of employment, caring for family members and others.

Senate Bill No. 2 includes six sections which I will walk through individually. Section 1, subsection 1, provides limited authority to the Board of Regents to issue waivers for continuing-eligibility requirements during a State of Emergency or Declaration of Disaster only. Absent a declaration of such an emergency from the Governor, the Board cannot invoke the authority to issue waivers. Hence, this bill is narrow in its application to an emergency situation like we face today.

Subsection 2 of section 1 allows the Board to adopt procedures necessary for implementing the waiver. I will elaborate later on what is envisioned for the student-application process for the waiver so you will have an idea what this will look like from a student's point of view.

Subsection 3 of section 1 allows the Board to determine how long such waivers will be in effect.

Subsection 4 includes a requirement that, by February 1, following the State of Emergency or Declaration of Disaster, the Board will issue a report to the Legislature on utilization of the waivers, including the number of waivers issued. I will share figures with this Body on the numbers of students who lost eligibility in spring of 2020 and who may seek the waiver should the Legislature ultimately enact Senate Bill No. 2.

Section 2 includes technical revisions that would reference the provisions of this act.

Section 3 includes technical revisions to NRS 396.930 referencing the provision for credit-load requirements that may be waived under the provision of this act.

Section 4 includes a technical revision to NRS 396.934. It includes continuing-eligibility requirements and references the provisions of the bill so such continuing-eligibility requirements may be waived.

Section 5 of the bill authorizes the Board of Regents to retroactively address eligibility loses that occurred as a result of the pandemic. This will effectively allow waivers for continuing-eligibility requirements for students who received the Scholarship in spring or summer 2020.

Section 6 of the bill provides the effective date of the major components, which would be upon passage and approval.

Should this bill be enacted, the Board will take action at its special meeting on August 7, 2020, and adopt procedures for the implementation of the waivers.

Why is this bill necessary? The grade point average (GPA) requirements for continuing eligibility are provided in NRS 396.934 and require the use of a semester GPA. The term "semester GPA" is important in that section; it is not accumulative GPA. For example, a student may have an overall GPA of 3.0 but, for the spring semester, may have earned a GPA of 2.6. As a result, it is possible a high-performing student with a high cumulative GPA whose semester GPA dropped below the 2.75 required for eligibility during the spring semester would earn a strike and lose eligibility for subsequent terms. Students who earned a second strike would lose eligibility permanently. Several Sessions back, the Legislature enacted a provision to increase the GPA requirement so if a student lost eligibility in one term, it was considered a strike. Students can have two strikes before they permanently lose eligibility. If you lose eligibility in any one term, you must achieve the semester GPA requirement of 2.75 in a subsequent term in order to regain eligibility.

The Nevada System of Higher Education's transition to remote learning was challenging given the short turn-around time. It is evident from student-eligibility data that the efforts to support students, put into place by our institutions during the pandemic, generally had a positive impact. As a result, compared to the prior spring term, the percentage of funded students who lost eligibility in spring 2020 declined. These dropped from 19.6 percent in spring 2019 to 12.9 percent in spring 2020. There were 2,200 students who lost eligibility in spring 2020 compared to 3,200 students who lost eligibility in spring 2019. That is the group of students we are aiming at with this waiver.

Each student faced a variety of challenges that may have impacted their Millennium Scholarship eligibility, and we believe it is prudent to allow students to seek a waiver of the continuing-eligibility requirements for spring 2020. The waiver option will effectively hold students harmless for spring 2020 and is a reasonable step. It would allow NSHE to quickly process eligibility updates as they are requested, without undue delay, to provide funding to students who want to enroll in the fall and receive their Millennium Scholarship.

The fiscal impact does not come without a cost. In discussing the matter with the State Treasurer's Office, we do not believe the fiscal impact will be significant in terms of overall impact to the Millennium Trust Fund due to the bill's narrow applicability.

If the bill is enacted, NSHE will establish a waiver program where students can self-identify as having been negatively impacted by the pandemic and, therefore, lost their eligibility for the

Millennium Scholarship. We are in the process of developing an online form students can access to request a waiver. Once those students are identified, we will transmit a file to the State Treasurer's Office identifying those students so they can be flagged as eligible for the subsequent term in which they enroll. The State Treasurer's Office acts as the official record-keeper for eligible students.

As a practical implementation matter, a student who seeks the waiver may not necessarily enroll in fall 2020, but with the waiver, the student will retain eligibility for subsequent terms for which they enroll within the six-year program limitation. This means if I lost my eligibility in the spring of 2020 and apply for the waiver but do not enroll in the fall and decide to delay my return to college until the spring, I would be able to receive the Scholarship in the spring or anytime within that six-year limitation. If all 2,200 students who lost eligibility in 2020 seek the waiver and enroll at the highest rate, meaning they enroll at a university or State college at the $80 per-credit rate and are enrolled at the minimum credit load required for eligibility of 12 credits, the estimated impact is $2.1 million. At the maximum credit load of 15 credits, also calculated at $80 per credit, the estimated impact is $2.6 million. The conservative estimate on the high end is between $2.1 million and $2.6 million. Not everyone will enroll at a 4-year institution and not everyone will enroll at 15 credits. These are conservative estimates because we cannot predict who will enroll in the fall, whether they will enroll at a 40-, 60- or 80-credit institution and what their enrollment load would be. I am guessing on the maximum end, as we determine that projection, it will be between $2.1 million and the $2.6 million. This cost will not necessarily all hit in fall 2020. There may be some students who request the waiver but do not return to an institution until a semester beyond the fall of 2020; it could be the spring of 2021, fall of 2021 or even spring of 2022.

SENATOR OHRENSCHALL:

I appreciate everything you are doing to help kids remain in higher education and finish their degree programs. Section 1, subsection 3, the language stating the "temporary waiver modification may remain in effect for as long as the Board of Regents, in its discretion, determines is necessary." What is the goal of keeping it open-ended? If we get through this current Declaration of Emergency in three or four months, how long do you envision the waivers staying in effect?

MS. ABBA:

Regarding the question about how long can students apply for the waiver, we are envisioning that if the Legislature enacts the bill and the Board approves the provisions for creating the waiver program at the August 7, 2020, meeting, our goal would be to have the waiver form online that day. As soon as the Board takes action, students would be able to access that form. We are contemplating, and will recommend to the Board, giving students access to the waiver through the end of the calendar year. Students would have through December 31, 2020, to fill out the form.

The program is limited to six years. Once they fill out the form, their eligibility for any subsequent term in which they would enroll, in which they are funded, is basically ensured. The bill, based on the six-year limitation, puts a limitation on use. The intent of subsection 3 is to allow a time period in which students would be able to access that form. Depending on what happens in the fall, that language would give the Board authority to put a waiver in place for other terms. Right now, we are only envisioning those students funded for the spring of the 2020 term because we know they were directly impacted by the stay-at-home order and the transition to remote instruction.

SENATOR HARRIS:

Is there a reason we need to require students to affirmatively ask for the waiver? As you mentioned, we know every student who was eligible in the spring of 2020 was impacted. Is there some opportunity for us to make it a bit easier for those students to maintain their eligibility, or is this the only way to do it?

MS. ABBA:

The way the bill is written, we could do a blanket waiver for all 2,200 students. The reason we did not do it that way was not so much with the cost in mind, but there were some students who received the Millennium Scholarship, and unfortunately, I do not know this number, who were already exclusively online. The ability to do that is quite simple in terms of creating that form. We are envisioning this form would take about 45 seconds to fill out. We just need basic information such as the student's ID, the student's Millennium Scholarship ID, their name, phone number and a certification they were impacted. It is possible for us do to a blanket waiver. We will be making a number of efforts to communicate with students so they know that form is out there. We will be doing that through both our institution's financial aid offices and the State Treasurer's Office.

SENATOR HARRIS:
I would encourage you to make it as easy for students as possible.

SENATOR PICKARD:
My family now has four kids in college; two of whom just graduated, one from the Air Force Academy, and we are excited about that. We know these kids' general habits, and if there is way for them to save a buck, they will. If there is evidence to suggest all students' grades were negatively affected, perhaps their instructors did not curve them properly or they saw an effect that hurt their grades. I would think we would want to make this automatic instead of requiring students to go through additional steps.

Do we see that recipients of the Scholarship were affected differently by the stay-at-home orders than to nonrecipients? Does this suggest they should be uniformly getting this? Did we see a significant decrease in grade performance across all students as a result?

MS. ABBA:
The answer is "no." I do not have data that supports this event disproportionately impacted Millennium students. The data was from NSHE course taxonomy which addresses all State-supported courses. These are courses that go into the funding formula and that distribution is dependent on completed courses. This is not exclusive to Millennium students. This is all State-supported courses where a grade was assigned as of a week or so after the term ended. From that data, you can see that we actually assigned more higher grades. What I construed from that is evidence that students who were engaged in distance learning performed as well or better than they would have otherwise. I do not have anything that gives me an indication the other way.

It is reasonable we could eliminate the waiver application and have this be deemed more of an automatic process. We modeled this after what institutions did with the CARES Act funds for the student grants. Some of the institutions created a basic form so the student took a proactive step on their own in requesting those funds. This does the same thing and acts as a basic documentation. It is not unreasonable, given the fact the numbers are so low, that we simply award the waiver automatically to all 2,200 students.

SENATOR PICKARD:
Now, you have peaked my curiosity. If we want to do this because we assumed the stay-at-home orders created a problem for students and their grades and all grades tended to go up, because you have not segregated the recipients from the nonrecipients, does that not undermine the justification for making these changes?

MS. ABBA:
I do not believe so. The reason for this is there are students whose grades legitimately went down. You have to look at these on a case-by-case basis. There are students who experienced a decline in their GPA, over their accumulative GPA, which was the challenge we were facing. What we do not have is ability to look at every single case individually. We do not know the balance between students who performed better because of the overall grade inflation we see in that data versus students who did not. We wanted to err on the side of making sure all students have the opportunity because we cannot tell for sure in the data.

SENATOR PICKARD:
As a body, we need to see evidence to be able to make our decisions. If there is evidence to suggest students were affected negatively, I do not see a reason why we would want to push them into filling out a form. My fear is the one person who, perhaps, is trying to find work or is otherwise engaged, and they miss it. They lose eligibility simply because they did not see the notice.

If we are going to err on the side of making sure everybody gets this opportunity, I suggest we waive the notice requirement. If we are not going to look at this on an individualized basis, making sure students were negatively affected because of the COVID-19, then everybody should get it.

SENATOR DENIS:
What would the criteria be for rejecting a waiver submitted by a student? What would cause you to deny them?

MS. ABBA:
We would not reject anyone because there would be a statement certifying they were impacted.

SENATOR DENIS:
The assumption then would be that if they do not fill out the paperwork, they were not impacted. Is that correct?

MS. ABBA:
That is the only situation in which they would not receive the waiver. What I am hearing very clearly, and I do not disagree, is we could do a blanket waiver so there would be no form. You are correct. There will be individuals who did not fill out the form. Maybe that is a personal choice. Perhaps, they thought, "Yes, I moved to a remote situation, but that is not why my grades declined." The way we have envisioned it now, they would not receive the waiver only if they did not fill out the form. They would not be rejected if they complete the form. I am clearly hearing a preference to eliminate the form altogether, which we can easily do.

SENATOR DENIS:
That makes sense to me unless we are going to have criteria that would cause them to be declined. Does this apply only to those currently in college, not seniors just out of high school coming into the System?

MS. ABBA:
Correct. It is only for continuing eligibility for NSHE students who were displaced due to remote instruction.

With regard to initial eligibility, the statute addresses both. The statute has requirements for initial eligibility that looks at the accumulative high school GPA. Early in the lock-down, we had conversations where we reached out to Nevada Department of Education who put us in contact with representatives from the district superintendents. We specifically spoke with the superintendents from Douglas and Humboldt Counties who acted as liaisons to the broader district superintendents' group. We discussed the existing flexibility districts have when calculating GPA. They took that information back to the broader group who felt a waiver for initial eligibility was not necessary. That makes good sense because we are requesting the waiver for continuing eligibility as it applies to a semester GPA. Initial eligibility is a cumulative GPA from four years of a high school career. I am not sure how we would do that because it would be giving a waiver for a specific circumstance that occurred in a limited period of time for a GPA that accumulated over four years. The good news is, given the flexibility and provisions that exist concerning the calculation of cumulative GPA for high school students for the purpose of the Millennium Scholarship eligibility, they have the flexibility to make adjustments to address the situation.

SENATOR DENIS:
My son is a senior this year, and I know these seniors have been impacted as well. The seniors who might have been impacted are ones who did not qualify because of the GPA, but they did qualify because of their ACT scores. That is the other criteria considered; you either have the cumulative GPA or the ACT score. Is that correct?

MS. ABBA:
That is correct. There are two avenues to ensure eligibility. If you did not achieve the GPA but achieved the defined ACT or SAT score, you would be eligible.

SENATOR DENIS:

Would only students who would be impacted be only those who had not taken the ACT or SAT tests yet?

MS. ABBA:

That is correct. It is a requirement for high school graduation to take the ACT. Students technically have not graduated from high school until they do. They can take it at a later date, which deems them as having meeting that high school graduation requirement.

SENATOR DENIS:

It is probably too soon, but have any studies been done regarding the breakdown of the 2,200 students? I would be interested to see if, from a diversity standpoint, some students were more impacted because of the pandemic. Have you done any studies yet, or is it too soon?

MS. ABBA:

No, we have not done any studies. We can definitely include that in the reporting requirement for subsection 4. The challenge we had is we did not have grade data until recently. We simply did this as quickly as we could to come up with the overall number, but that will be data we will have. We can have that included in the report for February.

SENATOR DENIS:

That would be interesting because some students might do better due to switching to online, and others might have different circumstances and be impacted by that change.

Is there a deadline to apply for the waiver?

MS. ABBA:

We were envisioning the forms will be available through the end of this calendar year. Based on the feedback we have received today, I am anticipating we will not have a form.

SENATOR DENIS:

I asked about a deadline because if a student chose to not go to school this next semester, due to the current situation, and did not come back for a semester or another year, would they have missed out?

MS. ABBA:

The way it was originally envisioned, if they fill out the form before December 31, 2020, the waiver would be in place for whenever they return and were funded. It does not matter if it is a year or two later. As long as they completed the original form, they would be okay.

SENATOR HAMMOND:

Going back to section 1, subsection 3, when we talk about the State of Emergency, it states "… as long as there is a response to a state of emergency or declaration of disaster …", the Board of Regents would have the authority to issue this waiver to those who were affected during a certain period of time. My issue is the language sounds like even after the State of Emergency or Declaration of Disaster is over, the Board of Regents would not only still have the authority to continue to allow students to not just access a waiver for the particular impacted semester but also the next semester and the next semester. It does not seem to have an end as long as they think they may be impacted by the events or circumstances of that emergency, so they can continue to do this.

Your answer to the Senator from District 21 was the access to a waiver can go for a long time, and that made sense to me. Can you explain to me why the Board needs the authority to, in a sense, continue a state of emergency even semesters after the State says the emergency is over with?

Is there a way to say they only have one semester, and after the emergency has been terminated, the authority to issue is over? I am stuck on the idea they have an unlimited ability to continue this emergency.

MS. ABBA:

The provisions of section 1 are tied to the specific situation of a state of emergency declared by the Governor. Absent that declaration, we would not have this authority. The intent of this is that it be narrowly applied to a specific situation where the Governor has issued a declaration of disaster or state of emergency pursuant to the specific provisions in chapter 414 of NRS as Governor Sisolak did so in April or May. Absent that, we would not have this authority.

The provisions of section 3 allow the Board to provide a waiver under those limited circumstances for a period of time they define. The language in section 1 would be codified in NRS. Absent a declaration from the Governor, we do not have that authority if there is another situation five or ten years from now. This is not necessarily just for a pandemic but is whatever the emergency situation might be. It must be a severe situation in order for the Board to have the authority to issue these waivers. It was our intent, based on the way the bill is drafted, this be narrowly limited to those situations. While the language will continue, we would only be able to invoke that authority, as the Board, if there is another situation in which the Governor issues a declaration of disaster or pursuant to chapter 414.

SENATOR HAMMOND:

I understand the trigger happens when the Governor issues a state of emergency. Right now, students who were impacted by the State of Emergency in the spring semester of 2020 would then be eligible for waiver. We are discussing how that waiver would be implemented. It sounds like we all agree it should just be automatic if the State of Emergency is still there, and it may impact students in the next semester. Let us say that in December, the emergency is removed. Would the Board still be able to say that any students who were impacted in the spring of 2021 would be eligible for a waiver, or does that ability end as soon as the emergency is revoked?

MS. ABBA:

If there is no state of emergency, we do not have that authority.

SENATOR HAMMOND:

That is what I wanted to hear. Students would still be able to access a waiver for the other semesters. That was the answer you gave Senator from District 21. As long as that is the intent, I am satisfied.

SENATOR SPEARMAN:

I look at this opposite to my colleague from Senate District No. 18. The vicissitudes of this pandemic are going to be long term and far reaching. Some may not even have the wherewithal to conduct some types of business. I understand this it is triggered when the Governor issues a state of emergency, but I caution you to not shut down this option immediately after it is over. Things like this have long-term effects, especially if people are dealing with the death of a loved one or as a result of their parents losing their jobs, homelessness and that type of thing. I appreciate not wanting to give unlimited authority, but some type of a caveat should be in place. By all accounts from experts, even when this is over, it will still be with us.

SENATOR KIECKHEFER:

Section 1, subsection 1, outlines NRS 396.930.1(f), which is the credit-enrollment requirement for the previous semester. It is specific, and that makes sense to me. It also outlines NRS 396.934. One section of that contains language regarding satisfactory academic progress, but there is a whole lot more in that section, including paying for remedial courses, a cap on $10,000 in total benefits and paying for no more than 15 credits per semester. Is there a reason that whole section is outlined? Are you planning on waiving things other than the satisfactory academic-progress requirement?

MS. ABBA:

No, we are not. You are right. That section is broad and deals with a number of issues relating to continued eligibility. NRS 396.930 deals with initial eligibility, but it includes a continuing eligibility provision. That is why NRS 396.930 is limited to paragraph (f), subsection 1. It is our intent to limit this to the credit load and the GPA requirement. If you do not get the GPA, you are not going to make … (unintelligible statement) … so when we deal with one, we are dealing with the other. We will cover all of those scenarios.

SENATOR KIECKHEFER:
In looking at the second section of NRS 396.934, is the important part to you subsection 3 regarding satisfactory academic progress?

MS. ABBA:
Yes, that is where the GPA requirement is.

SENATOR SEEVERS GANSERT:
How is satisfactory/unsatisfactory grading element impacting the situation? Through summer of 2020, NSHE is giving students an option to convert a grade into an "S" for satisfactory or a "U" for unsatisfactory. How does that play into this?

MS. ABBA:
I do not have specific data on students who lost eligibility because of the "S" or the "U." When the System invoked the authority for institutions to offer students the option of the "S" or the "U," there was a requirement those students be advised, before they made that decision, of potential impacts on Millennium Scholarships. We have an existing protocol in place so that under normal circumstances, if a student receives an "S" or a "U" and they are on the cusp with respect to eligibility pertaining to their GPA, they can request the grade for the purpose of the calculation.

RENEE DAVIS (Assistant Vice Chancellor, Nevada System of Higher Education):
The impact of the "S" and "U" grades are more likely to have helped students than to have hurt them because of the advisement piece all of the campuses have in place before the request was processed. In a way, it could have helped students because they were able to select which courses they took for a satisfactory or unsatisfactory grade. In a case where the student may have earned a low grade in the past, they could have gotten an "S," which is a neutral grade in the GPA system. This would not affect their GPA one way or the other. In terms of students who got a "U," that was no different from failing the course. There would have been a way for this to help students. It would have been rare if this negatively impacted them. There would be redress if a student had put in a request, and it turned out not to be the right decision. If there were a waiver, we would not need to worry about those situations.

SENATOR SEEVERS GANSERT:
The way I read it, students need to have at least one grade recorded. They could have four classes but as long as one is recorded and above the GPA of 2.75, it would continue.

We have talked about a waiver, and it is almost a built-in assumption that it is a one-time waiver. This does not address whether you can continue to waive the eligibility for more than one semester. I do not know if there should be boundaries on how many times you can get something waived.

Another consideration, brought up by my colleague from southern Nevada, is how there are sometimes prolonged effects from an event. If we only allowed students to get a waiver one time, maybe there could be a system where they apply for a waiver on an individual basis, based on circumstances that may occur far after this emergency or disaster. That could be a consideration to set this up so everyone gets a waiver the first semester and not necessarily a second waiver. If there is a system where they can apply for a waiver, we may want to consider it.

The language around the State of Emergency or Declaration of Disaster is broad and leaves the discretion up to the Board of Regents. This is concerning because we have a State-wide emergency because of COVID-19, and there is no limitation on what that could look like. Sometimes, we may have a fire and a state of emergency is declared, or there may be other reasons an emergency is declared. We may want to narrow that language to make sure the emergency event directly effects the health and safety of students.

I am bringing these issues up because the Millennium Scholarship was originally set up using tobacco dollars, and there was a pretty good stream of funding for that. What it has become is a one-shot every biennium. We need to watch the spending to make sure we can continue this Scholarship and remains sustainable. If we put some boundaries around this, it would make better sense.

Some of my colleagues have asked whether there should be a sunset on this. Right now, we have had a conversation about whether there is an emergency in place or not. I cannot remember if there is actually a declaration at the end of an emergency or disaster. Once you flip it on, it does not necessarily turn off. We may want to sunset this and reconsider it later.

How many waivers can someone get? If we give them an initial waiver for this period, do we allow one-off waivers because of certain circumstances that may have occurred after the initial period? Do we want to sunset this? Do we want to narrow the language around the State of Emergency or Declaration of Disaster making sure it is actually effecting the health and safety of students and not maybe a fire somewhere across the State where a declaration has been declared, but it does not impact them?

SENATOR RATTI:

I appreciate the questions from my colleagues on the policy and the educational impacts of this, but I need to go back to the financial impacts. Fund sweeps are being proposed as part of the solution to our budget shortfall, including the fund sweeps to the Millennium Scholarship Fund. You said there was an additional estimated $2.1 million impact to the fund to do this waiver. Will we have the funds to fulfill the obligations to the Millennium Scholarship program in the current Fiscal Year 2020-2021? Please comment on that and where it leaves us going into the next fiscal year

MS. ABBA:

Our estimate of $2.1 to $2.6 million is a conservative number in terms of assuming the highest credit threshold at the $2.6 million and the highest per-credit amount. I will defer the rest to Treasurer Conine.

ZACH CONINE (Treasurer, State of Nevada):

This will leave us in a place where we will go into the next biennium with effectively no money in the Trust Fund, which will lead us to finding solutions to face that problem. Regardless of what we do here, we will need to find solutions for the Millennium Scholarship Fund going into the next biennium. Between this and the sweep, it is the difference between having $3.6 million in the account and zero.

SENATOR CANNIZZARO:

You and I spoke earlier regarding Senator Ratti's point about getting data on the impact to students who would be affected by this waiver and on the overall solvency of the Scholarship. Please speak to that so if any of the members have questions, we can talk about that as well.

MR. CONINE:

As you know, we have been talking about this for a while. The Millennium Scholarship is fundamentally insolvent, from a long-term perspective, without an additional cash infusion at every biennium. In talking to those at NSHE and our internal staff, we think this is an opportunity to take the report that is going to be provided about the financial impact of COVID-19 to Millennium Scholars and expand it to include the financial status of the Millennium Scholarship and find solutions for long-term funding. Our office can take the lead on that with input from NSHE and other community partners. We would like to offer an amendment wherein we would amend that report to include that information with the same due date. This would allow you all to have the information needed going into the next biennium to potentially adjust the program to make sure it is still around for the next 20 years.

SENATOR CANNIZZARO:

Would that report come from your office in coordination with NSHE? How would that work?

MR. CONINE:

We will take the lead on it while obtaining input from NSHE. All of the financial information rests in our office, and we are capable of all of the modeling pieces. When it comes to the policy piece, any recommendation on that front we will leave to NSHE and other stakeholders.

SENATOR CANNIZZARO:

Ms. Abba, can you speak to the suggestion to include a report that would have some of this data regarding the impact of COVID-19, the students who would fall under this and the general on-going health of the Millennium Scholarship?

MS. ABBA:

We have no objections to expanding the provisions of the report. Treasurer Conine, as well as everyone else in the State, is acutely aware of the challenging situation with the Trust Fund. The program was created in 1999, and the first infusion occurred in 2005. This took $7.6 million from the Unclaimed Property Fund and $35 million from the State General Fund. In almost every Session thereafter, there has been an infusion, be it from the General Fund or Unclaimed Property. It is challenging financially to sustain this program. However, because of its longevity in terms of the three, State-supported financial-aid programs, it is the one most parents and students throughout the State are aware of. It is an asset to the System and the State overall. We are supportive of any efforts to ensure its financial longevity.

SENATOR RATTI:

I understand the projection is conservative. What happens if we exceed what is in the reserve? Is there anything in statute to help us if we hit the day where we were wrong with our projections and swept more than we needed to fulfill the obligations for this budget year and exceed what is in the reserve? Where does that leave us? Is that something the Interim Finance Committee (IFC) can resolve, or is it something where the answer is in statute?

MR. CONINE:

It is my understanding we would run a work program for any deficit, just like we do when college Kick Start comes in higher than expected.

MARK KRMPOTIC (Principal Fiscal Analyst, Fiscal Analysis Division, Legal Counsel Bureau):

I did not hear all of Treasurer Conine's response, but one of the ideas discussed to shore-up the Millennium Scholarship Program is considering a transfer from the Endowment Account at the Treasurer's office. I believe this is allowed for in the statute for the Millennium Scholarship Program. This could be considered by the IFC if the projections, for some reason, do not come in accurately for the Millennium Scholarship Program. We could make a transfer from the Endowment Account for the interim, and the long-term solution would be to address it in the 2021 Legislative Session. This information came from the Governor's Finance Office and appears to be the most logical solution in the interim, barring any future action by the 2021 Legislature.

SENATOR KIECKHEFER:

Ms. Abba, are your projections grounded? Do you have a good sense of who is eligible and who is not based on the spring 2020 performance at this point? Are those numbers locked down, or are they projections?

MS. ABBA:

I would consider them locked down. The exact number I have is 2,217. There may be some changes in grades if students appeal for some reason, but I am confident in that number. I did the math by multiplying the highest credit load and the highest credit-dollar amount to come to the $2.6 million. That is not necessarily going to hit directly in the fall of 2020 because students may not return in the fall of 2020, they may return in spring of 2021 or later, within that six-year limitation.

SENATOR KIECKHEFER:

I understand your projections are conservative. Treasurer Conine, are there any projections related to tobacco-settlement agreements expected to come in that are baked into this calculation, or are all of our MSA allotments for this year already booked? Do we know what those are going to be with certainty?

MR. CONINE:

We know with certainty what these are going to be. They have been relatively stable over the last couple of years, so we are able to project that with a fair degree of certainty. We agree with Ms. Abba's description of what we think the math is going to look like on the high end. I think it is conservative.

SENATOR KIECKHEFER:
Do you agree with Mr. Krmpotic's assessment of the transfer of funds from the Endowment Account as a backup plan?

MR. CONINE:
As a potential backup plan, I do. I am not sure whether the changes made during the 2017 Session regarding use of Endowment Funds would prohibit that. I would ask the LCB Legal Department to take a look at that. There are some shifts about what can be done with Endowment Funds. You might want to take a look at that language.

SENATOR SEEVERS GANSERT:
I would like to know what is in the Endowment Funds. Are these Endowment Funds earmarked specifically for Kenny Guinn Millennium Scholarships? Are you transferring money out of the principal, or is this earnings on our interest?

MR. KRMPOTIC:
The Endowment Account represents earnings or transfers from investment companies with whom the State contracts, for the Prepaid Tuition Program. They are called Savings Plans. It is generally considered a funding source to ensure the financial liability of the Prepaid Tuition Program. Based on my recollection, that program is funded with approximate percentages of about 130 or 140 percent. To the staff's knowledge, it is not immediately necessary to shore-up the Prepaid Tuition Plan. If needed, this would appear to be a possible option to address the Millennium Scholarship Program.

SENATOR SEEVERS GANSERT:
That is helpful. I did not realize it was related to the Prepaid Tuition Plan, and we would be crossing over to that pool of funds. You said it was 130- to 140-percent funded?

MR. KRMPOTIC:
Based on my recollection and from what I have heard, yes.

SENATOR SEEVERS GANSERT:
Does Treasurer Conine need to confirm that?

MR. CONINE:
Mr. Krmpotic is right, and I will add some additional information to this. The funds in the Endowment Account come from our financial partners; the people behind the investment in Nevada's Prepaid Tuition and the $26-billion worth of other college-savings assets we manage. Those funds come in and pay for the operations of all of our college-savings programs. They pay for the administration of the Millennium Scholarship. They pay for the administration of the Prepaid College Kick-Start program and all of the other outreach programs our office does. They have been used in the past to backfill the Nevada Prepaid Program when necessary.

The Prepaid Program is substantially overfunded. We are on the good side of things related to our ability to pay the bills in the future. We do not expect there will be problems on the Prepaid front. We have worked with the Governor’s Finance Office and LCB on the sweep from the Millennium Scholarship, and we are relatively aware we have the financial security we will need in the coming years.

SENATOR SEEVERS GANSERT:
Ms. Abba, what do you think the intent is around waivers? Do you think they are one-time waivers, or are you thinking the Board of Regents will continue these waivers for a period of time? Can students receive more than one waiver?

MS. ABBA:
The intent of my office, when proposing this to the Board and to the Legislature, was that it be a one-time waiver because this was a circumstance beyond the student's control. This would be specific to the spring 2020 semester, hence, the transitory language in section 5 that applies it retroactively. Our intention is it is one-time only.

Given the conversation today, we would not object if the Legislature is more comfortable in sunsetting the provisions of Senate Bill No. 2 on a date you select, given we have retroactive language specific to the term "directly impacted," in this case, spring 2020.

SENATOR SEEVERS GANSERT:

We have choices to either sunset this or narrow the definition of "State of Emergency" or "Declaration of Disaster." You could probably go either way.

You have waivers for the GPA and for the number of credits. There may be some circumstances, although I believe it is rare, where the limit of six years becomes an issue for a student. If a student needs to go beyond the six years, it may be because they had to leave school for a year to help their family or something like that. I do not know if we want to consider that. I think those would have to be one-offs. They could not be a blanket waiver for an extension of the duration of eligibility.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Senate Bill No. 2.

PEGGY BOHN:

I am in favor of this because this is my area of location as far as work. I am a longtime NSHE employee and also a member of AFSCME Local 4041. As a longtime State employee, I have gone through these budget cuts before, a decade ago. Many of you were here a decade ago going through these same budget cuts. Some of our issues could be corrected if we could tax the corporations that are getting all of these benefits off our backs. We should also stop eliminating our positions instead of hiring contractors at a higher pay and receiving fewer services. These cuts are not only hurting our economy but also our livelihood as employees and consumers.

A decade ago, when you starting doing all these cuts, I warned you all of the impact it would have on Carson City alone. If you recall, downtown Carson City went dark due to State employees being hit. We were not only losing our personal income but also the income to help save our city. I understand these circumstances are a bit different than a decade ago, but the impacts will be the same.

SABRA SMITH-NEWBY (University of Nevada, Las Vegas):

I am representing the University of Nevada, Las Vegas and am calling in support of Senate Bill No. 2 because of the flexibility it gives our students in these challenging times. I urge its passage.

ADAM BARRINGTON:

I am an employee of the State of Nevada. I work in higher education, and I am a proud member of AFSCME Local 4041. I am calling in support of Senate Bill No. 2 because it helps our students who are having a tremendous level of difficulty due to this pandemic. They should be financially supported by this State. The fact that higher education is not considered an educational right in this Country is already somewhat disappointing. This bill will help students in these difficult times. I am speaking as a person who works with students. It is imperative this legislation be put through. Please consider what I said.

SENATOR CANNIZZARO:

We will now open the hearing to those in opposition to Senate Bill No. 2. Hearing none, we will now open the hearing to those neutral to Senate Bill No. 2. Hearing none, we will open the hearing on Senate Bill No. 4.

MR. CONINE:

In the midst of the COVID-19 pandemic, the State of Nevada is facing an unfortunate economic situation. Unlike previous economic downturns, COVID-19 has presented us with a level of economic uncertainty unlike anything we have seen before. To ensure the State can respond to public-health emergencies and fiscal crises in the most financially responsible way, it needs to strengthen its financial tools and provide flexibility to respond to rapidly changing economic conditions. Since Nevada is one of only four states with a biennial-budgeting process, it is challenging to adequately respond to evolving economic conditions in the most efficient manner.

Senate Bill No. 4 makes several changes that will give the State a level of flexibility to ensure General Fund appropriations made by the Legislature can be fulfilled in an economic downturn without taking significant losses in the State's investment portfolio. I will address the sections out of order to better illustrate the requested amendments to NRS 349.

Sections 3 and 5 of Senate Bill No. 4 amend the State's Security Law portion of statute in NRS 349-227 through NRS 349-318. This section does not authorize the issuance of debt but rather outlines the necessary procedures for financing any debt.

Section 3 would authorize the ability to create a Commercial Paper (CP) option as an additional tool for short-term borrowing. This would provide the procedures necessary to allow for variable-rate debt in the future, should the Governor's Office and the Legislature choose to implement such a program for short-term borrowing. Often, CP is seen as a better tool for short-term financing. It is generally cheaper in the marketplace, it can be tax exempt and is not deficit borrowing.

Section 5 is another tool which allows for a line of credit and short-term debentures. This section specifies the first lien on the debt in the event it is for short-term liquidity and deficit borrowing to the extent General Fund revenues could be pledged to pay the debt when used for general operations of the State. These will be the first source of payment, however, General Obligations, which are backed by property tax, can also be used in the event this is necessary for the issuance of debt. Neither of these sections authorizes additional debt for the State.

Section 1 is authorizing the State Board of Finance to issue interim debentures which may be in the form of a line of credit up to $150 million in aggregate. This is a new section in NRS 349, but it is not under the State's Security law. A line-of-credit maturity is a maximum of three years, and debentures are a maximum maturity of five years. Debt can only be used for deposit into the General Fund and not for a project. This is not a mechanism to build something. This is a mechanism to pay for things that have already been budgeted. The money would be used to continue budgetary expenditures previously approved legislatively.

SENATOR DENIS:

Do you know what other states use this type of financing with this particular type of mechanism?

MR. CONINE:

Many other states use short-term financing as necessary. They typically do so through the issuance of things like Revenue Anticipation Notes, Tax Anticipation Notes or Bond Anticipation Notes. They may also use lines of credit to make up for short-term cash-flow needs or liquidity needs in a period of time and then repay them. Some states use something we are not encouraging, which is the use of vehicles for deficit financing. This is used when you do not have enough money, or expect to not have enough money to pay for things, and borrow in order to make sure those operations can take off. We are not recommending that. We are recommending we have a tool in place. So, given this time of relative uncertainty, or if something happens we are not planning for, we would have something we can turn to and use.

SENATOR SEEVERS GANSERT:

In review, section 1 is like a three-year floating line and then you have CP and five-year debentures. Is that accurate?

MR. CONINE:

Yes.

SENATOR SEEVERS GANSERT:

In section 1, it states the aggregate principal for interim debentures cannot be more than $150 million. Do you have caps on the others, such as CP or bonds?

MR. CONINE:

No. To clarify, while section 1 authorizes the ability to issue these, it does not require the issuance of them. The others simply provide us with additional tools that would be subject to the same affordability, capacity and legislative approval typical for bonds like we use to pay for schools, water bonding or … (unintelligible statement.)

SENATOR SEEVERS GANSERT:

I am looking at the floating line in section 1. We had an instrument like this in 2008 and 2009 and used the Local Government Investment Pool (LGIP) as a source. Basically, the legislation said if we were to issue any bonds for the 2008 legislation, which we never did, it would be the monthly interest plus 25-basis points. For 2009, it was a half of a point. One of the reasons we looked at that was because there was potentially zero cost as far as issuance and other costs. Have you looked at anything like that versus what you have here?

MR. CONINE:

Yes. We looked at what was done or what was proposed to be done with the LGIP back in the day. Considering the cost of issuance and the mechanics of issuance, the LGIP is a tool by which local governments invest. The State helps them manage that process. We have paid a small amount of money for it proportional to the amounts. It allows them to have a high-liquidity vehicle into which they can still put money.

One of the requirements of the LGIP is that it is liquid, and that local governments can pull out money. One of the problems in this situation is no one knows exactly what is going to happen and what kind of access to their own liquidity they are going to have. Therefore, we do not think this is a viable mechanism to remove liquidity from those local counties and agencies in exchange for our own. The last time that was put in place, and we expect it would happen again this time, is local governments actually removed some of their monies from the LGIP because they wanted to make sure we were not going to borrow against it. In short, it is not our money.

SENATOR SEEVERS GANSERT:

It was used as a budget tool to put in additional capacity for the budget. If you were to issue a floating line like this, what are the associated costs, and what is the process?

MR. CONINE:

There are a couple of different types of vehicles, and we will talk averages. These rates were pulled today. A general caveat on giving interest rates, in case someone comes back and watches this in a couple of months, is things will have likely changed. We are currently in a relatively low-interest rate and stable environment, but that does not mean things are not going to change in the future. All of these lines of credit assume a 13-month issuance range and all assume $150 million.

A line of credit would have what is called a "carry." That is something you have to pay when the line of credit is open regardless of whether or not you drawn it down. For all of these, there is no reason to get to the vehicle until we are about ready to use that vehicle so that carry cost would be *de minimus* because it would happen before we used it. It is now about 25 … (unintelligible statement) … on an annual perspective. From a carry cost, if we currently had a $150-million line of credit, we would pay about $375,000 a year for the privilege of having it. What we drew down on that would range in the 1.5- to 2-percent range, again, shifting based on market conditions. There would be some costs in originally setting it up. These would be around $350,000 for bond counsel, bank fees and financial advisors. That would be a one-time piece of business we would need in order to set it up.

All of the fees for a line of credit, or for anything else I am going to explain, would come not out of the General Fund, but rather out of the issuance in the same way all fees for our bond department are paid for by the issuances we carry out.

Two other potential options are the short-term debentures, again, 13 months and at the same size, assuming we went to a competitive bid model, which is typically a way to drive interest rates down. That means, instead, doing a private … (unintelligible statement) … where we have agreed to an interest rate ahead of time and would allow the market to make those determinations. That would cost us about $750,000 for bond counsel, disclosure counsel, financial advisors and others because it is a bigger thing. We would get taxable loan rates at somewhere in the 2- to 2.25-percent interest-rate range, which would be a little more expensive than what the State could borrow.

You may have heard about the Municipal Lending Facility set up through the CARES Act and expanded by the Federal Reserve. Our office, and those of other state treasurers in the Country, has asked for that to be a tool that would exist. The Municipal Lending Facility is considered a lender of last resorts. It allows the Feds to be a buyer of your paper. The federal government can buy the loans we put out as opposed to having an investment firm or an individual buy those loans. You have to certify. You cannot get financing in any other way. Our State has a relatively good credit rating, so we are able to go to the market. We are credit-worthy. We would not be able to use the Municipal Lending Facility for our current situation as it is not applicable. If we did use it, it would cost somewhere between $500,000 and $750,000 for those initial costs of bond counsel, disclosures and financial advisors. The loan rates are taxable, and we are seeing rates somewhere in the range of 2.56 to 2.76 percent. It is effectively a plus-up on rates that would be available outside the Municipal Lending Facility. It is a tool, but it is not a tool for us right now. This would allow us to look at it. It is important to know that one of the things our office would do any time we are going to use a facility like this is exactly what we do for any bond issuance. We would look at the market for the rate that is most fiscally prudent for Nevada. If this is something where we needed to follow the money for a week and the most effective mechanism is to use a line of credit, we would go in and out. If it needed to be for longer, we would use the mechanism that would be most effective.

SENATOR SEEVERS GANSERT:
If you had to set up a line of credit, what is the timeline? How long does it take you to put that together?

MR. CONINE:
This all came about over the last couple of months. We have never been in a place where we have needed this. My job is to make sure when you tell us to pay a bill, we can write the check, and it will all be fine. We have never been in a place where that has not been the case. I like to make sure you put the parachute on before you get in the plane as opposed to later.

A line-of-credit tool can be set up relatively quickly. You would need to get the State Board of Finance's approval, a process that takes a few weeks. A short-term debenture would probably take a month or two. The goal is to have these be relatively quick in the relative nature of things like setting up a Special Session or doing a typical bond issuance, which takes us months.

SENATOR SEEVERS GANSERT:
Does it affect our bond rating? It sounds like you are concerned about cash flow and if we will have enough money to write the checks if you set up a floating line of credit.

SENATOR HARDY:
If I understand correctly, this is a tool that will save us more money than other borrowing tools we are using already. Is that correct?

MR. CONINE:
It is a less expensive, short-term financing option in its cost of issuance. Over time, for something like 20-year CIP bond, the actual cost of debt service over that period of time would be less. It depends on whether it is the right tool for the right program.

SENATOR HARDY:
If I understand it right, this is a tool to borrow money like other borrowing tools, and it does not require legislative oversight. It may be a tool to borrow money that is better in the short term than other tools, but it is still borrowing money in a time when we are having a hard time predicting which direction the economy is going. It is having money to pay on the barrelhead as opposed to borrowing money just in case we may need it. Is that correct?

MR. CONINE:
The intention is to give us a tool if what happens is not what everyone thinks is going to happen. We should be clear, the range of potential probabilities for what is going to happen from a revenue standpoint in this State is greater than it has been in a long time. In some places, we are seeing some green shoots of economic recovery. In other places, we are seeing the exact opposite. Tools like this, which we hope to never use, allow us the safety of making sure we do not need to go back to sell a provision that is deeply profitable for the State because we have a week or a moment where there is a bit of a cash-flow issue. These are liquidity tools. They allow for flexibility and for us to be as prudent as possible to manage the State's finances.

The State has no existing tool for operating finance. Without these tools, there is literally nothing the State is able to do to fund operations from a short-term perspective. We cannot borrow money for short-term operating needs without these tools. This makes us one of the few states that cannot.

SENATOR SCHEIBLE:
What kind of guardrails are on the use of these kinds of lines of credit in section 1?

MR. CONINE:
The guardrails on these lines of credit are to pay for operating expenses of the State that have already been approved through whichever budget process was appropriate. The guardrail is to say these are not for new projects. This is not to build a building or to fix a road. It is to pay for something we have already committed to pay.

SENATOR SCHEIBLE:
What is concerning me is where it says "the State can, at any time, or from time to time" in line 4. In section 5, it says "the section shall be construed liberally to affect its purposes." I am concerned about how are we going to ensure this does not become a crutch for our State government in years to come?

MR. CONINE:
That is a reasonable point to consider. This is a tool that helps us. It is to be used sparingly and when necessary. Like many other tools, if used incorrectly, it could create a problem. That is the reason we limited it as we did and the reason we want to make sure the Legislature is involved in this process. Remember, we are tied to the other guardrails of borrowing. This would count against affordability to the extent that, if we borrowed under this program, we could not borrow under another program. We would be subject to all of the State's Constitutional debt limits.

Currently, there is no mechanism to borrow money in an emergency in this State. It does not exist. Without that mechanism, we will find ourselves without the tools we think we should have.

SENATOR SCHEIBLE:
I think you hit the nail on the head. Why should we not write the bill to limit it to times of emergency?

MR. CONINE:
We wanted to make sure the State Board of Finance had the approval here because it is easier to convene the Board of Finance than it is to have a Special Session. By charter, the Board of Finance is responsible for the fiscal safety of the State, as is whoever is sitting in my seat. You can have cash-flow needs outside of the emergency. For example, if the health-emergency ends, and is likely to end before the economic emergency ends, this language is intended to give us as much flexibility as possible. The guardrails will still be around all of the other things that prevent us from bonding for things you do not want us to bond.

SENATOR SCHEIBLE:
Section 5, subsection 3, is the first place I see a reference to general- and special-obligation interim debentures. Can you explain what a special obligation is?

MR. CONINE:
A special-obligation debenture means you have a revenue line specific to something. This could be, for instance, a water bond that is paid for by payments coming in from a consumer district as opposed to a general, which is covered by everything. If a revenue source existed that had not been bonded against, this could be a tool to say that revenue source is going to go specifically to this purpose.

MR. KIECKHEFER:
In section 1, the Legislature is authorizing up to $150 million in debt in perpetuity. Am I understanding that correctly?

MR. CONINE:
I would state it more like the Legislature is allowing for the Board of Finance to, if necessary, pull the trigger on up to $150 million of short-term lending. It does not require the opening of that line of credit. The opening of that line of credit is what actually takes authority and capacity off the table. If the line of credit was opened and we had $100-million outstanding or we had $100-million open but not used, it would pull it from affordability so we could not bond twice; that number could not be counted twice. If the trigger is not pulled, or the line of credit or other facility was not open, then that would exist, but it would not hit our affordability.

SENATOR KIECKHEFER:
You knew where I was going. Discuss how this will interplay with your biennial reports on that capacity and affordability. We have often had to spend, or obligate, up to our affordability limit in order to have even a modest Capital Improvement Project (CIP) program for a biennium. Would our CIP programs need to be held back in order to retain some of this bonding availability in future years?

MR. CONINE:
This is another one of the guardrails around this program and is one of the reasons it is fiscally prudent and necessary. It pulls from the same pool as affordability. If a line of credit was outstanding, whether or not we have drawn down from it, or if it was just available to us because we thought we might need it, it would pull that money out of affordability. If it was enclosed, it would go back into affordability. You would not be able to bond for the State to owe more money than it was able to under affordability. Everyone has an incentive to make sure those funds are used when necessary, but not kept open just for the sake of keeping it open. It is not a comfort blanket, it is a parachute.

SENATOR KIECKHEFER:
Could it also go the other way if a proposal for a CIP comes in short of what it would otherwise be able to afford? Do we want to be able to maintain affordability in case you want to issue something like this?

MR. CONINE:
Yes, absolutely.

SENATOR KIECKHEFER:
Section 5, subsection 3, line 9 talks about how the funds could be used, saying they could be used for general operations of the State or to pay the costs of a project. Can you discuss what is envisioned by the term "project"? Is there something specific we should be thinking about in terms of what might constitute a project?

MR. CONINE:
Section 5 does not specifically relate to that $150-million, line-of-credit vehicle. It responds to other pieces and securities clause that would allow us to use things like CP to pay for projects. That section is specifically referring to the fact that other legislatively-approved bonding would be able to pay for projects, just like it is now. The securities clause in NRS 349.194 defines the term "project." It is a separation between a line of credit and anything else.

SENATOR KIECKHEFER:
Subsection 4 talks about the revenue that can be pledged against these interim debentures. Are unrestricted revenues unobligated revenue in terms of excess tax receipts the State has received and we have not budgeted to spend, or is that the first dollar in the door in our unrestricted General Fund account?

MR. CONINE:
A pledge revenue would be where we have a specific revenue stream to which we are attaching that bonding. In this case, the intent is for it to act as a guardrail around the entire program. This will make sure new, unexpected money that comes in goes to pay that back prior to being spent on something else. Temporary funds would be the last money you would pull from and the first money you would replace.

SENATOR KIECKHEFER:
Does that not authorize the Board of Finance to appropriate General Fund dollars?

MR. CONINE:
The use of General Fund dollars to pay for this is already in the Securities Law. In order for us to draw on any of these benefits, we would be paying for something already budgeted. It is already budgeted, and the Board of Finance is simply giving a mechanism to pay for a budgetary decision the Legislature has made.

SENATOR KIECKHEFER:
Could you walk us through the process of issuing these new instruments? Who is making the decisions to initiate it and under what conditions? Is it something you are going to suggest because we are running short on cash? Is it something the Governor is going to suggest because he is interested in financing a project? Walk me through how this flows.

MR. CONINE:
Mechanically, something like this would be driven out of the Treasurer's Office. The Investment Team does a daily-investment process where they look at receipts from securities that are maturing. They look at monies coming in from other revenue streams and expenditures that need to be made. We then forecast that out for a number of years. I believe we are now in the middle of 2027. The forecast, of course, gets less effective as we move farther out. Recently, as the probabilities of what could happen go up or down, it has gotten less effective in a shorter time period.

The Treasurer's Office would identify a pinch coming up and determine the ways we could solve that pinch. We usually can solve that pinch without going to a tool like this, and we have never had to go to a tool like this. As the probabilities increase for things we are not expecting, and as the potential outcomes get broader, the frequency of that increases. This gives us a tool to reach to, if needed.

Mechanically, I would be surprised if it came from anywhere other than our office. That is where these things typically come from unless there was a legislative- or Governor-approved project that went through the standard legislative process. For those, we would look at bonding in all of the ways we typically do. If a project gets approved as part of the CIP, or there is an NDOT project or something similar, we are looking at different tools available to us to figure out which one is the most effective.

SENATOR KIECKHEFER:
We are in a special session under a call from the Governor to specifically address our current budget shortfall due to the COVID-19 pandemic. That means this legislation is anticipated to be used to close that budget shortfall, since that is all we can legally discuss. If we approve this, are you planning on issuing any instruments under this new authority this fiscal year?

MR. CONINE:
I have no plans to issue under this authority but, like everything else, having the tool and not using it is better than needing it and not having it.

SENATOR KIECKHEFER:
Just to be clear, there is no specific plan to use this to help close our budget deficit this year. Is that correct?

MR. CONINE:
I am not aware of any.

SENATOR PICKARD:
I understand the open line of credit is capped, and the aggregate principal amount cannot exceed $150 million. There are also guardrails to make sure this is not carried over time. How did you establish the $150-million limit? What convinced you that was the right number? How is this discharged if the underlying condition that prompted it persists?

MR. CONINE:

Are you asking how we pay it back if we still have the initial problem that required us to use this in the first place?

SENATOR PICKARD:

Yes. How do we discharge the note if the underlying condition meant we did not have the cash in the first place continues? If I am laid off and my bank account runs dry and I start living on my credit cards, how do I pay them if I am still unemployed?

MR. CONINE:

We arrived at $150 million because, based on our projections of affordability, it exists within the expected affordability in the near future. Affordability is subject to change based on Property Tax receipts and other things, but this does not appear to be a concern. The $150 million sits within that amount. It is also enough for us to fix most of the surprise problems that could happen. We usually do not get surprised bigger than that.

We can open that line of credit in smaller amounts. If we have a $25-million problem, we do not need to open up $150-million line of credit. We can open up one for $25 million, fix the problem, pay it back—because it is last in, first out—and then close the line of credit. We could also open up the line for $150 million and only draw down, only pay the interest on $25 million and have to carry on remainder.

The State invests funds in fixed-income assets which we typically buy. We purchase a bond, federal security or a federal tax note and hold it until it matures in the future. We time these maturities so the money comes back in right before we have to pay a bill. This requires coordination and has led to interest earnings for our office of more than $60 million last year. If there is a surprise in that process, it leads us to a situation similar to getting paid on Friday but needing to pay a bill on Tuesday. This mechanism would allow us to borrow money to pay that bill as opposed to taking an expensive advance or a loss on the money we know is going to come in on Friday. We do not expect this to happen often, but when it does, it can be expensive if we do not have the tool.

SENATOR PICKARD:

As a former contractor, I always like to have the right tool in the toolbox when I need it, so I get this. If we need this debenture issued, it would be because our forecasts were off. How do we, as the authorizing Body, obtain a level of comfort that the estimates that drove the initial investments will cover the cost when it comes due?

MR. CONINE:

The State invests in things that are shockingly risk-adverse. We are investing in fixed-coupon, fixed-income assets that will pay what they are going to pay. For the most part, we are investing in things that have a 100-percent pay rate. There has not been a time we have not gotten paid during my tenure, and I do not believe this happened in Treasurer Schwartz' time either. It is not a thing that happens. We keep away from more risky assets. We know the money is coming in. It is just not coming in as quickly as we need it to because of the initial expectation. The maturity dates are fixed by the underlying security we are purchasing.

If there was a shortfall and it did not come in, the backstop is the Property Tax. It is the same money that covers the rest of the affordability. Affordability is created through a calculation of Property Tax, Net Proceeds on Minerals and other taxes. That is the backstop. We are not able to borrow more than we would be able to pay for under the affordability calculation. This is how we make the decision to borrow or pay for anything.

SENATOR HARRIS:

Are there any guidelines or factors you would suggest the State Board of Finance consider or that they should look at prior to issuing this new instrument? Would you recommend we put that into this legislation?

MR. CONINE:

Under this Governor and many others, the State Board of Finance has always focused on spending money the State could spend in a more effective manner. We are constantly looking at ways to make sure everyone has done their due diligence when an issuance is brought up. This means we are not borrowing more money than we need; we are borrowing money in the most effective way possible, and we are using competitive sales when we can and private sales when they are more effective. By its construction, the Board of Finance is a body that makes sure we are doing this as well as possible.

SENATOR HARRIS:
Are you saying there would be no purpose in delineating that the State Board of Finance has to find that due diligence was done or that this is the most effective way to pay a particular bill?

MR. CONINE:
The construction of the Board of Finance and its charter, as well as the Board of Finance agenda, and the Governor's job as the Chair of the Board of Finance, is to make sure we are doing this in the most effective way possible. We are all fiduciaries of that process.

SENATOR SEEVERS GANSERT:
The floating line in section 1 has a limit of $150 million, but there are no limits on the other two. You said this is within the affordability limits, and these have to be within what we can afford. Had you considered limits on the other two? Why did you leave that open?

MR. CONINE:
The other instruments related to this bill are tools, but we do not have the permission to use them. The Legislature would have to give us permission to use those two tools in the same way. For example, you gave us permission to authorize bonds for the creation of a school. Due to that, we do not need to put a limit on it, and that will be done by the Legislature when the bill is passed.

SENATOR SEEVERS GANSERT:
When we make our budget, we always have a 5-percent ending fund balance. That is our margin, and it may be why we have not needed a floating line of credit. Have you seen instances where we have gotten close? I realize this is an annual thing, and you have income and expenses. At any point in time, have you seen where our cash flow has been tight, and we are having a hard time paying bills? If so, was the amount left in our accounts above or below that 5-percent ending balance?

MR. CONINE:
I exist in a cash world where we have money in the bank to allow us to pay for things as opposed to a budget world where there is a profit and loss, and at the end of the year, you have an ending fund 5-percent balance. Cash in the account can fluctuate wildly based on the time of month and the types of bills to be paid, for example, if we have to write to DSA. That number can fluctuate a lot more than having a standard 5-percent cushion. We do not look at the ending-fund balance as a source of cash flow; it is an unbudgeted asset.

SENATOR SEEVERS GANSERT:
I understand cash is different from an ending-fund balance, but I also know the reason we do that, in part, is so we are not overspending. Do we get within $200 million at any point in time as far as cash that is available? We may or may not because you have invested in certain instruments and are expecting bills to roll in when those instruments are matured. How tight do we get related to cash flow?

MR. CONINE:
We get about that tight. Since the beginning of the crisis, we have kept more assets in overnight, short-term, money-market funds which are highly liquid assets. Since the beginning of the crisis, we usually keep that number in the $150 to $200-million range. Before that, we would keep that bank balance even lower because doing so allows us to maximize investment returns. Since the beginning of the crisis, we have kept more cash on hand because as uncertainty rises, cash can be more effective.

SENATOR SEEVERS GANSERT:
Do you anticipate needing to use something like this over the next 12 months?

MR. CONINE:

I do not anticipate using something like this, but if you talk to 10 economists, you will get 12 different theories about what is going to happen with the economic recovery. We do not know, and that is why we need it.

SENATOR HAMMOND:

We have had two questions about guardrails and one about procedure. I do not see anything in the bill that discusses the role of the Legislature when funds begin to be disbursed. Is there a role in here? This would most likely be the IFC. If it is not included, why not?

MR. CONINE:

The intention of the bill is the role of the Legislature is in making priorities on what gets spent, what should be in the budget and what expenses we pay for. From a liquidity standpoint, this is a tool to allow us to enact your will. We would be happy to report to the IFC or do whatever would make the Legislature comfortable. We have no concerns on that front.

SENATOR HAMMOND:

One of the concerns might be how quickly you can do something. During this crisis, we have found the traditional, every six-week meetings of the IFC could be held more often. If that is a concern, it can be rectified. You are correct in saying the Legislature is the Body that determines the expenditure of funds and priorities. If there is a lack of funds, as we sometimes see crises like we are now experiencing, it would be nice for the Legislature to be consulted. If we have a lack of funds, this would allow us to prioritize what our needs should be, what should be paid off first or how much. We should have a say in that process. This would make me more comfortable.

MR. CONINE:

I can promise you, if we ended up in that situation, you would be loudly hearing it from me but happy to do so formally as well.

SENATOR DENIS:

We have had a couple of questions about whether this would be used in the near future. If we have a situation where we get through this Special Session and fund the things we need, but get it wrong so three months from now we are short $100 million for DSA, would this be a tool we could use to make up the difference without having to go back into a Special Session to find revenue or cuts? Would the scenario then be the Board of Finance would make the decision to borrow the money? Please talk about that process.

MR. CONINE:

In short, yes. If there was an issue where the State did not have the money to pay a budget expense, that is the tool which would allow the State to pay that by initial-return perspective. The State would then need to find the money to pay for that. If the money was coming in later from an investment we made and it was a cash-flow issue, it would get paid that way. If not, it would need to get paid another way. This is a tool that allows us to do that in real-time; not because it is expected, but because none of us have a great idea what is going to happen. We do not know what is going to happen. Making sure I have the tools to serve my responsibility is important so we do not end up in the case where we cannot pay it off. I do not expect that will happen, but I would rather have the tool before I need it.

SENATOR DENIS:

Please discuss how the process with the Board of Finance would work. Would you know we did not have the money and then convene the Board of Finance to borrow the money? How does the Legislature fit into that process? Will you inform us of it? How would that process work?

MR. CONINE:

We would identify there was a perspective cash-flow problem coming up because we could see it. There might be a bill coming due that we did not have funds available for, and we would look for the most effective way filling the hole. If there was an asset we could move to fill the hole, we would determine if it would be more expensive to do that or not do that. We would then go to the Governor, who would convene the Board of Finance. We would make a recommendation and present it to the Board of Finance like we do any bond issuance. I do not believe there is a notification provision in here, but we would be happy for such a provision. One way or another, you will be hearing about it.

SENATOR DENIS:
Do we have an example from other states that do this and may have had problems? You mentioned you could have an issue if you borrowed and misused it. Do you have an example of a state that gets it right? There have to be other states that did this either right or wrong.

MR. CONINE:
The rating agencies have been clear about how they feel about this. When it is used as a tool for emergency or unexpected situations, it is appreciated and generally considered to be financially prudent. Some states run these tools for day-to-day operations and constantly run a deficit budget. That is a choice but not one I would recommend. There are some states that use these sparingly. Rhode Island recently used theirs for the first time since the state was founded. These are tools for emergencies. As the financial steward of the State, I recommend we should use them for emergencies.

SENATOR SETTELMEYER:
Could this be used as evidence of ability to pay for an outstanding project or agreement? If the State entered into a project or agreement and due to budgetary restrictions, we no longer have the ability to go forward with that agreement and cancel it, could this be used as evidence we do have the ability to pay said agreement in a court of law?

MR. CONINE:
I do not know. You may want to have LCB staff reply to that question.

SENATOR SETTELMEYER:
We will try to get that answer. Are there any objections to a sunset in this bill? This Special Session has been called for COVID-19-related situations, and this seems to be something that could be used beyond COVID-19-related situations.

MR. CONINE:
I have no problems with a sunset as long as there is the caveat that the economic crisis is likely to extend beyond the health crisis.

SENATOR SETTELMEYER:
This is a situation where the Legislature will be meeting again soon, and that could be the time to take it up again.

MR. CONINE:
I would like to make a correction. There are two pieces to the bill. One is the authorization of the $150-million line of credit, and that one would be reasonable to sunset. The other tools, which give the ability to turn short-term debentures with legislative approval, are ones we could use all of the time. They would be expected to have use of inside and outside of a crisis. I suggest those bills should sunset if you are to sunset the specific authority.

SENATOR PICKARD:
You said this is a less expensive means of obtaining short-term debt. Section 5, subsection 5, goes through the list of individuals falling under the bond administrative expense. We did not hear what the anticipated State cost for the legal advisors and other pieces of this will be. Going in, as you were doing your analysis, what was your estimate that this would be less expensive than other means? What is your estimate, on an order of magnitude, of what you expect those costs to be? Assume the upward limit is the $150 million.

MR. CONINE:
The other variable we will set fixed for this experiment is the 13-month term. Issuance cost for a line of credit would be approximately $350,000. Issuance costs for a full-on bond issuance would be closer to $750,000. In addition, full-on bond issuances for a one-year issuance or a shorter

issuance do not typically make sense, regardless of the debt-service cost, because there is less of a market for them.

SENATOR PICKARD:
I was looking for the order of magnitude.

SENATOR CANNIZZARO:
We will now open the hearing to those in support of Senate Bill No. 4.

MICHAEL DUFF:
I am supportive of Senate Bill No. 4 but encourage this Body to make an amendment and think about more long-term effects than short-term. As we heard in testimony, this is a long-term economic crisis. We need to raise revenue and reduce government expenses at the same time. Short-term debt is okay with me, and that is why I am in favor of the bill. If we issued a long-term debt, say to hold education, healthcare and public safety harmless, cut the rest out of the budget, this may be a vehicle to solve that. The interest rate will be high because the bond market is not great, but if you bonded $500 million and the interest rate is 10 percent on a 20- or 30-year term, you are probably talking $50 million in annual payments. That could be refinanced down the line. I encourage the Body to think about solutions like that. If we go forward with some of the cuts being discussed, without long-term debt and revenue, we will kill rural healthcare and education. This is not going to be good for anyone involved. I urge a "yes" vote on the bill but hope you consider amending it.

SENATOR CANNIZZARO:
We will now open the hearing to those in opposition to Senate Bill No. 4. Hearing none, we will now open the hearing to those neutral to Senate Bill No. 4. Hearing none, we will close this item.

On the motion of Senator Woodhouse, seconded by Senator Parks, the Committee did rise and report back to the Senate.

Senate in recess at 3:57 p.m.

SENATE IN SESSION

At 4:06 p.m.
President Marshall presiding.
Quorum present.

REPORTS OF COMMITTEE

Madam President:
Your Committee of the Whole has considered Senate Bills Nos. 2, 4 and other matters relating to the State's Budget shortfall.

NICOLE CANNIZZARO, *Chair*

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.
Senate in recess at 4:07 p.m.

SENATE IN SESSION

At 5:37 p.m.
President Marshall presiding.
Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Resolutions Nos. 1, 2, 3, 4; Assembly Concurrent Resolution No. 1.

Senator Cannizzaro moved that the Senate adjourn until Saturday, July 11, 2020, at 1:00 p.m.

Motion carried.

Senate adjourned at 5:37 p.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate