

BOARD OF REGENTS
BRIEFING PAPER

1. Agenda Item Title: University of Nevada, Reno – Pennington Medical Education Building - 2016A Refunding Note

Meeting Date: March 3 - 4, 2016

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

In 2009, the System issued a \$9.8 million note to provide its matching funds for the construction of the 59,000 sq. ft. William N. Pennington Medical Learning Lab (Exhibit 1). The project was developed alongside others in response to major, statewide studies that confirmed the pressing need to improve the quality of medical care for the citizens of Nevada. The total cost of the project was \$42.2 million, including \$31 million in state funding.

The 2009 Note bridged donor gift pledges for the construction of the project. Due to financial market conditions in 2009, UNR could not obtain a 20-year repayment schedule that matched the scheduled donor gift pledges. The Board was briefed on this possible outcome in 2009 and now, as expected, UNR seeks Board approval of a Resolution to refinance the 2009 Note to match remaining debt service payments with donor gift pledges (Exhibit 2).

The 2009 Note was issued as a “Recovery Zone Economic Development Bond”. Such bonds were authorized by the 2009 American Recovery and Reinvestment Act, and their availability was significantly limited. UNR received an allocation to issue such bonds from the City of Reno. Interest on the 2009 Note is fully taxable for federal income tax purposes. However, UNR receives a rebate payment from the federal government for 45% of its actual interest cost. The 2009 Note bears interest at 6.12%, and the net rate paid by UNR after receiving the subsidy is 3.37%. This net rate resulted in a lower borrowing cost for UNR in 2009 than traditional tax-exempt financing. Even though the 2009 Note is taxable under federal income tax law, the project is eligible for tax-exempt financing and the interest on the proposed 2016A Note will be exempt from federal income taxation.

Currently, the balance of the 2009 Note is \$7,511,000. Donor gift pledges are scheduled to be received through calendar year 2025. The proposed 2016A Note will be structured to match scheduled donor gift pledges through January 2026 (Exhibit 3). In addition, the proposed note should allow greater prepayment flexibility than a bond sold in the public capital market. This prepayment flexibility may be of use if donor gift pledges are accelerated for any reason.

Current financial market conditions are favorable. Interest rates remain at historically low levels. Based on current conditions, UNR expects it will be able to refinance the \$7.5 million balance of the 2009 note to match the scheduled donor gift pledges. Debt service on the new note is expected to be fully paid from donor gift pledge receipts.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

University of Nevada, Reno President Marc Johnson requests approval of a resolution to issue a fixed rate tax-exempt note to refinance the existing 2009 note in an amount not to exceed \$7,600,000.

4. IMPETUS (WHY NOW?):

The final payment on the 2009 Note is due July 1, 2016. If not refinanced, UNR will need to pay the remaining balance from other sources.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

Refinancing the 2009 Note will align debt service payments on the project with remaining scheduled donor gift pledges. The remaining pledges relate to one major, local Foundation with a long, strong and demonstrated history of gifting to the University. The original plan of finance for the Pennington Medical Learning Lab intended for debt service to be paid from donor gift pledges. Refinancing the 2009 Note will align debt service with the remaining donor gift pledge schedule.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

Refinancing the Note will extend its term and will increase the interest expense on the Pennington Medical Learning Lab.

7. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

Choose not to move forward with the refinancing at this time, and make the final payment due July 1, 2016 on the 2009 Note from other sources.

8. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #___ Chapter #___ Section #___
 - Amends Current Board Policy: Title #___ Chapter #___ Section #___
 - Amends Current Procedures & Guidelines Manual: Chapter #___ Section #___
 - Other: _____
 - ✓ Fiscal Impact: Yes X No ___
- Explain: Debt service on the 2016A Note, a refinancing of the balance on the original 2009 Note (at lower interest rates), is estimated to be approximately \$1 million per year through fiscal year 2026.

TRANSFER OF THIS NOTE OTHER THAN BY REGISTRATION IS NOT EFFECTIVE

NEVADA SYSTEM OF HIGHER EDUCATION
PROMISSORY NOTE
(UNIVERSITY OF NEVADA, RENO)
SERIES 2016A

No. R-1

FINAL MATURITY DATE: _____ MAXIMUM PRINCIPAL AMOUNT: \$ _____
INTEREST RATE: [_____ % per annum][variable rate as calculated herein]
DATE OF DELIVERY: _____, 2016

For value received, the Nevada System of Higher Education (the "System"), hereby promises to pay in installments as outlined below, from any sources legally available therefor to the order of _____ (the "Lender"), or its registered assigns as shown on the registration panel appended hereto, the maximum aggregate principal amount of \$ _____, or such lesser amount as shall represent the aggregate principal amount advanced to the System together with interest on the unpaid principal of the Note from the date of delivery of the Note or the date of each advance until the principal advanced under the Note is paid in full at the interest rate set forth above. Principal may be advanced under this Note until _____. The maximum principal amount of the Note may be advanced on the delivery date.

Interest shall be calculated on the basis of a _____-day year of _____ day months. Interest shall be payable on _____ 1 and _____ 1 of each year commencing on _____, 20__ until the maturity date hereof. The outstanding principal of this Note shall mature in installments of principal payable on _____ 1 and _____ 1 of each year commencing on _____ 1, ____ and ending on _____ 1, _____ at which time all unpaid principal plus accrued unpaid interest shall be due and payable. The installments of principal shall be due as set forth in the amortization schedule attached hereto as Exhibit A and made a part hereof.

The final principal payment under this Note shall be paid to the registered owner of this Note at the office of the U.S. Bank National Association, as registrar and paying agent for the Note (the "Paying Agent") on presentation and surrender of this Note at maturity or on call for redemption as provided below. Installments of maturing principal and interest on this Note shall be paid by check or draft mailed or electronic funds transfer initiated on or before each interest payment date (or if such date is not a business day, on the next succeeding business day) to the registered owner hereof at the address appearing on the registration records of the System maintained by the Paying Agent or such other means acceptable to the Lender and the Paying Agent. All such payments shall be made in lawful money of the United States of America.

The outstanding principal of the Note may be prepaid in whole or in part in any order or maturity on and after _____ at the option of the System without premium or penalty on 10 days' written notice by first class mail postage prepaid or electronic notice to the registered owner hereof. On any date on which the System is prepaying all or any portion of the principal balance of this Note, interest accrued on such principal so prepaid to the date of prepayment shall also be paid. After the date of the prepayment of all or part of the principal hereof, interest on the

portion of the principal so prepaid will cease to accrue. The amount of principal so prepaid shall be noted on the prepayment panel appended to this Note and the registration records maintained by the Registrar. Notwithstanding any other provisions of this Note, any notice of prepayment may contain a statement that the prepayment is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for prepayment sufficient to pay the prepayment price of the Note so called for prepayment, and that if such funds are not available, such prepayment shall be canceled by written notice to the owners of the Note called for prepayment in the same manner as the original prepayment notice was sent.

Partial principal payments shall be applied to the principal due under the Note as directed by the Chancellor or the Vice Chancellor for Finance of the System, including application to the most remote installment of principal due under this Note which may result in a shortened term for this Note.

The principal of and interest on this Note are payable only to the registered owner hereof at the address appearing on the registration records of the System maintained by the Paying Agent. This Note may be transferred on presentation by the registered owner to the Paying Agent, together with evidence of transfer satisfactory to the Paying Agent and Registrar, and such transfer shall be noted in the registration records of the System maintained by the Registrar and similarly noted on the registration panel on the reverse hereof and no such transfer shall be effective until the registered owner shall have provided such satisfactory evidence of transfer to the Paying Agent and Registrar. This Note may be transferred to a commercial bank without the prior written consent of the System and may be transferred to others with the prior written consent of the System. The Paying Agent shall not be required to transfer ownership of this Note within 30 days of any date on which any portion of the principal hereof is to be prepaid. The System, the Registrar and the Paying Agent shall be entitled to treat the registered owner of this Note as noted in the registration records maintained by the Registrar as the absolute owner hereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Paying Agent shall transmit payments to the registered owner hereof as shown on the registration records of the System maintained by the Registrar.

This Note is issued by the System pursuant to authorization by the Board of Regents of the System (the "Board") for the purpose of refinancing certain outstanding obligations of the System. The Note is payable from any monies of the System legally available for the purpose of making such payment, and the System hereby covenants to make sufficient provision annually in its budget to pay the principal of and interest on the Note when due. The Note does not constitute a debt or indebtedness of the State of Nevada or a charge against the State's credit or taxing power. Repayment of this Note is not subject to annual appropriation by the System.

Each of the following are defined to be an "event of default" hereunder.

- (i) the System is 5 or more calendar days late in making any regularly scheduled payment of the principal of or interest on this Note when due;
- (ii) the System files a petition or similar pleading or any petition or similar pleading is filed against the System seeking a discharge composition or other form of relief of the System's debt under the Federal Bankruptcy laws or under any other applicable bankruptcy, insolvency or similar laws of the United States or the State of Nevada;
- (iii) an order or decree is entered in a court of competent jurisdiction in an insolvency case under the Federal Bankruptcy laws or under any other applicable federal or state bankruptcy, insolvency, or similar law appointing a receiver, custodian, liquidator, or trustee for the

assets of the System or any substantial part of the System's property and such decree or order continues unstayed and in effect for a period of 90 days; or

(iv) the System voluntarily suspends its business.

If an Event of Default shall have occurred hereunder, and in the case of those events listed in clauses (ii) through (iv) of the preceding sentence only, such Event of Default is not cured within 30 days after written notice from the registered owner hereof to the Paying Agent specifying the Events of Default and requiring that it be remedied, then:

[(i) the registered owner may declare the unpaid principal balance of this Note, together with the interest thereon to be then fully due and payable;]

(ii) the registered owner may proceed against the System to protect and enforce all of its rights hereunder by mandamus or by other suit, action or special proceeding in law or in equity in any court of competent jurisdiction for the specific performance of the covenants and agreements of the System hereunder; and

(iii) the registered owner may exercise such other remedies available to it at law or in equity.

Any failure on the part of the registered owner to exercise, and any delay in exercising, any right hereunder shall not operate as a waiver thereof or of any other remedy; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any other remedies provided by law.

Payments made on this Note shall be applied in the following order of priority: (i) to pay any reasonable expenses incurred in collecting amounts due under or in enforcing the provisions of this Note, (ii) to pay interest in arrears or then due, and (iii) to pay the installments of principal in arrears or then due. If any principal payment is not made when due, interest shall continue on the unpaid installment of principal until it is paid.

This Note shall be governed by the laws of the State of Nevada.

It is hereby certified, recited, declared and warranted that all actions required to be taken prior to the issuance hereof have been had and taken by the System.

The System covenants for the benefit of the registered owners of this Note that it will not take any action or omit to take any action with respect to this Note, the proceeds thereof, any other funds of the System or any facilities financed with the proceeds of this Note if such action or omission (i) would cause the interest on this Note to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended to the date of delivery of the Note (the "Tax Code"), or (ii) would cause interest on this Note to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code ,except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code.

IN WITNESS WHEREOF, the Nevada System of Higher Education has caused this Note to be signed and executed by the manual or facsimile signature of the Chairman of its Board of Regents, to be countersigned by the manual or facsimile signature of the Chancellor, ex-officio Treasurer of the System and to be signed and attested by the manual or facsimile signature of the Acting Secretary, all as of the date of this Note appearing above.

NEVADA SYSTEM HIGHER EDUCATION

Chairman, Board of Regents

Countersigned:

Chancellor, ex-officio Treasurer

(SEAL)
Attest:

Chief of Staff and Special Counsel
to the Board of Regents and
ex officio Secretary of the Board of Regents

PROVISION FOR REGISTRATION AS TO PRINCIPAL AND INTEREST

This Note must be registered as to both principal and interest on the registration records of the System, kept by U.S. Bank National Association, as registrar and paying agent (the "Registrar"). After registration as to both principal and interest, the Registrar shall note such registration on such registration records and in the registration blank below, and the principal and interest on this Note shall be paid to such registered owner. This Note may be transferred by the registered owner or his legal representative only upon a duly executed assignment in form satisfactory to the Registrar, such transfer to be made on said registration records and endorsed hereon. The System, the Registrar and the Paying Agent shall be entitled to treat the registered owner of this Note as noted in the registration records maintained by the Registrar as the absolute owner hereof for all purposes of this Note and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Paying Agent shall transmit payments to the registered owner hereof as shown on the registration records of the System maintained by the Registrar.

Every privilege, registration, and transfer, shall be exercised only in accordance with the authorizing resolution and such reasonable rules and regulations as the Registrar may prescribe.

<u>Date of Registration</u>	<u>Name of Registered Owner</u>	<u>Signature of Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ASSIGNMENT

The within and foregoing Note No. R-1 is hereby sold, assigned, transferred and set over, without recourse, unto _____, or order, subject to the terms and conditions of said Note.

Dated this _____, _____.

Owner

Signature Guaranteed:

PREPAYMENT PANEL

Principal of this Note has been prepaid on the dates indicated below:

<u>Date of Prepayment</u>	<u>Amount Prepaid</u>	<u>Signature of Paying Agent</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT A
(Attach Amortization Schedule)

RESOLUTION NO. _____

WHEREAS, pursuant to chapter 396 of Nevada Revised Statutes (the "Project Act") and all laws supplemental thereto, the Board of Regents (the "Board") of the Nevada System of Higher Education ("NSHE") is authorized to issue an obligation to repay money in the form of a promissory note (the "Note") in the principal amount up to \$7,600,000 as specified in a certificate of the Chancellor or the Vice Chancellor for Finance and Administration or any interim (the "Vice Chancellor for Finance") dated on or before the date of delivery of the Note (the "Certificate") to refinance outstanding obligations of NSHE (the "Project"), including refunding the outstanding Nevada System of Higher Education, Promissory Note (University of Nevada, Reno), Series 2009A (the "Refunded Note"); and

WHEREAS, the Board hereby authorizes the Vice Chancellor for Finance to arrange for the issuance and sale of the Note for the Project, including inviting bids for the purchase of the Note and ratifies action previously taken in connection with the issuance and sale of the Note; and

WHEREAS, after distribution of notice inviting bids for the purchase of the Note, Board authorizes the Vice Chancellor for Finance, as the chief financial officer of NSHE or the Chancellor, as the chief administrative officer of NSHE, to receive and publicly open bids and sell the Note to the best bidder therefor (the "Purchaser") and ratifies action previously taken in connection with the receipt and opening of bids and either of such officer is hereby authorized to accept a binding contract for the Note, the Note to bear interest at the rate or rates per annum, including a variable interest rate, provided in the purchase proposal submitted by the Purchaser (the "Proposal"), at a price consisting of the principal amount and accrued interest thereon from their date to the date of their delivery, less a discount or plus a premium as set forth in the Certificate and otherwise upon the terms and conditions herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION:

Section 1. The officers of the System are hereby authorized to take all action necessary to effectuate the provisions of this resolution, including, without limitation, the Chancellor or the Vice Chancellor for Finance is authorized to sell the Note and sign the Proposal as a binding contract with the Purchaser for the purchase of the Note and negotiate the terms of the Note (in one series or more) and the Proposal by the Chancellor or the Vice Chancellor for Finance with the Purchaser which terms shall not be materially inconsistent with the terms of the Certificate and the form of the Note attached hereto as Exhibit A, with any changes to the form of the Note as are approved by the Chancellor or the Vice Chancellor for Finance in the judgment of the Chancellor or the Vice Chancellor for Finance, including any covenants or provisions to protect the owner of the Note and/or NSHE, that the Chancellor or Vice Chancellor for Finance determines are necessary or desirable to obtain favorable terms for NSHE which covenants or provisions, if any, shall be evidenced by such officer's execution of the Certificate and any such determination made is conclusive absent fraud or abuse of discretion.

Section 2. The Note shall be issued and payable in fully registered form, i.e., registered as to both principal and interest and shall be dated as of the date of delivery of the Note. The principal advanced under the Note shall bear interest from its date or the date of each advance until the maturity dates thereof (or, if redeemed prior to maturity as provided below, the redemption dates) at the respective variable or fixed rates set forth in the Certificate, and payable semi-annually in the designated years as set forth in the Certificate commencing as set forth in the Certificate; provided that any Note which is reissued upon transfer, exchange or other replacement shall bear interest at the rate or rates set forth in the Certificate from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from the date of the Note. The Note shall mature in the designated amounts of principal and designated years as set forth in the Certificate. The final principal payment under the Note shall be paid to the registered owner of the Note at the office of U.S. Bank National Association, as the registrar and paying agent for the Note (the "Paying Agent") on presentation and surrender of the Note at maturity or on call for redemption as provided below. Installments of maturing principal and interest on the Note shall be paid by check or draft mailed or electronic funds transfer initiated on or before each interest payment date (or if such date is not a business day, on the next succeeding business day) to the registered owner hereof at the address appearing on the registration records of NSHE maintained by the Paying Agent or such other means acceptable to the Purchaser and the Paying Agent. All such payments shall be made in lawful money of the United States of America.

Section 3. The Note, or portions thereof, maturing on and after the date specified in the Certificate, shall be subject to redemption prior to their respective maturities, at the option of NSHE, at any time on and after the date specified in the Certificate, in whole or in part from any maturities selected by NSHE, at a price equal to the principal amount of the Note, or portion thereof, so redeemed, accrued interest thereon to the redemption date, and a premium, if any, as provided in the Certificate. The Note may be transferred to a commercial bank without the prior written consent of NSHE and may be transferred to others with the prior written consent of NSHE or as otherwise set forth in the Certificate.

Section 4. The Board hereby authorizes the execution and delivery of the Note with manual or facsimile signatures of the Chairman, Chancellor, ex officio Treasurer, and the Acting Secretary of the Board, and such certificates as may be necessary to evidence the validity and enforceability of the Note and the exclusion of interest on the Note from gross income and alternative taxable income for federal income tax purposes, including the execution of closing certificates by any of the officers of the Board and any of the Chancellor, Vice Chancellor for Finance and Vice Chancellor for Legal Affairs.

Section 5. The Board hereby authorizes the Chancellor or the Vice Chancellor for Finance to provide conditional notice of prepayment of the Refunded Note to the registered owner of the Refunded Note on such date as determined by the Chancellor or the Vice Chancellor for Finance.

Section 6. This resolution shall be effective on its passage and approval.

PASSED, ADOPTED AND APPROVED this March _____, 2016.

NEVADA SYSTEM OF HIGHER EDUCATION

Chairman, Board of Regents

Attest:

Chief of Staff and Special Counsel
to the Board of Regents and
ex officio Secretary of the Board of Regents

Exhibit A
(Attach form of Note)