MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Third Session
February 15, 2005

The Committee on Government Affairs was called to order at 8:07 a.m., on Tuesday, February 15, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Ms. Peggy Pierce, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. Chad Christensen
Mr. Jerry D. Claborn
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joe Hardy
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Nancy Haywood, Committee Attaché

OTHERS PRESENT:

Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada
Tina Leiss, Operations Officer, Public Employees' Retirement System of Nevada
Laura Wallace, Investment Officer, Public Employees' Retirement System of Nevada
P. Forrest Woody Thorne, Executive Officer, Public Employees' Benefits Program of Nevada
Gary Wolff, Legislative Advocate, International Brotherhood of Teamsters Local No. 14, Las Vegas, Nevada
Mary Henderson, Legislative Advocate, representing the City of North Las Vegas, Nevada
Nancy Howard, Assistant Director, Nevada League of Cities

Chairman Parks:
[The meeting was called to order and roll was taken.]

This morning, we have several presentations, and I don't know the need to make much further comment on that, other than there are a number of the Committee members that are also members of the Public Employees' Retirement System [PERS]. I was just wondering if we had a majority by any chance. I don't think so, but probably pretty close. So, without further discussion, I ask Ms. Bilyeu to comes forward and make her presentation with regards to the Public Employees' Retirement System.

Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada:
With me at the table today are Laura Wallace, our investment officer, and Tina Leiss, our operations officer. We're going to spend about a half hour walking through the overview of the Public Employees' Retirement System, both from an operational and an investment perspective. I'm going to talk a little bit about history. On Page 2 (Exhibit B), you'll see an overview of our outline of the remarks we will be making today.

The Public Employees' Retirement System services approximately 90,000 active public employees in the state of Nevada and almost 30,000 retirees. We are basically the sole retirement benefit for public employees in our state. The average benefit for a retiree in our system is about $25,000 a year, so a little over $1,900 a month. We have approximately 165 employers. Over $55 million a month comes to the retirement system in the form of contributions. We pay out a little over $50 million a month in benefits to our retirees, so we are a fairly significant financial institution in the state of Nevada.

[Dana Bilyeu, continued.] If you turn to page 3 in your booklet, you will see two checkmark bullet points which represent the mission statement of the Public Employees' Retirement System. It remains the same today as it was 58 years ago when we were created, and that is to provide a reasonable base income for our retirees as they move out into retirement from the active workforce, and, of course, to attract and retain workers in the public workforce, such that the public receives the full benefit of their training and experience over the course of their careers.

Page 4 (Exhibit B) outlines the history of the retirement system, and I'll just go through these dates fairly quickly. In 1947, the Legislature, after review, determined that it would be appropriate to create the Public Employees' Retirement System, and the system was created to fill a void. At that time, and from the 1930s onward, it was believed by the federal government that they could not mandate payment of state treasury monies into any type of federal program, and so public workers in the state were prohibited from participating in the Social Security system. Because of that, there was no retirement system at all for public workers. The Legislature recognized the fact that there was a phenomenon called "hidden pensioners," people who were retiring basically right at their desks because they could not quit their jobs, as they had no means of support. The retirement system was created to fill that void and to provide a reasonable base income.

In 1967, the Legislature created the Legislative Retirement System. Before that date, legislators actually participated in the regular Public Employees' Retirement System (PERS), but because of the way you earn service credit, your benefits were very, very minimal. We'll talk a little bit about the benefits structure of the Legislative retirement structure in a few minutes. Between 1970 and 1971, the Legislature acted to modify the benefits structure such that it was actually meeting its mission statement. It was creating new benefits, changing the multiplier, changing early retirement provisions, and those sorts of things. At the same time, the statutory contribution rate remained at 5 percent. The actuary was actually indicating, at that point, that we were not receiving the contributions necessary to fund the benefits structure.

In 1971, the Legislature commissioned a study. We refer to it as the "Harris Kerr Forester Study." They came in and studied the structure of the system, the benefits structure, the investments, who we interacted with, the employers that participated in the system, and then came up with a series of recommendations for creating a more independent agency that vested the control of that agency with the retirement board, which consisted of the trustees of the trust fund itself.

[Dana Bilyeu, continued.] Between 1973 and 1977, a lot of different changes were put into our act, as well as into the *Constitution*. The first thing that happened was that we moved to full actuarial funding, and I'm going to talk about what that means in a few minutes. Basically the Legislature recognized that the contribution rate had to fund the benefits structure. We couldn't have a benefits structure that was being created but not being sustained through a contribution rate that adequately met those benefits.

The second thing that happened was that the *Constitution* was amended to create the trust fund separate from the state, such that the monies in that trust fund cannot be used for any other purpose except to fund the benefits of the Public Employees' Retirement System (PERS). There were also a series of provisions put into our statute to make us more independent from central state government, and that was really as a result of a lot of controls that were being exerted over the fund that were, number one, leaving a lot of investment dollars on the table for us. We were a little bit hamstrung in how we did our investing. Because of that, the legislative study itself determined that several hundreds of millions of dollars had been left on the table, and they wanted to vest in our board the responsibility and accountability for making the management and investment decisions of the fund.

The other thing that happened in this independence movement for the retirement system was to make all employers play on a level playing field with the retirement system. Because of the State's very strong presence with the system, the State was exerting more control over the system than any of our other public employers. The largest public employer in our retirement system is actually the Clark County School District. They have about 5,000 more employees, approximately, than the State does. The State, nevertheless, was the one with most of the control over the system. We actually represent employers from the smallest mosquito districts with one employee, all the way up to the Clark County School District, with over 25,000 employees. Each employer has the same obligations to the fund, and we have the same obligations to those employers. Everyone must be treated equally in the pension plan.

In 1977, the Police and Firemen's Retirement Fund was created. That fund carries with it an additional public policy purpose for its existence that is beyond, simply, the reasonable base income and attraction and retention of public workers. That is to ensure that the individuals in those public safety positions are capable of protecting the public from physical harm. They are allowed to retire a little bit earlier out of that fund than out of the regular fund. Public policy says you don't want to have a firefighter at the age of 65 running into a burning building attempting to bring out individuals or a police officer at age 65 trying to chase a robbery suspect down the street. By policy, the Legislature adopted the early retirement structure to allow those folks to move into retirement a little bit before the rest of the public workers.

[Dana Bilyeu, continued.] Also, in 1977, the Interim Retirement Committee of the Legislature was created. Its name today is the Interim Retirement and Benefits Committee of the Legislature. That's the legislative oversight arm for the Public Employees' Retirement System (PERS). We meet with that committee during every interim. We talk about issues facing the system, talk about funding, talk about our budget. They review us periodically in between Legislative sessions.

Ultimately here we have, as our last bullet point, the creation of the Judicial Retirement System, which happened in 2001. That transitioned that system from a pay-as-you-go system into an actuarial reserve funded system, and we'll talk about that in a few minutes. Now, I'm going to turn over the presentation to Tina Leiss, our operations officer, who is going to talk about the administrative structure of the system.

Tina Leiss, Operations Officer, Public Employees' Retirement System of Nevada: On page 5 (Exhibit B), you'll see briefly the administrative structure of the system highlighted. The structure is corporate in nature, but we have a little public twist to it. The system is governed by the seven-member board of trustees who are all appointed by the governor. The members of the board are representative of the employers, the members, and the retirees of the system. The executive officer, the operations officer, and the investment officer run the daily business of the system. Dana [Bilyeu] is responsible for all agency decisions, while Laura Wallace's responsibility is oversight of the investment program. I am responsible for the operations of the system with the four principal divisions listed on this page.

Employer and Production Services are responsible for wage and contribution reporting as well as all of the calculations that are performed by the agency. The Member and Retiree Services are responsible for all counseling, whether that's in person or on the telephone. They do all the educational programs, the publications, and the informational videos that are produced by the system. The accounting division keeps our books and provides our daily interface with our banking institutions, and the information technology division supports the computer infrastructure of the system.

[Tina Leiss, continued.] Now, if we turn to Page 6 (Exhibit B), you'll see the legal considerations that have cemented PERS as an independent agency that is really responsible to all level of government. PERS is a creature of the *Nevada Constitution* and the Nevada Revised Statutes, which is Chapter 286. It's a constitutionally created trust fund by Article 9, Section 2 of the *Constitution*, which provides that any money paid for the purpose of funding or administering the system must be segregated and can never be used for any other purpose.

In 1996, the voters strengthened these constitutional protections, giving safeguarding language designed to prevent raids on the trust fund. These protections include requiring that the system be governed by the retirement board, that the retirement board be the hiring authority for the executive officer, that the system employ an independent actuary, that the board adopt assumptions based on the recommendations of that actuary, and that the system cannot invest in obligations of the state and cannot loan money to the state.

Additionally, we would like to make a quick point about the nature of pension benefits. Pursuant to the *United States Constitution* and the *Nevada Constitution*, these pension benefits are protected under the Constitutional Contract clauses. The benefits are a portion of the employment contract. Therefore, the benefit structure in place on the first day of employment is the same benefit structure guaranteed to that member when they retire. Those benefits cannot be reduced or eliminated without giving that employee an equal or greater benefit to replace it. The same is in place if there is a modification during the member's employment career. If the benefit is modified, then that modification must remain in place, or if that is reduced or eliminated, the member must be given an equal or greater benefit to replace it.

Finally, in order for the trust fund to remain in a tax-deferred basis, our plan document, which is our Chapter 286, must comply with certain provisions of the Internal Revenue Code. If you read our chapter, you will notice certain references to the Internal Revenue Code regarding benefit forfeitures and other restrictions. These provisions are mandatory to make sure that we are operating on a tax-deferred basis. A PERS is a 401(a) defined-benefit plan, which simply means that the benefits under the program are definitely determinable by application of a statutory formula. On page 7, you will see this formula and an example of how the formula works to calculate the formula for our members.

There are three basic components to the retirement calculation. The first is the years of service credit. This is the number of years in service performed in the system. The second is what we call the service time multiplier, which, in our calculation, was 2.5 percent, which was the service time multiplier in effect until July 1, 2001. The third component is the average compensation, which is figured by taking the average of the member's highest consecutive 36 months of pay. If you look at this example, you'll see how this works. A member with 20 years of service prior to July 1, 2001, with a $2,000 average compensation, will receive a monthly benefit of $1,000 per month. This monthly benefit is subject to post-retirement increases to help ensure that the retiree's benefit keeps pace with inflation through the lifetime of that retirement period.

[Tina Leiss, continued.] For purposes of receiving a benefit, a member must have at least five years of service credit, and, on this page, you will see the retirement eligibility ages for both the regular fund and the police/fire fund. Finally, PERS administers two other programs: a disability retirement program and a survivor benefit program.

Next, I'd like to review the benefits under the Legislators' Retirement System on page 8 (Exhibit B). The Legislative Retirement System was created in 1967 to provide legislators with retirement and survivor benefits. Like PERS, it is a defined-benefit plan and the benefit is tied to your age and years of service. As a legislator, you're eligible to receive an unreduced benefit at age 60 with at least ten years of service. For each year of service, you will receive $25 per month at retirement. Therefore, a legislator who retires with ten years of service can expect to receive a pension of $250 per month. There are various optional forms of benefit that provide you with a reduced amount, which will then allow you to provide beneficiary protection after your death. Post-retirement increases are paid in the same manner as with PERS. There are survivor benefits also available, but there is no disability program in this system.

Finally, on page 9, I'd like to review the Judicial Retirement System, which was established in 2001. Prior to 2001, the Judicial Pension Plan was an unfunded pay-as-you-go plan with payments coming directly from the State General Fund. In 2000, we transitioned to an actuarial reserve funding basis, and Dana [Bilyeu] will talk a little bit more about this funding policy in a minute. Judges who held judicial office prior to November 5, 2002 have an option at the time of their retirement of receiving benefits under the old pay-as-you-go plan or under the new plan. Also, judges who are PERS members at the time of election or appointment to judicial office have an option to either remain in PERS or to move into the new plan and receive benefits under the new plan. All other judges are members of the new plan and will receive benefits under that plan.

The formula for benefits is very similar to the PERS fund, except the service time multiplier is 3.4091 percent. We take that times the years of service times the average compensation to arrive at the benefit. The average compensation is the same as PERS, which is the average of the member's highest 36 consecutive months of pay. The benefit cannot exceed 75 percent of the average compensation. You may think that that is a funny multiplier, but 3.4091 percent equates to the 75 percent after 22 years of service.

[Tina Leiss, continued.] That's a high level review of our benefits structure. With that, I will turn it over to Laura Wallace, who will talk about the investment program which funds the benefits for PERS, the legislative system, and the judicial system.

Laura Wallace, Investment Officer, Public Employees' Retirement System of Nevada:
We put together a couple of pages to address three things here for you today. We want to share our investment objectives, talk a little bit about our investment strategy for all three of these portfolios, and then summarize some performance information. On page 10 (Exhibit B), we synthesized the fundamental investment objectives, and these, like other things that have been referred to, have been in place for many years. A lot of you know that our investment assumption is 8 percent. When we make decisions in terms of what kind of a structure to put together for these portfolios, we're focusing on an 8 percent return, and, with every decision we make, we are focused on that return. We're managing risk and always trying to minimize the risk that's taken in order to generate that return. The other thing that's very important to us, that we felt worthy of inclusion, is on this page. Today, we want what we're doing to be transparent to you and to anyone who has an interest in the way this money is managed.

On page 11 (Exhibit B), we have highlighted this investment strategy for all three of the portfolios; they're virtually identical. If you look closely at the exhibit, though, you'll see a little bit of difference between the way the PERS fund is invested and the two smaller portfolios, the legislators and the judicial fund. We also, just for reference, included total assets for all three of these portfolios at the end of our fiscal year, which was June 30, and the number that you see for PERS is approximately $16 billion, for legislators is $4 million, and for judicial, $15.5 million. Those are market value of assets.

Investment performance has a couple of pages on that, beginning on page 12. Obviously, I don't want to read these numbers to you this morning, but the most important part of this page, to me, is on the far right-hand side. Those are the inception-to-date numbers.

Now, let me set the judicial portfolio aside for a minute, because that's a very new portfolio, and I'll talk specifically about that. When you look at the long-term numbers for the PERS fund and the legislator's portfolio, what is important is on an annualized or averaged basis. We have, in fact, met that test I addressed a couple of pages ago when I talked about the investment objectives. Are we generating an 8 percent return on average? This is the information that tells you we are.

[Laura Wallace, continued.] What is very important and is going to be very relevant in a minute, when I turn this back over to Dana to talk about how we fund and what policies we have in place to fund the pension fund, is the fact that the 11 percent exists. If you look again at that right hand column on page 12, there was an average annual return for PERS of 11 percent. If you turn that page you can see that that does not get delivered to us in a nice smooth way year after year. There's a lot of volatility, as you know, in the investment markets, and, regardless of how carefully we manage the risks, inherent in the investment process there is risk, and there is volatility.

This is a very normal part of our business, and if you look at this slide for a minute (Exhibit B) and even look at the next page where you see the legislators' results, you can see that serpentine kind of a pattern to the investment performance. Given the way our assets are diversified, that is a normal function, a normal byproduct, of the markets in which we invest in the exposures that we have. Obviously, when you look at those patterns, you can understand why we have—and have talked to you about this over the years—a focus on trying to stabilize our contribution rates and stabilize these investment returns the best we can.

The judicial fund, just a quick remark there, as has been pointed out, the judicial assets came to us for oversight in 2001 so you just see two complete fiscal years of performance there. The investment program for those assets is exactly the same as it is for the legislators' fund. We're very confident that that 8 percent return and those other objectives that we have in place are reasonable for that portfolio, given a full market cycle. Let me turn it back over to Dana Bilyeu, then, to talk about funding.

Dana Bilyeu:
I wanted to spend just a few minutes talking about actuarial reserve funding, which is how the system is funded, and give you a definition of what that means. Actuarial reserve funding basically means that when an active employee comes into the public sector, the employee and the employer pay a contribution rate into the system that is designed to capture the normal costs of that benefit over the lifetime of that member. The actuary tells us, as they value the benefit package given every individual in the program, what the normal cost of our benefit structure is. We pay that on an annual basis, so every year as we

accumulate a new year of service credit in this program, we're paying for that new year of service credit in the program. We're paying the normal cost of it.

[Dana Bilyeu, continued.] There's another component in actuarial reserve funding, and that's called the funding of the unfunded accrued liability of the program. Remember when I was talking about the history of the program? When the Legislature was initially creating the benefits package itself, that contribution rate was staying the same. It was staying at five percent. We were creating an unfunded liability for the program because money was not coming in as it should have been to fund the normal costs of those benefits.

The other portion of unfunded, accrued liability is measured when we take a picture of the system every single year to look at this question: Are we meeting our expectations or assumptions of the program? In the course of any given year's valuation, we'll look at demographics, the investment return assumption, which is 8 percent, how many people are terminating, how quickly are people dying who are in the program, and those sorts of things. We have assumptions for all of those things, and then we measure how well we do against those assumptions.

If we have losses, they create liabilities for the program. I think there is a real good example to show you of how an unfunded liability was accrued. If you look back at page 13 [Exhibit B], Laura Wallace's investment performance slide, at that serpentine effect, you see that bright bar that runs straight across at 8 percent of the assumption. The returns that are below 8 percent create an actuarial loss for the program. That becomes part of our funding process.

When you look at where we are currently funded, which is 78.7 percent, we have a little bit over 20 percent of the program as an unfunded liability. We are paying that off over a period of time. That period of time the board just reviewed in last year, in 2004, we spent about five months reviewing how to fund the unfunded liability of this program so that we can maintain stabilized contribution rates for predictability for the Legislature and predictability for our members. As I talk about the contribution rates, I'll emphasize over and over again that the employees in this program pay equally in the cost of this program. They share equally regardless of which contribution plan they participate in.

The board went to a process where we can fund, on a rolling 30-year period, each new, unfunded accrued liability. In other words, say it's the year 2017 and there's a significant market loss or significant demographic loss, the members and employers that are in existence on 2017 are going to be given the opportunity to fund that loss over a 30-year period. That's the change to our funding policy that our board just adopted.

[Dana Bilyeu, continued.] We do have two contribution plans. One is called the Employee/Employer Joint Contributory Plan. The other is called Employer Pay. Both plans are actually joint contributory plans. The difference between the two is that under that first one, employee/employer joint contributory, the member can refund their portion of the contributions out if they leave the public sector. Under Employer Pay, the employee's portion is paid on a tax-deferred basis, and those contributions would remain with the system. It's a little bit less expensive to fund that way, and so, the lion's share of all of our members do participate under employer pay. It's almost a percentage point less expensive than funding under employee/employer pay. That's why the Legislature in the early 1980s adopted that program for funding the system.

If you turn to page 16 (Exhibit B) in your book, this is a slide which will demonstrate how the rates are arrived at. Currently, employees and employers, under employer pay, are paying a combined contribution rate of 20.25 percent. That was put into place through the last legislative process. We value the plan every year, but only those valuations that are performed in even-numbered years affect the contribution rate under our current statutory scheme. We had a rate that rounded to 20.25, and that went into place July 1, 2003. It's been in place for this current biennium. When we completed the evaluation for 2004, which was last year's valuation, the actuarial rate, which you'll see in that second line, was 19.70 percent for regular members and 32.12 percent for police/fire members. That causes our rate rounding mechanism to go into place under our statute, and the rate is being rounded to the nearest one quarter of one percent, at 19.75 percent for regular members and 32 percent for police/fire members.

We're seeing about a half percent reduction in the regular rate, but a three and one-half increase in the police/fire rate. It's not quite a net difference between those two. One-half percent of the regular fund payroll is approximately $16 million. Three and one-half percent on the police/fire rate, because that's a lot smaller group of individuals, is roughly $19 million to $20 million. We're not quite netting those two out, but we're very close to doing that.

On page 17 (Exhibit B) are the rates for the joint contributory after-tax program, which is the one that has the slightly more expensive approach because there is refundability. The existing statutory rate was 10.5 percent for regular members—that's regular members and employers—and for police/fire it was 14.75 percent. Because of the way our statutory rounding mechanism works, you see that that valuation rate came in at 10.305. It's not quite enough for there to be a trigger to change the rate. The rate is going to remain the same for regular members of that program, but it is going to go up for the police/fire side.

[Dana Bilyeu, continued.] I do want to make a couple of comments about the police/fire rate. The police/fire fund has only about 10,000 members in it, so it's a much smaller group of individuals. You have less people to share in the costs of those market trends that we talked about before. They have to bear more significant amortization payment on their unfunded liability per capita than in the regular fund simply because there're fewer of them.

The other thing that occurred with that fund that affected these rates is the fact that we performed an experience review of the system. That's a process where we go through on a three- to five-year basis, and we look at all of our assumptions to see whether or not they're matching our experience. If our actuary will see a trend away from the assumptions that we are using, they'll recommend a change to those actuarial assumptions. That's what you see happening here with the police/fire fund. We have an assumption for salary growth in both the regular fund and the police/fire fund. Up until our most recent experience review, it was the same salary assumption for both funds. We saw a different change between the two, and we changed the salary growth assumption and increased it slightly for the police/fire fund, and you see that reflected in this rate as well.

Finally, on page 18 (Exhibit B), it's just a very brief summary of the legislative program for the Public Employees' Retirement System. The first bullet point mentioned Senate Bill 345 of the 72nd Legislative Session, and that was a bill that mandated a study of PERS disability programs. Our current disability benefits are paid on a taxable basis to our members, and there was a push in the last legislative session to look for a way for us to potentially be able to pay those disability basis on a tax-free basis in a worker's comp type of approach. We did study that approach, actually several different approaches to changing our disability program, but the actuary indicated to us that each of those changes had a potential for additional cost to the program. Because of that, the board declines to seek any legislation to make any modifications to the disability program, primarily due to cost. So we have no recommended legislation out of that study bill.

A technical bill is the only bill that we will be seeking, and there are three very minor changes to the retirement act that are being sought. The first is to remove the requirement for Social Security number disclosure in our qualified domestic relations orders, which are divorce proceedings. Currently, our statue does require that Social Security numbers go into the public record at the court along with the individual's name, birthdate, and physical address. We thought that it's really inappropriate for all of that personalized information to be contained within a document that is filed at the courthouse, and so we're asking that Social Security numbers be removed from that. They'll still be required to give us the Social Security number so that we can track their benefits, but it will only be held in the confidential records of the retirement system.

[Dana Bilyeu, continued.] Secondly, we are asking for a change to our survivor benefit program. Currently survivor benefits are paid to children of active members when the active member dies while still actively employed. They are allowed to be maintained until the age of 23 for a child if they remain a full-time student. What is currently in our chapter is that the individual, if he maintains his full-time student status to say the age of nineteen, but then they take a semester off or they drop below full-time student status for some reason or another, we cannot reinstate the benefit even if they return to full-time student status. The actuary actually funds that benefit or projects the cost of that benefit as if the child is going to remain a full-time student to age 23. We would like to make that payment to the individual child as well. We're just asking for that technical correction in the statute.

The final technical change in the Act has to do with, as Tina was talking about, all those elections that judges are allowed to have between the regular PERS fund and into the new judicial plan, the two chapters, Chapter 1A for the new judicial plan and Chapter 286, the Retirement Act, have competing provisions in them so it's difficult for us to see what is the default election mechanism. We're asking for that to be clarified. There is no fiscal legislation that is supported by the retirement system at this time, such as changes to the benefits structure of the system that may cost money. With that, we're happy to answer any questions of the Committee.

Chairman Parks:
Wow! That was a lot of information. As an individual who tends to be pretty well-versed in that, my head was spinning with all that data. Thank you for taking good care of my money. Let's open it up for questions and start off with Mr. Christensen.

Assemblyman Christensen:
The question is probably for you, Ms. Bilyeu. I was just looking at page 4 (Exhibit B) under history, halfway down under the 1973 through 1977 recommendations the study implemented, the next line is "move to full actuarial funding method," probably the method that you were describing. What I was wondering is, has this retirement program been a defined-benefit program ever since that time? Has it ever been a defined contribution?

Dana Bilyeu:
No. The program was created as a defined-benefit program in 1947 and has remained a defined-benefit program since that time.

Assemblyman Christensen:
I've had people talk to me about whether or not this should be a defined contribution program. If one of my constituents was sitting here telling you, "Ms. Bilyeu, I think there should be a defined contribution as opposed to a defined benefit so that we can better project the ups and downs of markets and how we manage the money ongoing into the future." How would you respond to that?

Dana Bilyeu:
I would respond by indicating that the Retirement Board, in 2001, performed a study between defined benefit and defined contributions to adequacy of benefits for the individual members. They adopted a position in favor of the defined-benefit program as the core retirement structure for active members of our plan. They support a defined contribution program as a supplemental program, a wealth-building tool that would be provided on a voluntary basis to individuals. Because of the nature of our program as the sole retirement tool for public workers in our state, a defined contribution program leaves retirement security basically on the table for the individuals, and so the board does not support that.

Assemblyman McCleary:
I have a couple of questions. The first one is that you mentioned that the retirement payments have a formula that will keep up with inflation. What is that formula, first of all?

Dana Bilyeu:
The formula actually steps up the longer an individual is retired. The first three years an individual is retired under the program, they get no cost of living adjustments at all. Then in year four, you get two percent. In year five, you get two percent. In year six, you get two percent. Then it ratchets to three percent for years seven, eight, and nine.

Assemblyman McCleary:
So, they're set percentages?

Dana Bilyeu:
They're set percentages. However, there is a lifetime CPI [Consumer Price Index] cap. What we do with the system is that, as it ratchets up over time, we're trying to measure that benefit against the erosion that has been caused by inflation of that benefit. Those statutory amounts that are set are granted unless the individual member has kept pace with inflation. Each year, as we get ready to provide the post retirement increase, we take the lifetime benefit that we've paid the individual and measure that against the lifetime accumulated Consumer Price Index. If the benefit has kept pace, they're capped at the Consumer Price Index for their post retirement increase. If it has not, they're granted the statutory amount. That's the way the statute works. We are required to measure the CPI against the lifetime benefit of the individual.

Assemblyman McCleary:
It would seem that they would be going backwards in purchasing power to me.

Dana Bilyeu:
You are correct. The first three years, they actually do go back in purchasing power, and that's why, over time, the post-retirement increase formula goes up. But, when we put that into place, the lifetime CPI cap, which I believe occurred in 1995, was to make sure that, while we keep pace with inflation, we don't exceed inflation as we move further and further out into retirement.

Assemblyman McCleary:
It doesn't seem like we will have to worry about that. The other question I had was that the program is funded at 78.7 percent. What are your recommendations to bring that up to 100 percent?

Dana Bilyeu:
That process right now is that there are two components that fund the unfunded liability of the program. Number one: The contribution rate contains an actual component within it that makes the payments on the unfunded liability such that we will pay that off over a thirty-year period of time. The current unfunded liability of this program will be paid by 2034.

The secondary component of that is, if we have gains against our assumptions, those actually go in to reduce the unfunded accrued liability of the program. When we talk about making, for instance, our eight percent assumption in the investment markets and we have twelve percent in a year, that excess amount or premium above the eight percent actually works to reduce the unfunded liability over time.

Assemblyman Hardy:
How do your eight percent goal and what your history is match up with private industry and the state of Nevada? Are there comparable institutions that are doing the same thing as PERS?

Dana Bilyeu:
Nationally in the public sector, the eight percent assumption is, I would say, the dominant investment assumption that is being used. We look at that every single year because we're looking at capital market projections, and we're looking at how investment experts see the markets going. Every year we're looking at those assumptions to make sure that we believe that they are sustainable.

Assemblyman Hardy:
Did you answer my question or did I get lost?

Dana Bilyeu:
I believe I did. In the public sector, it's the dominant. The private sector, I'm not as familiar with because we don't measure ourselves against the private sector.

Assemblyman Hardy:
Does one of you know about the private sector and want to admit it?

Laura Wallace:
Regarding Dana's comment, an eight percent future assumption for investment earnings is most prevalent for public sector plans. It's our understanding that assumptions that have been used in private plans and corporate plans eclipse that from 8.5 to 10 percent. I think what we're seeing is those are coming down as people's expectations are coming down. Does that help? Is there also part of a question on the investment return that we've experienced?

Assemblyman Hardy:
No. I think you've addressed that in your prior comments. You haven't alluded to anything, probably because the next presentation will talk about the benefit, and that will probably be the same question I'll have on the benefit program of the state retirement fund and how it relates to the Governor's proposal to limit benefits. I take it there is no decrease in the retirement system in the Governor's proposal, or you would have said something about that.

Dana Bilyeu:
That is correct. At this point, there are no recommendations from the Executive Branch to make modifications to the Public Employees' Retirement System at this time.

Assemblyman Hardy:
Then the observation coming from local government is that the local government used to pay 18.75 percent when I started this whole thing. Now, it's at the 20.25 percent. So, how does the local government entity figure out in their budget what they're doing in order to match the projected need to get at that eight percent? They're paying a salary plus the 20.25 percent, so actually they're paying 20.25 percent more in salary than is bargained for. Is that how I look at it?

Dana Bilyeu:
The contribution rate, both 18.75, 20.25, and then in the next biennium, it's going down to 19.75, is by statute and is actually a shared rate; the employer pays half of that and the employee pays half of it. The employee mechanism is either through salary reduction or in lieu of equivalent pay increases. I'll use the State as the example for the salary reduction approach. Any time there's a change in rate—for instance, when we went from 18.75 to 20.25—half of that change was actually taken directly out of the individual's salaries at the State. In local government, but not all local governments—some local governments do salary reductions as well—in the negotiation process, the negotiation can include negotiating an equivalent pay increase to offset that cost associated with the change in the cost of the program.

Employers themselves are only obligated to pay those contribution rates to us. So, as far as a budgeting process, where they have to be concerned with our 8 percent assumption, I don't think that that would necessarily play into that. We set the contribution rates based upon what our experience has been against those assumptions, and their obligation is to pay that contribution rate to us as dictated by the statute.

Assemblyman Hardy:
I don't know if you're aware of it, but there are conversations in this building about property tax. Obviously, that's going to play a role in the benefit that we get from PERS. Are you going to address any of that and how that will affect depending on what is done with the property tax?

Dana Bilyeu:
The Public Employees' Retirement contribution rate is a part of the public payroll, so we are an overall cost of government just like salaries are a cost of government and any programs that are run by government. From our perspective, the property tax issue is something that is obviously going to be decided here at the Legislature. We are simply part of what is the budget that is

going to be funded. I don't think we'll have a role in the dialogue on the property tax discussion at this point.

Assemblyman Hardy:
So, the entity, the municipality or the county, has a mandate to pay through an organized labor fashion, as a priority, the salary and the PERS system. That would not come off if there were a challenge to the system. How would the entity then make up if they have $100,000 that they pay in employee salary plus PERS contribution? You decrease property tax or find some other way. As I see it, you're not going to decrease salary of employees as much as cut back services or cut a person who's doing that. Is that my understanding?

Dana Bilyeu:
I think that would be correct because, since we are part of payroll and those are part of the employment contract of the individual member, it's a group benefit. In essence, that would be part of the payment package and could not be diminished during the active employment period of the individual.

Assemblyman Hardy:
So, the only way you can make that up in some ways it to make the group smaller?

Dana Bilyeu:
I believe that would be correct.

Assemblyman Goicoechea:
Yes, Dana, and just looking at this, is it correct to assume there's about a $4 billion shortfall then in PERS today?

Dana Bilyeu:
That is correct.

Assemblywoman Pierce:
I've been reading that life expectancy over the next 30 years might actually stall, because there is not a whole lot of new miracle drugs on the horizon and the fact that, as Americans we all eat too much. The expectation is that it's not going to go up much. Is that true?

Dana Bilyeu:
I think, in some instances, that is correct. When we look at the retirement system, we have an assumption for mortality. There's a group annuity mortality table that the Retirement Board adopts. When we looked at the state's

experience, just the state of Nevada, we have not actually seen the trend in longevity that the rest of the nation has seen. Our longevity is still back the same as it was in the late 1980s and early 1990s. From our perspective, we haven't seen that tremendous growth in longevity in the retirement system itself. But when you speak to the actuary, the National Society of Actuaries, they would tell you that they fully expect the trend in longevity to weaken and to slow down for precisely the reasons that you spoke of.

Chairman Parks:
Thank you. Further questions? Okay. I have a couple here. The first one dealt with an issue, maybe you can just inform us, and Assemblywoman Parnell asked me about it a week or so ago, with regard to a sunset provision on asking teachers to come back and how that is being addressed.

Dana Bilyeu:
The provision that you're referring to is commonly known as the Critical Labor Shortage Provision within our Act. Basically,, when retirees go back to work, we have reemployment restrictions if they come back into the public sector. If they come back into a position that's eligible for participation in the Public Employees' Retirement System, the typical reemployment restriction is that we stop the benefit. In 2001, there was a modification put into place for reemployment, and it was driven primarily by the education field. However, it has been put into play for all critical labor shortage positions as designated by the governing body of whatever local government or the state is.

For the State, it's the Board of Examiners; for the school districts, it's the Department of Education; for local governments, it's the elected governing bodies of the local district. The provision, when it went into place in 2001, has a sunset on it that will stop this critical labor shortage exemption on June 30, 2005 unless the costs associated with that program are recognized in the contribution rate that's paid to the system. We were required to do an experience study of that benefit to see what the cost was associated with it.

Over the four-year course that that benefit has been in place, we've had a little over 140 positions out of 90,000 that have been determined to be critical labor shortage positions. The lion's share of those are education-related. I believe it's 78 percent of them are education-related. We have the actuary perform an experience review. There is a slight cost because of what we're projecting the use of that provision to be, and because of the way that statuary trigger—the rounding mechanisms that I talked about just a few minutes ago when I talked about the rate, that very, very incremental cost, I think it's two or three basis points in the regular fund and a little bit less than that in the police/fire fund—is close to our rate triggers and will actually cause a rate increase to keep the critical labor shortage exemptions. The board has declined to support legislation to extend that exemption from our reemployment restrictions. We're asking that it will actually sunset June 30, 2005. However, I did see that there was a bill draft request that came out yesterday from the Committee on Finance to lift the sunset and to continue that benefit going forward.

Assemblyman Grady:
That sparked another thought. We have some volunteer firemen that want to retire mainly from their main job that is under PERS. They are not, the way I understand it, able to collect their PERS retirement as long as they are still collecting their volunteer fire department benefits. This is causing us to lose some very strong, experienced firemen in the rural areas. Is there anything or anybody looking into that situation?

Dana Bilyeu:
We actually were in contact with a couple of the rural departments concerning this issue because you are correct. When a person is an active public employee and also a volunteer fireman, and that particular fire district is making the voluntary contribution on behalf of the firefighter, as well as the employer contributing under their regular job, they are required by our statute currently to retire from both of those positions. They cannot remain active, contributing members under one and be retired under the other because you have one status or you have the other. You cannot have both in the system. In discussing that with some of the rural departments, we suggested the use of the critical labor shortage provision because that is the one way you can retire from both and then be able to come back in the volunteer capacity. I believe it has been used in a couple of the departments already.

Assemblyman Grady:
You have to be off 90 days in order to come back on that?

Dana Bilyeu:
Not under the critical labor shortage.

Chairman Parks:
You mentioned that you were funded to 78.7 percent, and I was wondering if you could just simply comment on how that compares with other PERS systems around the country.

Dana Bilyeu:
We actually now have a very good comparative tool that we're able to use, called the Public Funds Survey, that is performed by the National Association of State Retirement Administrators and the National Council on Teacher

Retirement. We can look at funding levels at virtually all of the statewide public pension plans across the nation.

[Dana Bilyeu, continued.] I'll comment first on a general basis. Generally, virtually all public pension plans, with a few exceptions, are funded above the 75 percent level. Many are funded above the 80 percent level. Quite frankly, during the run up in the 1990s in the markets, we had many, many plans that were over 100 percent funded. Because of the challenging period in the markets between 2001 and 2003, most public pension plans did reduce their funding levels. We were actually at 83 percent or 84 percent funded before the market declined and now have gone down to the 78 percent. There are a number of programs that are basically funded at the same level as us. There are many programs that are funded below us, and many programs that are funded above us as well. I would say that we're right in the middle of the pack when it comes to funding.

Chairman Parks:
Based on that, you're quite confident that you're on good, solid footing, and that there's no reason for alarm?

Dana Bilyeu:
Actuarial reserve funding mechanism is designed to pay off those unfunded accrued liabilities over time, and that's precisely what we're doing. The only time you have an issue with funding, when there's an unfunded liability, is if an employer, for whatever reason, or planned sponsor is not making the required contributions to the program. In fact, that is occurring in several states across the country right now where they're taking contribution rate holidays, or they are simply leaving a statuary contribution rate too low to make up those actuarially required contributions. That has never been the case in the state of Nevada. Those contribution rates that are set by our retirement board employers have paid and are continuing to pay, and, therefore, we are on a very strong funding basis going forward.

Chairman Parks:
I guess I ask this question only because, in recent months, in local newspapers, there have been a number of articles that have been written and letters to the editor proclaiming the dire financial shape of the Public Employees' Retirement System.

I'm constantly approached, and, perhaps this might be a question more for my colleagues, by individuals who are constantly saying that the job they perform should be part of the police/fire early retirement. Would you care to comment on a bit of the history for that and how that's come about?

Dana Bilyeu:
Prior to 1985, the Police and Fire Retirement Fund positions that were designated into that fund were actually done by the Legislature. Individual groups would come to the Legislature and ask for coverage in the early retirement fund. In 1985, the Legislature commissioned a study that was conducted by the retirement system to come to a formula or an approach to determining what position should or should not be in the early retirement fund for police and fire. Between 1985 and 1987, the retirement system conducted this study. As I referred to earlier, early retirement is designed to promote the public policy of a youthful and vigorous frontline public safety force that is capable of protecting the public from physical harm.

The current statutory scheme that is in place for participation in the fund has two pieces to it. The first is that frontline coverage that I just spoke of. An individual who comes into a frontline position, if they work in that position for two years, is titled to promote away from the frontline and continue to maintain early retirement coverage, and that's so that we don't frustrate that promotional process away from those folks that are out on the streets and in the cruisers or on the apparatus for the firefighters.

[Dana Bilyeu, continued.] We have two different categories for current inclusion in the fund. The first is frontline coverage. It's very stringent criteria to become covered under the frontline determination. We've been through virtually all frontline positions that are out there. I believe, as departments create new positions, we evaluate those positions and make recommendations, first to our Police and Fire Retirement Fund Advisory Committee that evaluates whether or not those positions meet the criteria for being included in the fund. That committee itself is made up of two firefighters, two police officers, and then the management position on it rotates every other term back and forth between police management and fire management. They make recommendations to the retirement board, and then the retirement board ultimately makes a recommendation as to who should be in and who should not be in.

We've had some controversy with respect to promotional coverage. There are a lot of groups that are approved for promotional coverage that believe that they should meet the criteria for frontline coverage. There are some bills that will be pending in this legislative session concerning that.

Chairman Parks:
My next question deals with page 7 (Exhibit B). I guess, at the 2001 session, you went from the 2.5 percent to the 2.67 percent. Could you explain why that

change was made? The mechanics I understand; I was just trying to think of what the basis for making that change.

Dana Bilyeu:
The number is kind of an odd number, and it raises questions for people because they don't understand how we made it when we went to 2.67 from 2.5. The Retirement Board puts forth fiscal legislation that it deems appropriate for purposes of making modifications to the system to keep it flexible enough to meet its mission statement for the attraction and retention of individuals.

In 2001, many groups came to the Retirement Board and asked for a change in the multiplier seeking to go actually a little higher than 2.67 percent, but the Retirement Board was opposed to any modifications in 2001 that would have triggered a rate increase. Remember, we have a valuation rate that comes in and a statutory rate, and, at that time, the statutory rate was 18.75 percent. The valuation rate came in a little bit below that amount. To fund benefit changes, it was the difference between the valuation rate and what that statutory rate was. The Retirement Board could only go so far without triggering a rate change, and that's why you see the rate benefit multiplier going from 2.50 to 2.67. They wanted to increase that multiplier, but they didn't want to affect the rates themselves. That's why that number is now in place.

Chairman Parks:
Thank you for that explanation. I would only say that maybe it should have read, "Service prior to July 1." I think there are a few people in the room here that would agree with me. If it had, it would certainly assist in their benefits that they currently receive. Thanks for that explanation. I think there are one or more legislators that have folded their legislative retirement into the regular retirement system. Could you explain how that actually works?

Dana Bilyeu:
In 1999, public employee legislators at that Legislative Session were granted that opportunity, because there were so many leaves without pay for their legislative service in regular retirement fund that it was affecting their calculation. Chapter 218 was modified and Chapter 286 was modified to allow sitting legislators, at that time, an election to forego accumulating service in the Legislative Retirement System and pay, out of their own pocket, contributions to the regular system to gain the service credit in the regular system. We have salary certifications from their public employer as to what they would have earned if they had been in those positions, and then we bill the individual legislators for the contributions to make up that service credit.

Chairman Parks:
They're personally buying into it. It's a cost they are bearing.

Dana Bilyeu:
Yes, that is correct.

Chairman Parks:
I didn't know if we have any freshman legislators that might find that beneficial. I've read, especially in the *Wall Street Journal*, about a number of corporations, as well as investment banking houses, have put public employees' systems under attack for the investments they have and the influence that they tend to have with the stockholder meetings. I just wondered if Nevada PERS, with its assets, has faced any problems there with any of the investments that it has held dealing with shareholder issues.

Laura Wallace:
We have not had any issues in that regard at all. We have not come under any kind of pressure that I would say is anything extraordinary.

Chairman Parks:
I guess when CalPERS [California Public Employees' Retirement System] is the 800-pound gorilla; they're the ones that tend to get most of the attention drawn to them.

Laura Wallace:
Our managers' positions have been, if they are evaluating a company for investment, if they're unhappy with its governance structure or something, that they simply sell the investment and move into something else that looks more attractive.

Chairman Parks:
That's a good way to do it. I have one last question. I know that by statute we define compensation, and there are a lot of different issues that have come into play, and I guess I was around long enough to remember when there was a program in one of the state agencies where, if you were in your last three years, you got all the overtime you wanted and that ended up causing your benefits to be greatly increased for your retirement. I know that we made some changes in that. With regard to longevity, shift differentials, and hazardous duty additional pay, has the Retirement Board taken positions on that as far as doing the definition of that, or does that pretty much, more or less, lay with the individual local government that actually sends you the contribution? Could you comment on that?

Dana Bilyeu:
You are correct. The average compensation definition, which is in our statute, is there for precisely the reason that you're talking about. If individual employer practices cause what we refer to in the pension industry as "spiking" in the last three years of employment, which has a direct effect on the cost of this program over time. The system itself policies the definition of compensation and requires our employers to meet the restrictions that are within our chapter concerning that. We actually go out into the field and do audits of that process to ensure that employers are using the definition appropriately when they are reporting income to us.

Chairman Parks:
Are there any further questions?

Assemblyman Claborn:
I've been sitting here and listening. I sat on a couple of trusts for over 20 years, and they were done under the scrutinization of the Taft-Hartley Act [Labor-Management Relations Act of 1947]. I hear you talk about the Retirement Board, but I haven't heard a word of any fiduciaries or fiduciary responsibilities. Apparently, you're not under the Taft-Hartley Act. Is that correct?

Dana Bilyeu:
The retirement boards, the boards of trustees, are called the fiduciaries in a trust situation for the retirement system, so they actually are, by statute and by constitution, fiduciaries. The Taft-Hartley Act, which governs a lot of the association types of programs, is federally regulated. Private sector programs are regulated under the Employment Retirement Income Security Act [of 1974] of the federal system. For statewide pension plans like Nevada PERS, we are governed by a state statute, and the retirement boards themselves are the fiduciaries for the system.

Assemblyman Claborn:
If the state went broke, the money goes along with it, right?

Dana Bilyeu:
I certainly hope that that would never happen.

Chairman Parks:
I noticed that we've probably pretty much concluded our questions and comments, and we certainly want to thank you for coming today. I'll also mention that before you leave the witness table, I know that one of your prior chairmen of the Retirement Board, Mr. [Charles] Silvestri, was here earlier. I

think he probably went to another hearing. Are there several others who are members or prior members of the Retirement Board [in the room]? Mr. [David] Kallas is one?

Dana Bilyeu:
Yes. Mr. Kallas is one of our trustees, and Marvin Leavitt, who is in the back row, is a former trustee of the retirement system as well.

Chairman Parks:
If either of those gentlemen would have any comments that they would like to make, I would certainly appreciate hearing from them.

With that, I know that our agenda calls for public participation at the end of the agenda, but given that we're talking about the retirement system, I believe that there are probably some citizens who didn't indicate that they wanted to speak, but they are retirees. I would like to offer them an opportunity, if they have any remarks, to please come to the witness table and provide those at this time. If not, let's go ahead and proceed forward into an overview of the Public Employees' Benefits System. Mr. Thorne.

Woody Thorne, Executive Officer, Nevada Public Employees' Benefits Program:
Our presentation is being distributed (Exhibit C). With me is Jim Wells, our accounting officer. In looking at the Public Employees' Benefits Program (PEBP), the initial slide shows the summary of the items that we'll cover today, which is the PEBP mission, an update on legislation from the 2003 Session, program achievements and our financial status, a look at the plan design history, and plan demographics, and then what we're looking at in the future. Also included is an appendix with basic information on insurance, economics, and how they affect the program as well.

The mission of the Public Employees' Benefits Program is to design and manage a quality health care program for public employees and retirees in the state of Nevada so they are assured of excellent service, responsiveness to changing benefits needs over career life spans, equitable cost sharing among all participant groups, and fiscal soundness for the long-term viability of the program.

For those of you who were here at last session's review, the last part was the part that we were struggling with mightily. You'll see as we move into the financial results that there's been a significant turnaround in the program since then. Our governing statute is NRS [*Nevada Revised Statutes*] Chapter 287, and in there, the current structure of the program for the Public Employees' Benefits Program Board was established in 1999. The board is comprised of nine members representing a cross section of public employees and retirees, as well as two members who are representatives of the private sector with extensive benefits experience.

[Woody Thorne, continued.] When we look at the 2003 legislation, the key bill that we addressed was Assembly Bill 286 of the 72nd Legislative Session, which was effective October 1, 2003. This expanded the subsidy laws to cover non-State retirees participating in PEBP. Through this program, we build non-State subsidies directly to their prior employer. The last employer paid the entire subsidy through July 1, 2004. All the local governments, except the City of Caliente and the Las Vegas Metropolitan Police, have made all of their payments for this period.

Another significant bill was Assembly Bill 249 of the 72nd Legislative Session, which was effective July 1, 2004, which allocates the retiree subsidy to all the employers based on their years of service with that employer. We have completed the programming to implement this, and the years-of-service information was collected from all existing and new retirees. Where there were discrepancies, they were determined on a final measure by audits by the respective retirement systems involved.

Assembly Bill 249 of the 72nd Legislative Session also imposed a fifteen-day notification requirement on agencies for changes of their personnel. This required pay center reconciliation, which was completed in December of 2004. We've identified all of the discrepancies between our records and those of the pay centers and are currently working through all those discrepancies to make the final corrections. This is the first time this has been completed in my tenure with the State that started in 1990. I don't believe it was done any time prior to that as well. We're very pleased with that accomplishment.

We've also determined that regulations are necessary to define this notification period. We had expected to rely on personnel laws and rules, for example, but when we went to those, it was to be reported in a timely manner. We don't have anything concrete to deal with in implementing the fifteen-day notification. This is in changes for terminations, leave without pay, worker's comp leave, which can affect the coverage of the benefits for the participant. Once this is fully implemented, if the agency does not report that within the fifteen-day period, then the agency will be responsible for both the employer's and the employee's share of any adjustment. We expect this implementation to be complete by July 1, 2005.

When we look at the combined effects of A.B. 249 of the 72nd Legislative Session and A.B. 286 of the 72nd Legislative Session, as of

January 1, 2005, we had 2,708 non-State retirees participating in the program. Ninety-three local government entities are being billed for that subsidy; $10.8 million, has been billed, and $9.4 million has been collected. Only the City of Caliente, Las Vegas Metropolitan Police, and Clark County are currently more than 60 days in arrears.

[Woody Thorne, continued.] As we move onto the program achievements, we have completed a transition from a calendar-year plan year to a fiscal-year plan year. This has provided a great assistance in dealing with the budgeting process and changes in the subsidy rates. We've revised our contract and request-for-proposal [RFP] schedule to also conform with this change to a fiscal-plan year, and this significantly reduced the burden on staff and purchasing division. In coming into the last session, we had conducted RFPs in the prior eighteen months for every single one of our contracted vendors. This was a tremendous time crunch. We're trying to stagger contract expirations so that we can spread that out more evenly.

We've also implemented predictive modeling to set 2005 and future rates. Predictive modeling takes a look at the health status of the participants in projecting out the expected claims for that group in the coming year. It's also been used by Medicare since 1994, and, in fact, is mandated for Medicare now and is used by most of the major insurance carriers.

We've also implemented a disease management and 24-hour nurse hotline program for PPO [preferred provider organization] participants. The disease management program is targeting asthma, diabetes, chronic heart failure, and hypertension. We're looking to identify high-risk individuals in these disease states so that we can assist them in management of the disease to hopefully prevent the serious complications that can develop. This is a voluntary program currently, and we've had a very high response rate. We've had over 80 percent of those identified participating in that program. The nurse hotline has also been well-received by the participants as well.

We've also awarded HMO [health maintenance organization] contracts for both northern and southern Nevada, and, currently, only Churchill, Lander, and Pershing Counties are without HMO coverage options in fiscal year 2005. Anthem will be licensed to provide additional coverage in those additional counties in July 1, 2005. For the first time, we will have HMO coverage as an option statewide.

As we look to improve the program, we wanted to establish a feedback loop with the participants. As part of that effort, last fall we conducted participant focus groups, and we did an electronic survey to determine their benefit priorities. What was important to them? That had a major factor in the benefit changes that will be implemented as of July 1, 2005.

[Woody Thorne, continued.] The Board also approved and expanded our communications program along the same lines. We have created a new logo to clearly identify information from PEBP [Public Employees' Benefits Program] and differentiate PEBP from PERS [Public Employees' Retirement System]. We found through the focus group feedback that there was a substantial amount of confusion as to what PERS did and what PEBP did, and which agency was responsible for retirement benefits versus health benefits.

We also implemented a quarterly newsletter. The first issue was mailed in January, and we forwarded a copy of that to all of the legislators. This has also been well-received. We received comments in the focus group that they were looking for more regular information from us to provide them with information about the plan, their benefits, and what the board was doing that may affect them. We've also started an annual "PEBP State of the Business" document. This was issued for the first time and presented to the board at its January meeting. A copy of that was also forwarded to all the legislators. We are looking to provide information to all our stakeholders as to where we've been, where we are, and what our plans are for the future.

We've revised our employee benefit orientation. This is a presentation provided to new employees to provide information about the benefits available to them. We've also instituted a new retiree benefit orientation. This is aimed at active employees who are preparing to retire within the next six to twelve months.

Finally, we have completed an overhaul of our agency website that went live on February 2, 2005. We found in the feedback we got that there was a lot of good information on our website, but it was not easy to find the information that people needed. So, we used a lot of the feedback from that to completely revamp the website.

We also completed an audit of our financial statements within 90 days of the fiscal year, resulting in more timely information to the board and our stakeholders. This had formally been done through the Controller's Office. We worked with our auditors and the Controller's Office to modify that process, and we were able to get that out approximately three months faster than we were able to do prior.

The financial status of the program is looking much better than when I spoke to you last session. Fiscal year 2004 operating income exceeded expenses by $46 million, and there's a graphic on page 10 that shows historically. We had a

$46.8 million cash balance for fiscal year 2004, and we had net assets positive for the first time since 2001. Fiscal year 2004 claims expenses decreased from the prior year for the first time since 2000. There's a graphic on page 11 which shows the trend of that over the years. Claims costs were actually less than both fiscal years 2003 and 2002. For the six months that ended December 31, 2004, our operating income was $18.9 million on revenues of $112.4 million. However, the claims costs of $64.3 million was up 15.6 percent from the same period in fiscal year 2004, despite having fewer PPO participants due to the introduction of more HMO options across the state.

[Woody Thorne, continued.] As we move to page 12 (Exhibit C), your slides show the history of the reserve requirements and the funded reserve levels over the past eight years. You'll see that we were a negative in 1998 from a funding standpoint, and, except for a small positive balance in 2001, we have not been fully funded on reserves from 1998 through 2003. For the first time in a long time, we are fully funded on our reserve requirements in fiscal year 2004. You will notice a substantial increase in the dollar amount of the reserve requirement in 2004. The Board had approved the implementation of a catastrophic reserve. We're looking to have a mechanism built into the program and the budgeting process so that we can deal with the ups and downs that are inevitable in a health insurance program across a biennium and be able to deal with any substantial deviations up or down through the budgetary process, as opposed to crisis situations such as we had in 2002.

The next several slides (Exhibit C) are showing graphically a look at the plan design history from 1998 through 2005. Taking a look at the medical plan deductible for both PPO and non-PPO provisions, you'll see that in 1998 it was a $250 PPO, $500 non-PPO deductible. In 2004 and in 2005, we're looking at a $500 and $1,000 for a PPO and non-PPO. I'll go into some of the plan design changes that were proposed and approved by the board at its February meeting.

One of the feedbacks that we got for benefit changes from the participants was a lowering of the deductible, the out-of-pocket maximum, and you'll see a similar trend to the deductible. These were changes made at roughly the same times. For the base plan, where we have the $500 deductible, we then show the primary care physician coinsurance and copayments. It is a copayment, fixed dollar amount, for a PPO position and then a 50 percent coinsurance if you go outside the network. That has risen since 1998, from $10 to $20.

Plan design history on our pharmacy (Rx) benefit is probably the most significant. You'll see that when we went in and out of an annual deductible. Of the 1998 plan year, we had a $25 deductible. For 2001 through 2003, we had no plan deductible, and then we implemented that deductible in 2004 for $50.

The trends you see in the copayments for generics and brands have been quite progressive and have had a significant impact on the overall cost of prescription drugs for the program and for the participants while still maintaining a complete coverage formulary.

[Woody Thorne, continued.] You'll see that generic retail in the early years was at 30 percent of retail; it is now $5 copay. At the mail order, it was $5 copay in 1998. At that point, the prescription discounts that you were able to obtain were substantially higher through mail order programs. That is no longer the case. Although there is some differential, it is nowhere near as significant as it was back then. Nevertheless, instead of going up to $25 in 2001, and we are now at $10 for generic for a 90-day supply.

Name-brand retail was covered globally up until 2002, and then it was broken out into a preferred formulary and a non-preferred with higher copays for the third tier, which is non-preferred. In 2004 plan year, we completed a process to move to a preferred formulary with $40 retail and $70 mail order for brand-preferred drugs and allowing non-preferred drugs to still be available to participants at the discounted cost, but there would be no payment by the plan towards those particular drugs.

As a result of these changes, our plan currently has the highest percentage use of generic drugs of any plan that our prescription drug manager has in the country. We are currently at nearly 55 percent utilization for generic drugs, at a significant cost savings to both the participant and the program.

We then move to look at the plan demographics. On page 19 (Exhibit C), you'll see a graphic of a distribution of both the primaries, which could be employees as well as retirees, and their dependents. It's a very similar look to the graphic we had at the last session. The most noticeable change is the increase in steepness in moving from the 40-to-49 age bracket to the 50-to-59 age bracket. That used to have more of an angle, but it has now gone to a much steeper rate. There's been a slight shift from one decade of age to another in that particular group. You'll see a falloff from 50-to-59 and 60-to-64. This reflects the 30-year and out retirement of public employees. You'll see many of them leave the program. They may retire from the State, but many of them follow on to second careers. They pick up additional coverage through their new employers, and, then they come back into the system when they fully retire. Thus, you see the up-tick from the 60 to 64 to the 65 and over.

The graph on page 20 (Exhibit C) shows the allocation of our participants between the HMO plans and the self-funded plan. You'll see in 2001 a significant decrease in the HMO; that was when the northern HMO, through St.

Mary's, was in financial trouble and had substantial rate increases. They then dropped out in 2002, and you see a further significant decline. That stayed about the same through the next three years when we implemented a northern HMO for plan year 2005. You see a significant increase once again in the HMO population, which is a little more similar to what we saw in the late 1990s, as far as the distribution among the available plans.

[Woody Thorne, continued.] The next slide (Exhibit C) shows the allocation between the dependent tiers under both the self-funded PPO plan and the HMO plan. They're relatively consistent in the percent of distribution across the tiers, and this is what we like to see, because that indicates that there's not adverse selection against one or the other. We've got a fairly even distribution of the program participants in the two types of plans.

The graphic on page 22 (Exhibit C) shows the State and non-State participation for both actives and retirees. You'll see that State actives and State retirees represented 90 percent of the total population in 1998. In 2005, that is down one percent to the total of 89 percent. The significant shift is that we had 75 percent actives and 15 percent retirees in 1998. That ratio has shifted to 71 percent actives and 18 percent state retirees. That shift is even more dramatic when you look at the non-State group. They were essentially one-to-one, five percent each in 1998 and on through 2003. That's when we were struggling, and there were significant rate increases for the retirees and the non-State retirees since they are a separately rated group. You actually saw a drop in the number of retirees.

Assembly Bill 286 of the 72nd Legislative Session was implemented, and you see, in July 2004, we had a near doubling in the percentage of non-State retirees participating in the program and a funding decrease in the number of non-State actives participating. Because that group's experience is commingled, the more retirees that come into a non-State group, and you commingle the experience and rates across that group, it drives up the rates for the actives, which makes it then feasible for the local entity to find a better deal for just their actives under a separate program. The trend is something that is being phased nationally as far as an increase in proportion of retirees to the overall health care insured population.

As we look to the future, we recognize that, in order to maintain the viability of the program for both the program itself and for its participants, we need to take a more proactive approach, and we are transitioning to an emphasis on preventative care. We recognize that this is a long-term effort that is going to require significant consumer education. With its focus on wellness, we are concentrating on preventative care, expanding wellness coverage, instituting screening for high risk factors, coverage of care to mitigate those high risk factors, increasing the participant awareness of healthy choices, and a focus on better health to prevent serious illnesses. That will be to the benefit of all concerned, both the participants and the program.

[Woody Thorne, continued.] The PEBP [Public Employees' Benefits Program] Board approved several changes to the benefit plans since the February 5, 2005 meeting. While we are maintaining the $500 PPO [preferred provider organization] deductible plan, we are going to eliminate the $1,000 and $2,500 PPO deductible plans. Instead, we will add a $2,000 PPO deductible comprehensive major medical plan. This is an 80 percent benefit with a 20 percent coinsurance. This will also include true single and family deductibles. In other words, there will be a $2,000 deductible for single coverage and a $4,000 deductible for family coverage. This is positioning this plan in line with the IRS [Internal Revenue Service] rules for high deductible health plans, which may allow the board, at the future date, to add health reimbursement arrangements or health savings accounts.

However, with this emphasis on wellness, if participants—that includes the employer, retiree and, if they have a covered spouse, also that covered spouse—complete a health assessment form, the deductibles will be cut in half. It would be a $250 deductible and a $1,000 comprehensive major medical. In addition, if they complete the health assessment form, it will increase their dental maximum from $1500 per individual per year to $2,000 per individual per year. We are attempting, through this, to encourage the reporting of the health information, and gather that information so that we can target our wellness benefits more effectively. It will also allow us to measure any progress that we have over time in addressing key chronic indicators.

In addition, for both the $500 and $2,000 major medical plans, we'll enhance the prescription benefits to include tobacco cessation prescriptions, Nicotrol inhaler and Nicotrol spray, in the brand name tier, and buproprion and buproban in the Tier 1 generic as this is basically a generic version of Zyban [buproprion hydrochloride], which is used in most smoking-cessation programs.

We'll enhance the vision benefit by including a lens/frame allowance of $125 every two years and an exam allowance equal to 80 percent of "usual, customary, and reasonable" charges. This is a change from the existing $40 exam benefit only.

We will enhance the dental benefit by including four cleanings per year, again looking at the proactive approach to dental health. We eliminate the precertification requirement for MRIs [magnetic reasonance imaging], CT [computer tomography], and PET [positron emission tomography] scans. We have found, through our utilization rate management company, that they rarely, if ever, deny pre-certification requests for these scans. They've become a much more important tool in diagnostic care. We will monitor the ongoing use of that to see if there is a rebound effect by the removal of the pre-certification, but we think it will be a benefit.

[Woody Thorne, continued.] We will increase the wellness benefit maximum from $600 per individual, currently, to $2500 per individual per year. We'll expand the wellness benefit to cover such things as all generally recommended health screenings and immunizations, both for adults and children, additional tobacco use cessation and weight control programs, and stress management. We will include the Medicare Part B premium as a covered expense not subject to the deductible and paid at 80 percent. Currently, for Medicare retirees, they pay not only the premium to the plan, which is subsidized as retirees, but, with no subsidy at all, they are paying the Medicare Part B premium, which is, as of January of this year, $78.50 per month. That would be paid at 80 percent whether they have any claims or not.

The coordination of benefits will change from an integration-of-benefits to a maintenance-of-benefits, and for the $500 deductible PPO plan, where we have copays instead of straight coinsurance, it'll recognize chiropractic care as a specialty visit and set the copay at the $30 per visit specialist level. In establishing the new rates for both the $500 and the new $2000 major medical plan, we combined plan experience for actives, early retirees, and age 65 and over retirees. The justification for commingling experience is found in NRS 287.0434(3)(b). The statute says:

> The rates set forth in the contract are based on:
>
> (1) For active and retired state officers and employees and their dependents, the commingled claims experience of such active and retired officers and employees and their dependents.

In setting your rates, you have to look at the experience of the entire group in establishing the rates that are charged. Subsection 2 of that deals with the requirement for the non-State participants in the PEBP program. This was put in place during the 2001 Legislative Session. We have been gradually moving towards a full commingling in stages. Last year for actives and early retirees, their experience was commingled in the DXCG [Diagnostic Cost Group] model, which is the predictive modeling tool. Retirees over age 65, for their benefits, were not paid in the same manner as an employee. Early retiree benefits were handled separately. This year, the experience for actives, early retirees, and retirees over 65 were commingled in the predictive modeling. From an equity standpoint, it's required that we include that Medicare Part B premium as a covered benefit under the plan. Otherwise, Medicare retirees would have paid the same as actives and early retirees for their planned benefits, in addition to paying the Medicare Part B premium.

[Woody Thorne, continued.] All of these factors will impact a study that is currently being done by our actuarial firm in conjunction with Assembly Concurrent Resolution 10 of the 72nd Session and the state Executive Branch on the effects of subsidization. We have a new acronym now, "OPEB," Other Post Employment Benefits. The new GASB [Governmental Accounting Standards Board] rules require that we develop a cost for that subsidization going out into the future for both current employees and retirees. We have an implied subsidy through the commingling of the claims experience as it is much higher for retirees than for actives, and we also have a direct subsidy through the subsidy that provided by the State and local entities. This is taking a look at that combined subsidy and what the net present value of that unfunded liability is. We are currently on a pay-as-you-go basis. This was in a FASB [Federal Accounting Standards Board] rule that was implemented for the private sector in the early 1990s. That accelerated the trend in the private sector away from providing retiree subsidy for health insurance and, in some cases, retiree health insurance at all. It is something we're concerned about. We hope to have that in the next month or so on the first cut on that study.

It's important to remember that when you have a subsidy through the commingling, where you have the retiree group with much higher claims, that subsidy is much larger. When you roll in the Medicare retirees into the total, it's mitigated somewhat because the saving effects on Medicare Part A are spread across the entire population, so you do have some cross subsidization there as well. The effect has been to lower the active rate from what it would have been in the early retiree rate.

When you take a look at the effects of commingling across each of the rate groups—actives, early retirees, and Medicare retirees—what you have is a significant increase in the active, a significant, and probably the largest decrease, in the early retiree, because there is no offset from Medicare, and then the commingling has the effect of decreasing Medicare retirees as well. If we undo commingling, or eliminate that, we'll see a substantial reduction in active rates, you will see early retiree rates skyrocket by a minimum of 40 percent, and your Medicare retiree rates would rise as well. So, there's good and bad in the commingling and the subsidy effects that we have as a result of that.

Vice Chairman Pierce:
Thank you. Are there any questions?

Assemblyman Grady:
I have about three questions.

One of them concerns Assembly Bill 286 of the 72nd Legislative Session. Can you give us a rough dollar amount that local governments have had to pay into this system, under which everyone I've heard from is screaming that it's an unfunded mandate, which it was. That's not your fault; it's ours. It was a huge dollar amount to local governments. Can you tell us what that amounts to?

Woody Thorne:
On slide 6, on page 6, we're showing that through January 1, 2005, we'll have billed $10.79 million.

Assemblyman Grady:
Also, and maybe I missed it, with your changes and enhancements, did you mention what you anticipated the rates will do?

Woody Thorne:
We're currently reworking our budget request because it's a significant change from where we were as early as December. We're projecting that the actual rates, or rate costs, will decline roughly 3 percent from current rates, and that includes all of the benefit enhancements.

Assemblyman Grady:
With the copay and the deductibles over the last four or five years, up and down, back and forth, this is confusing people. It's unbelievable the amount of phone calls you get, especially from retirees who cannot keep track of what you people are doing and, unfortunately, can't get the answers when they call into your department.

Woody Thorne:
We'd like to hear from those who are unable to get the answers. We work really hard at providing responsible response time that is both timely and accurate on that. We also are working to increase our communication efforts on that, and we'll try to address some of that globally. I agree that the ups and downs of the plan design provisions have been exacerbated by the ups and downs, particularly the downs of the claims experience of the last few years. We've had extraordinary claims experience on the bad side, the high side, in late 2001 through 2003.

[Woody Thorne, continued.] We have seen the flip side of that in 2004 and going into 2005. They tend to even out, but there has not been a mechanism in our budgetary process or agency funding mechanism that would allow us to ride out those ups and downs. I agree that we need to stabilize that benefits structure so there is an expectation that is fulfilled as far as what the plan design will or will not be.

When the board was faced with the horrendous claims experience going into 2003 and a limited amount of funding available, there were only two options: either you cut benefits dramatically, or you charge a tremendous amount more in the premium. Since the subsidy was already fixed, the only place to go to for the premium addition was to the participants. It's a balancing act, and what is the lesser of evils in those situations.

With the catastrophic reserve that is included in our budget request and the Governor's recommended budget, we should be able to stabilize that so that the relative participation cost and the benefits structure can be stabilized. So, we are attempting achieve precisely that goal.

Assemblyman Goicoechea:
I commend you; that's quite a turnaround. We were talking about the $25 million we had to put in the pot in 2001 and 2003, and now we've got a $50 million surplus. I would like to see some more numbers on the HMO [health maintenance organization] participation. We know that southern Nevada is quite a bit cheaper than northern Nevada, and I would also like the cost as Anthem looks at Churchill, Lander, and Pershing Counties, all counties I represent. Do you have a number as to what that is going to cost for the HMO in those counties?

Woody Thorne:
The HMO rate that we have covers the entire northern portion of the state. It wouldn't matter whether it was in Carson City, Washoe County, or the other counties. It would be a combined or blended rate. However, that rate is significantly higher than the HMO rate that's available through HPN [Health Plan of Nevada] in Clark County. That has to do with the cost differences that we have discussed in detail on many occasions. It looks like, based on the renewal we have from Anthem, their rates are going to be similar to or slightly higher than the $500 deductible plan.

Assemblyman Goicoechea:
So, technically, what you're saying, even though we have the HMO in northern Nevada, we still end up with a PPO [preferred provider organization]?

Woody Thorne:
You still have the option. There's a very different approach to medical care under an HMO model versus a PPO model. Yes, there are similarities in cost of premium. There are some differences in out-of-pocket costs and how they are structured. What we're hoping to do is develop a worksheet to help participants determine, based on their own pattern of health care use, what program makes sense for them.

Assemblyman Goicoechea:
Do you have a breakdown of how many people or what percentage of people use the HMO in southern Nevada versus how many people use the HMO or the PPO in northern Nevada?

Woody Thorne:
We have approximately 2,600 participants in the northern Nevada HMO versus about 5,200 participants in the southern Nevada HMO. The percentage of use is much higher in the south because of the expense differential.

Assemblyman Goicoechea:
Then in southern Nevada, you would exceed 70 percent of the participants who are in the HMO?

Woody Thorne:
No. My estimate is there was going to be in the 30 to 40 percent range in the south.

Assemblyman Goicoechea:
What would the premium cost? Regarding the rates you are charging, I think it would have been extremely beneficial to have those incorporated here for the Committee.

Woody Thorne:
The final rates for the plan year starting July 1, 2005, will be decided at the board's March 10 board meeting.

Assemblyman Goicoechea:
The numbers from last year would have helped. I've looked at those rates, but I've forgotten most of them.

Assemblywoman Parnell:
I echo Assemblyman Goicoechea's words about the turnaround. As you can probably guess, I still have a few concerns. When you look at page 3, you talk about equitable cost sharing among all participants. I guess I would request the

same information. I would like to see that because that's where I've had difficulty with this system for a long time. It's always been my belief that if you did share that cost across the board, then when you saw an increase or a decrease, it would be equally shared, therefore eliminating those great spikes that the non-State retirees suffered a couple of years ago. I would also ask for the payment schedule right now. I'd like to know what the different groups are paying a month for their health care.

[Assemblywoman Parnell, continued.] Second of all, about that health assessment form, I'd like to know a little bit more about that. When I hear that, it concerns me for people with pre-existing conditions. How is that going to play into the bigger picture, and depending on what you put on that assessment, how might that affect your rates?

Woody Thorne:
We don't have any plans for that affecting your rates in any way. We're working with the Community Health Bureau, with the Nevada Health Division, along with our disease management company and our third party administrator, to develop that survey. We're trying to use standardized questions where there's been a history through the Health Division in particular of gathering that type of information.

We're looking at general wellness, and what kinds of exposures do the individuals have to weight issues, tobacco use, hypertension, the key areas that can have an effect on your health across the board.

We want to know what level of problem we have in each of those categories so we know how to address, specifically, those on the wellness benefits side of the equation. It will also help us to measure that over time. It's going to be a fairly short form. We're looking at a maximum of two pages. We're looking to make it as easy as possible to complete.

One of the concerns that came up during the focus groups is the issue of privacy and their willingness to provide that information. The whole report on the assessment is going to be handled by a third-party administrator who processes the claims. We have no direct information or need to know this information other than on an aggregate basis. They will gather that either through a Web interface or through, we think, probably a phone contact, but Web for sure. That information will be compiled. It will be put into their claim record files to determine what deductible and benefit level they're at. Then, the risk information will go onto our disease management company who will then target educational mailing and contacts with those individuals reporting one of these potential health problems. It's an effort to target our wellness education efforts to those with a particular health issue.

Assemblywoman Parnell:
Lastly, for the last two years, since the 2003 legislation, you have commingled your state employees. Is that correct?

Woody Thorne:
Yes.

Assemblywoman Parnell:
In conversation, it would sound like you believe that will be a negative. Yet, when you look at the financial turnaround the system has made in the last two years, which, to me, doesn't show that. Commingling was a negative to the financial stability. Could you . . .

Woody Thorne:
No, and I didn't mean to imply that the commingling was a negative to the financial stability. What it impacts is the state's potential liability under the new GASB [Governmental Accounting Standards Board] rules, which is the subsidization of other post-employment benefits. We are required to develop that cost in this year. Then, starting with the plan year that begins July 1, 2005, we will look at the possibility of pre-funding retiree health benefits. The commingling doesn't have a negative effect on the overall program. In fact, what has driven the turnaround is a combination of a significant reduction in the number and size of our large claims, but we've also seen, with the benefit changes that were made, an across-the-board change in the way participants are utilizing health services. We're seeing a decline in every category. It isn't just one particular aspect such as large claims; it's across the board.

Assemblyman Goicoechea:
Technically what we're talking about is this $48 million positive came about because of the combination of increased premiums, reduced benefits, and the fact that we also required that non-State entities pay.

Woody Thorne:
When we look at the non-State entities' pay, they're paying a portion of a premium that we would have collected anyway. We were collecting that entire premium from the non-State retiree themselves. The subsidy contributes to a portion of that premium in the same manner that the state contributes a portion of the premium for its retirees.

Assemblyman Goicoechea:
I would disagree with that, because the rates were so high they couldn't have paid the fee of $1400 for a man and wife, pre-Medicare—$1,400 to $1,700. If it hadn't been for the local government being required to subsidize that premium, people just couldn't afford it. It was higher than a mortgage payment. I do think that's slanted a little bit.

I definitely supported Assembly Bill 286 of the 72nd Legislative Session, but I also take a lot of heat from local government because we did require that they subsidize it. The bottom line was most non-State retirees could not afford the State's health care program. If it hadn't been for Assembly Bill 286 of the 72nd Legislative Session requiring the local jurisdiction to subsidize that, I think those numbers would have gone down even further on the non-State side.

Woody Thorne:
The non-State retiree participation probably would have continued to decline. There was a substantial drop in those rates over the last two years, because the experiences prove part of that might be attributable to the fact that there's a greater number in there. Once Assembly Bill 286 of the 72nd Legislative Session went into effect and we had the open enrollment, which was required from Assembly Bill 286 of the 72nd Legislative Session, we had over 1,000 non-State retirees joining the program.

Assemblyman Goicoechea:
They could afford to pay; that's what it amounted to.

Woody Thorne:
If I might expand a little bit on Assemblywoman Parnell's question earlier on the policy, relative to what the shares are between the employer and the employer/retiree. The funding mechanism for active retirees is a dollar amount per filled position. That's just a funding mechanism. The board has some discretion as to how to allocate that subsidy. There has never been a policy statement by the Executive or Legislative Branches as to what percentage of the cost of coverage should be covered for the employee, and what should be covered by dependents, ever. It's always discretion on the part of the board to utilize the subsidy that's provided and share that as equitably as they can.

For retirees, that is exactly the same situation, except it's exacerbated by the requirement that there be an adjustment based on years of service. There's a base amount that is set, and it has no correlation to the actual cost of coverage, and you get anywhere from 25 percent to 137.5 percent of that base amount, based on your years of service from five to twenty or more. When you have an influx like we did of retirees, that retiree subsidy is funded through an assessment against payroll for the State. I'm looking at the State portion now.

[Woody Thorne, continued.] There's no direct correlation between the number of State employees or the state payroll to the number of retirees that we have. In fact, when we prepared our budget and projected the number of retirees and actives that we would have in 2006 plan year, we are redoing our budget partly because we already have more retirees and, to a lesser extent, actives covered currently than we have projected for 2006.

You get a disconnect between the funding mechanism and the number of retirees that are eligible for coverage and receiving a subsidy. We also have, and we're working through our own efforts and with PERS [Public Employees' Retirement System] to derive better predictors of what that retiree enrollment is going to be. Until there's some direct link, I think that will always be an issue. I wanted to give a little bit of background on that sharing mechanism.

Assemblyman Goicoechea:
This is again along the lines that Assemblywoman Parnell was talking about. Do you not feel that by putting your health questionnaire in place and finding out what pre-existing conditions there are and what your health conditions are, that's going to cheapen it up, and you're going to offer advantages to those people who are in good health? Don't you feel that will become a burden to those people that do have preexisting conditions, including health issues, at a time in life when they really need health care insurance? I'm afraid it's going to make it unaffordable.

Woody Thorne:
The Board took a look at wellness programs in general, which are usually run as separate employer-sponsored programs not directly tied to the health insurance program. They took a look at what the Washoe County Teachers' Association had done, and theirs was a separate wellness program that charged each employee $40 per month. They did a very short questionnaire that had to be completed and signed off by a physician, addressing issues of BMI [body mass index] for the measurement of overweight or obesity, tobacco use, and hypertension. These are general health factors that can have an impact on a wide range of health or disease issues, as well as dealing with productivity and attendance issues. Just by completing their form, there was a $10 reduction of the $40 fee. If you had one of the risk factors and were taking action on it, that fee went away as well. You could get it down to zero, whether you had the risk factor or not, just by taking action to deal with that.

[Woody Thorne, continued.] We got a lot of resistance and negative feedback through the focus groups on that kind of an approach. We chose to try something as a positive incentive for them to respond to the survey, and that is to cut the deductible and increase the dental benefit maximum. We hope to have the same kind of approach down the road. We're not looking to penalize those who have those risk factors; we're looking to incent them to take action on them.

Assemblywoman Parnell:
I am going back to the equitable cost sharing just for a minute. I look at two retirees. I look at retiree A, who is a State retiree, and retiree B, who is a non-State retiree. My concern for the last six years is the inequity in the amount those two individuals have paid. Some State retirees pay as little as $15 a month. Non-State retirees were paying $750 a month. That has been my concern, and it has continued to be. That's why I would like to see the payment structure. I would like to know now what all those groups are paying. And, if we can stabilize and truly make that equitable, then I think we are going to really stabilize the program and lessen the amount of outcry that you see, often yearly, when the new payment structure goes out.

Woody Thorne:
With the impact of Assembly Bill 286 of the 72nd Legislative Session and Assembly Bill 249 of the 72nd Legislative Session, a non-State retiree is paying slightly more for the simple fact that the non-State group is smaller. It's more predominately retirees; therefore, the cost structure is slightly inherently higher, but the gap between the two has shrunk, between State and non-State. Those rates are much closer and nowhere near the differential we were seeing a few years ago. Since their subsidy must be paid on the same manner as a State retiree's, their subsidy contribution towards those premiums is calculated in the same manner as the State's as well, so we do have that equity.

Assemblyman Christensen:
I've looked through the roster of bills from your department. Do you have bills, or has anyone introduced bills on your behalf, to make changes and adaptations during this session? If so, how many?

Woody Thorne:
There is one cleanup bill that we have. That is all that has been proposed and requested by the PEBP [Public Employees' Benefits Program] board.

Assemblyman Christensen:
Just the one? Okay. Are there others that you're aware of that make changes that would bring you back here to address changes? Have others recommended

PEBP go and make changes in different areas? Were you going to respond to that?

Woody Thorne:
There is only one bill that I've seen, and it is related to Assembly Bill 286 of the 72nd Legislative Session, but I don't know what the content is. The one liner on the BDR request is too big to determine, so I'm sure we'll be watching that. If it's introduced, we'll be back with that.

Assemblyman Hardy:
The Governor's plan to decrease benefits—where are you at, and if that happens, are you still fully funded for the rest of the people that are still in it?

Woody Thorne:
I believe you're referring to the Governor's recommendation to eliminate the retirees' subsidy for new hires for the state. All we've done for that is try and come up with an estimate of what that potential savings would be if that were done. It doesn't have any impact on the program either in the current biennium or for several, actually, because the current employees and current retirees are protected. There's no change.

Chairman Parks:
Further questions? On page 6 of your handout (Exhibit C), you indicate that there were three entities more than 60 days in arrears. Is that as a result of some dispute, or is there any general reason?

Woody Thorne:
There is dispute. Clark County had been paying, and they're supposed to be sending in that payment. For the City of Caliente, we've got some specific portions of their billing that they are essentially disagreeing to and refusing to pay. Their records don't match those of PERS [Public Employees' Retirement System]. The Las Vegas Metropolitan Police have basically said, "We're exempt. We don't have to pay." They have been turned over to the Attorney General's Office for further action.

Chairman Parks:
Am I to assume that this totals about $1.4 million?

Woody Thorne:
The total for these is about $200,000. When we look at the billed amounts and the collected amounts, that's as of January 1, and it's billed at the beginning of month and due at the end of the month, so there is a timing issue there.

Chairman Parks:
It seems like a large amount for three entities. There seems to have been some discussion relative to establishing a statewide Public Employees Benefit Program, similar to a PERS-type system, where everybody contributes, and it's one system. Could you share any information relative to your thoughts on that and where that may be going?

Woody Thorne:
That is a large part of the Assembly Concurrent Resolution 10 of the 72nd Session study. In fact, they requested that PEBP [Public Employees' Benefits Program] fund the actuarial work to do some study on the feasibility of doing that. The survey of all the local entities has been completed. There has not been a meeting of the A.C.R. 10 Committee to report back on that as of yet, but what we did find was that 56 percent of the local entity employees are covered by collective bargaining agreements, and many of those have their own union trust funds providing the health care benefits. As a concern, they may want to exempt themselves out and how to wrap them and their programs into a universal program for public employees is a concern.

There is also a significant cost difference in providing health services in Clark County, primarily, versus the rest of the state. It was estimated that we would probably have to do some kind of regional rating in order for there to be any change of including all the groups. What that means, though, is that when you go to regional ratings, it's like looking at what it costs a local employer for just their group in Clark County versus a local employer in northern and rural Nevada. There's a big gap between the two. It doesn't really do a whole lot for the rest of the state.

By the same token, you've got most of your local entity employees in Clark County. They represent a large part of the local entity groups who are public employees that you would bring into an overall program. It's certainly worth pursuing. It's got merit. It's working out those kinds of issues that are the big stumbling blocks.

Chairman Parks:
I'll plan to put the A.C.R. 10 study on my list of things for bedtime reading. I'm going to conclude with one final question. I won't go into the GASB [Governmental Accounting Standards Board] rules and all that. I have a constituent who lives for a time out of state, and has complained about the program from the perspective of accessing medical services. Is that a big problem? How do you see that?

Woody Thorne:
We have a nationwide PPO [preferred provider organization] network for providers outside of the state of Nevada, through Beech Street. It is a comprehensive network. It does depend on where in the country you go. Of course, the further away from large metro areas you go, the less likely you're going to have significant coverage under the PPO plan. However, we do have the fifty-mile rule under the program. So, if there is no PPO provider within a fifty-mile radius of your residence, then, even though you went to a non-PPO provider, it would be paid at PPO levels.

Assemblyman Grady:
Since you brought up the fifty miles, you need to change that from fifty air miles to fifty ground miles. In my instance, you can't go from Yerington to Carson City. It's more than fifty miles. You folks figure it on air miles rather than road miles.

Woody Thorne:
That has come up on many occasions. It is an issue that we continue to work on with our DPA [data processing assistant] on how to best handle. On one hand, you don't want to grandfather in a whole lot that you shouldn't, but you don't want to keep harassing the participant because of the fifty-mile rule when, in fact, the only way to get there is you have to go like this, and it's a lot more than fifty miles. [Woody Thorne gestures a curving line.] It's an issue we struggle with on an ongoing basis.

Chairman Parks:
Final questions? I know we have some people in the audience who would probably like to make some comments, and I would invite them to come forward at this time. There are three chairs, so anyone who wishes to put a comment on the record, we'd appreciate that.

Gary Wolff, Legislative Advocate, representing International Brotherhood of Teamsters Local 14, Las Vegas, Nevada:
Through the course of this hearing, there've been a lot of questions asked. For the most part, they've been answered satisfactorily. One of the problems that we've experienced over the last few years, if you look at the scale, this program went from down in the hole to almost a $50 million surplus. That's remarkable. Basically, what has happened was on the backs of the State employees and other people by no benefits being paid, high deductibles, and so forth. That's a reality of life. I'm glad to have this big nest egg. Now it's time to start giving something back out of that $50 million.

[Gary Wolff, continued.] We do have one particular question, and I'm not attacking Mr. Thorne, but I do have a real serious problem here. A few years back, those of you who were around during the special session, Ms. Sneid and all of us were in here, Ann O'Connell, both sides, both Republicans and Democrats, when it came to the issue of state employees possibly having to pull $70 to $100 out of their pocket to pay for their own health insurance, we're talking about single actives. If you look at their charts, the proposed rates, they're running into $400-plus for a single active. My question is, and I know it's not a real popular one with PEBP: why are State actives putting, out-of-pocket, one thin dime? We can argue this until the day comes home, but, if you go to your LCB [Legislative Counsel Bureau] attorneys, you show me where in the law it allows them to do this. What they're doing is they're supplementing families out of this, and I have no problem doing that, because a lot of my members have children, and it makes life easier. But what really burns my members is, why are they paying out-of-pocket? Maybe you should look into that. The other thing is that my group is still not out.

Chairman Parks:
Are there any questions? Is there anybody else who would like to make comments today?

Mary Henderson, Legislative Advocate representing the City of North Las Vegas:
Last session I was representing the League of Cities as well. I apologize for not signing up to speak today. I hadn't really planned to. I think that some of the information provided might be very helpful to the local governments and the state because we did not have this information last session concerning the number of folks who are affected by Assembly Bill 286 of the 72nd Legislative Session. While we had a total number of 93 local governments and $10.79 million billed, it would be very, very helpful to all of us to know who they are, what entity they came from, of the thousand people who have joined the system now, where they're coming from. Are they coming from school districts, counties, or cities?

That was information that we really did not have available to us last session. I think it helps all of us get a little better sense of what the impact is to our entity. I really appreciate Assemblyman Grady's question about that because we couldn't even get a number as I recall last session as to impact. As we move forward in trying to manage this issue, I would respectively request that the Committee ask the program if they could provide that to all the local governments in the state.

Just a cautionary note again, and it deals with the question that you asked, Mr. Chairman, at the end of the questioning about bringing all the local governments into this plan. We testified to this last session, and I think it's extremely important. It's not something that should be glossed over at all. With the local governments in this state operating under collective bargaining units, we are totally different than the employees of the State of Nevada. It is a very, very complex issue. Many of our entities have nine to ten bargaining units that are all separately bargained. I think you'll hear quite a bit of discussion, certainly from our unions, who are very valued employees, and from management of the local governments.

[Mary Henderson, continued.] I think the other concern always on our part will be the management of the program and the stability of the program. I testified last session, and I feel very comfortable saying this, that I think we've done overall, at the local government level, an exemplary job of managing all these benefits programs, and I don't think you'd want to see many of us lose control. That doesn't mean that we're not willing to come to the table and sit down and have these discussions, but we really need to look at it in the full spectrum of issues that we are facing. Just a cautionary note on that. I appreciate it.

Nancy Howard, Legislative Advocate, representing the Nevada League of Cities:
I would like to echo Mary Henderson's comments. She is absolutely right in asking for a bit of caution in moving forward on this issue. When Assembly Bill 286 of the 72nd Legislative Session passed, she indicated that we didn't know who it was going to impact, how much that dollar impact was going to be, and neither did the Attorney General, because it took about six months to get that opinion out. At the beginning of 2004, the impact on cities on Assembly Bill 286 of the 72nd Legislative Session for the subsidy alone was $1.5 million. It was a tremendous impact. I would just urge you to be cautious when you're looking into this issue.

Assemblywoman Parnell:
To go along with what you've said, I've heard a lot about this from the school district's vantage point, and I know they weren't even included in the fiscal impact information. As you recall, that was a last-minute amendment on the Senate side. Most of the local governments, including school districts, already at least approved their tentative budgets for the upcoming year; the amendment went through on the Senate side, and everyone went, "Oh!" I think for Carson City School District, it's been about $450,000. That's just another thing for those who of you who weren't here or didn't follow that issue. That was truly an unfunded mandate, not even having been asked what the impact would be to their local government.

Chairman Parks:
No further questions? Is there anybody else who would like to comment? We thank you all for attending. At this point, I don't see anything further to come before the Committee today. We are adjourned [at 10:41 a.m.].

RESPECTFULLY SUBMITTED:

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Nancy Haywood
Committee Attaché

APPROVED BY:

____
Assemblyman David Parks, Chairman

DATE:______________________________

EXHIBITS

Committee Name: Assembly Government Affairs

Date: February 15, 2005 Time of Meeting: 8:07 to 10:41 a.m.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
	B	Dana Bilyeu, Public Employees' Retirement System	PERS	Spiral bound 18 page brochure
	C	Woody Thorne, Public Employees' Benefits Program	PEBP	Printed Powerpoint brochure, 33 pages