

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fifth Session
February 16, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:02 a.m. on Monday, February 16, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman David P. Bobzien, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Ed A. Goedhart
Assemblywoman April Mastroluca
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce
Assemblyman James A. Settelmeyer
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Scott McKenna, Committee Counsel
Cynthia Carter, Committee Manager
Michelle Smothers, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System,
Carson City, Nevada
Ross Miller, Secretary of State

Chair Kirkpatrick:

[Roll called.] We have two presentations this morning. We will welcome Ms. Bilyeu with the Public Employees' Retirement System (PERS).

**Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System,
Carson City, Nevada:**

With me in the audience today I have my Investment Officer, Ken Lambert; my Operations Officer, Tina Leiss; and our Administrative Services Coordinator, Karen Kimball, as well as one of our board members, David Kallas. I believe the secretary has given everyone our report ([Exhibit C](#)). The report is there for you to read, and I will be referring to the various charts within the report. I tried to make it a high-level review of the pension fund generally, as well as walking through the various components that we manage.

Briefly, I will highlight the outline of my presentation today. I am going to talk about the history of the pension fund, our mission, high-level planned statistics, and both the structure of the contribution as well as the funding of the system overall. I will talk about the benefit structure itself. I will talk very briefly about the investment portfolio and how we manage that, as well as the economic impact of the system to the State of Nevada.

Besides running the PERS, we also manage three other funds that I want to highlight briefly. The actual performance of these funds is noted in the appendix, and they are the Legislators' Retirement System Fund, the Judicial Retirement System Fund, and a new fund, the Retirement Benefits Investment Fund. The Legislature created the last fund to allow all the local governments and the state to set aside assets to pay for their Other Post Employment Benefits (OPEB) liabilities, primarily associated with health insurance. We have been managing that fund since 2007. [Continued reading from ([Exhibit C](#)).]

The PERS was created in 1947 in response to a lack of any retirement security for public employees in the State of Nevada. When the Social Security System was created in 1935, it expressly excluded public employees from participation. It was thought, at the time, that the federal government could not tax state and local treasuries, so we were deliberately excluded from participation in Social Security. Most of the states surrounding Nevada had already created public employee retirement systems, so Nevada was having a difficult time recruiting and retaining individuals to the public sector because there was no retirement security. The Legislature created the system in 1947, and we did not pay benefits until 1949. We have now been paying benefits from the trust for over 60 years.

A question many people have relates to Social Security coverage. Over time the federal government believed it could cover public employees, so it offered Social Security coverage to public employees. States opted in or did not opt in. Nevada is one of ten states that did not opt in to the program. That actually has been a benefit to the state because it keeps retirement costs lower than if we were participating in Social Security.

The mission of PERS was put into the state law by the Legislature when we were created, and it has not changed since inception. We are here to attract and retain qualified public employees to the public sector, and that is all of the public sector, not just the state. There are 173 participating public employers within the State of Nevada, and our largest is the Clark County School District, which has about 10,000 more participating employees than the state. There are over 33,000 employees in the Clark County School District reporting to the pension fund while the state has a little over 21,000 employees.

Nevada PERS was also designed as a pooled fund. That is, we are called a multiple-employer cost-sharing trust, which means that all employers, as well as all employees, stand on equal footing in the program. We have full portability between employers, so if as an employee you move from Washoe County to Clark County, you can continue to participate in the system. That is very different from most other states. That practice started mostly because Nevada was such a small state when PERS was created, so it was about economies of scale and being able to pool assets and liabilities over time.

On pages 1 and 2 you will see some brief statistical presentations ([Exhibit C](#)). There are over 106,000 active members in the system—including everybody from Battle Mountain General Hospital to the Clark County School District. The system has almost 40,000 retirees and approximately 76,000 inactive vested and non-vested members. We are a pre-funded system, which means that each of us participating in the system and our employers pay money every year to

finance benefits, so we are setting aside assets today to put into the markets through the power of compounding. Even though the markets are in a down cycle, over long periods of time we are able to accumulate the assets to pay the benefits associated with the program. So far, that has worked quite well for the 60 years we have been in place.

We use a 40- to 60-year investment horizon for each individual in the fund, so that gives us time during employees' active periods to receive the contributions into their accounts, and then that money continues to work even after they retire.

I want to talk about the contribution mechanism that is in the statute, because I think it is misunderstood. Our largest contribution plan has a name that does not describe it very well. It is called "employer pay" because it is a system that was designed by the Legislature to be a pre-taxed salary-sharing plan to the individual employee. The mechanism requires equal cost-sharing between the employer and the employee to pay for his benefits. Our contribution rate, which is approximately 20 percent under employer pay, is actually split right down the middle—half is paid by the employee, and half is paid by the employer.

Since the inception of the employer pay program in the late 1970s, the state has always used absolute salary reduction, so every time our rate changes, state employees take a salary hit. Our rate is scheduled to go up by 1 percent in July 2009, so half of a percent will come directly out of state employees' pay to pay for their benefit. Their portion will increase from 10.25 percent to 10.75 percent, so there will be a salary hit. That is true for both the regular fund and the police/fire fund.

The idea of shared responsibility was put into place in the 1970s, on purpose, by the Nevada Legislature because legislators wanted to instill in the public employees that they had ownership of this benefit process. If you are participating and the cost associated with your benefit is on an equal basis with your employer, then you are equally responsible for financing your benefit. The employer pay concept was put into place to save money for both sides of the equation.

Most of you are probably familiar with pre-taxed salary reductions for 125 programs, 457 programs, and 401(k) and 403(b) programs—those are all salary-reduction mechanisms under the Internal Revenue Code. Employer pay works exactly the same way; we take the contribution out prior to taxation, and then you are taxed on it as you receive the benefits once you retire.

We also have an after-tax contribution plan, which is called employee/employer pay. Under this plan an employee sees an after-tax deduction from his paycheck as compared to the pre-taxed salary reduction with employer pay.

The largest employer that uses employee/employer pay is the State of Nevada. About 18 percent of our membership participates under this after-tax contribution plan. Most people who participate have very few years of service. Typically, prior to vesting, some people will participate under employee/employer pay because it offers the chance of a refund if you leave public service. Once you are vested, however, it actually costs more. It is less expensive to go under employer pay by almost a full percentage point since there is no refund involved. Because you cannot take your money out with employer pay, the system has the opportunity to use that money over time, so it is a less expensive program. That is why the Legislature went to employer pay.

The pension fund's contribution rates are set on the even numbered years' actuarial valuation, and they go into effect a full year later for the odd numbered years. So you will see rates change July 1, 2009, based on the June 30, 2008, actuarial valuation. There are seven members on the board of trustees who manage the fund. One of the trustees' principal goals is to insure as much predictability in the contribution rates as they can. We cannot remove all volatility from the contribution rates, but the board of trustees has adopted a number of calming mechanisms to help our budgeting process and to give our members some predictability in their take-home pay.

Page 4 has a chart that gives a graphic demonstration of how we have managed the contribution rate volatility through both up and down market cycles ([Exhibit C](#)). The red line in the chart is our contribution rate for the last ten years for the regular fund, which is where 85 percent of the liabilities are. The blue line plots the return of the Standard and Poor's (S&P) 500 for the same period. As you can see, even in the down market cycles we maintained fairly static contribution rates. They will not always stay that way, but we do everything we can to keep rates stable.

Our contribution rates are highly competitive. For instance, as noted on page 4, the Las Vegas Chamber of Commerce recently found that the contribution rates paid in Nevada were among the most inexpensive in the nation. When you compare us to states that participate in Social Security, we have the seventh lowest contribution cost in the nation for a regular state fund. That ranking reflects the fact that Social Security is a "pay as you go" system, so current contributions are not invested; they go back out the door to pay current benefits, very different from how we pay benefits out of the PERS fund.

I want to talk about the program's unfunded liability because that is another area where people have questions. If anyone has questions as I move through that topic, I am happy to answer them.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Claborn:

Are all of your trustees considered fiduciaries?

Dana Bilyeu:

That is correct. We have seven members on our board. Three are nominated from employer groups, three are nominated from employee groups, and one is a retiree. They are fiduciaries who must act in the best interest of the members and beneficiaries.

Assemblyman Claborn:

Are you under the Employee Retirement Income Security Act (ERISA)?

Dana Bilyeu:

The ERISA governs all private sector programs, but it specifically exempts public sector plans from governance. The unfunded liability of the system is determined at each actuarial valuation. We measure the program yearly, although contribution rates are adjusted only every other year. The system is approximately 76 percent funded, which means for every dollar of benefit that has been promised, we have 76 cents to pay for it. That is a composite number between the regular fund, which contains the bulk of the system's liabilities and is 78 percent funded, and the police/fire fund, which is funded at approximately 71 percent. The unfunded liability is created almost uniformly, although not completely, by ups and downs in the investment markets.

To finance the program, we use certain assumptions related to its demographics and investment pool. When we make or do not make those assumptions, unfunded liabilities are created. We also can have gains against those unfunded liabilities. So the unfunded liability captured as of the June 30, 2008, valuation is being financed. The board has adopted a financing period that is currently a composite number of 26.5 years. That means the currently captured unfunded liability will be paid very similar to how a mortgage is paid over the remaining 26.5 years of that program.

We are in a down market cycle right now and anticipate that there will be a newly created unfunded liability as of the June 30, 2009, valuation. The unfunded liability will be given its own 30-year period to be paid for, and it will be paid for by both members and employers over that 30-year cycle.

Chair Kirkpatrick:

Does anybody have any questions? Do the members include new employees or is that only our existing employees?

Dana Bilyeu:

Everyone who comes into the public sector is going to pay off that unfunded liability. We try to match the amortization period to the life cycle of an individual member of the program, so that everyone is given an opportunity to participate in the payment of the unfunded liability. The process is designed that way. I will use myself as an example. I have had 23 years in the system since I came into the public sector in 1985. I have been paying on the unfunded liability that was created even prior to me being here, but I have been paying for it over time, basically cost-sharing with my employers. That way we—the members and the employees of the system—are also responsible for paying that unfunded liability.

Page 5 illustrates how the cost-sharing mechanism works for the contributions as well as the payment on the unfunded liabilities ([Exhibit C](#)). The right half of the pie chart is dedicated to the 106,000 current active members in PERS. It shows how the 50 percent cost-sharing goes right back to members even on the unfunded obligations. It is often misunderstood that only employers have this obligation, and that is not the case. In Nevada we require the members to pay on the unfunded liability as well. On the left side of the pie, the employer side, you will see the large Clark County School District piece and another big slice for "Remaining 168 Employers." The State of Nevada represents about one-fifth of the employees participating in the system. This chart shows how much this is a shared responsibility.

On the top of page 5, is a 20-year history of the funding ratio. This is a very long-term obligation of the system. We are very conservative in our investment philosophy and approach. We want to maintain predictable contribution rates, so you will see a slow uptick in our funding ratio before the year 2000, which was a high point, equal to 85 percent funded. Then, over time, a slow erosion took place as we hit the down market cycle. We make very slow and steady payments on the unfunded liability on both the upswing and on the downswing. That approach is designed to prevent volatility in the contribution rate.

Assemblyman Bobzien:

In looking at the unfunded liability obligation chart on page 5, does the green State of Nevada wedge include classified employees and Nevada System of Higher Education (NSHE) as well?

Dana Bilyeu:

That does not include the Nevada System of Higher Education; they would be in the remaining pie wedges.

Assemblyman Stewart:

How does our unfunded liability compare with other states? Are we above or below them? Do you have any figures on that?

Dana Bilyeu:

I do not have the latest figures for other states because of the way everybody's numbers roll into the reporting groups. Nevada is different in the way we fund our unfunded liability, which is a technique we call a layered closed amortization. Many states employ a different approach, called open amortization, which allows you to swing to a 110 percent financing and then, in a down market cycle, go down to about a 60 percent financing level. It is a very different approach. In Nevada, the Legislature and the PERS board of trustees have committed to paying off the unfunded liabilities over a specific period of time, so we make very metered progress. That typically does not occur in other states.

We have a more static funding ratio than most states. I will give you the example of Idaho. The Idaho system is at a full market valuation of its investments, but they have no smoothing and use an open amortization process. They were 110 percent financed, but because of the current down market cycle, they are expecting to drop into the 70 percentile within one year. We do not do our financing that way. You will see Nevada lose progress on our funded ratio, but that is designed to be captured and then financed over a 30-year period. It is hard for me to measure our Nevada PERS against the total universe of public employee retirement systems because everyone uses different approaches to the unfunded liability.

Assemblyman Stewart:

Certain newspapers in the south have criticized the organization. Do you feel that criticism is unjustified? Do you feel the system is in relatively good shape compared to other states?

Dana Bilyeu:

I do. I think the system is very well financed. Where states get into issues with their public employee retirement systems is not because there is an unfunded liability but because of how the unfunded liability is approached from a financing perspective. Many states—and I believe that all states are trying to do their best by their pension funds—will set a contribution rate at a statutory amount that does not meet the obligations of the system. They will set the statutory rate at 15 percent, and the cost of the system is 21 percent, so in essence they have shorted the pension fund by 7 percent. When you do that, you are not making the actuarially required contribution—the contribution that the actuary would tell you that you have to make. So they have to do things like set their funding horizons to infinity to make those costs. In Nevada, the Legislature has been a tremendous steward of this program since its inception in the 1940s. Quite frankly, in the 1970s the Legislature took a very strong approach to making sure that the financing of the program was in place and that everyone was meeting their actuarial contributions. There has never been a contribution rate holiday in Nevada, and there has never been an attempt to take funds from the pension fund for other purposes. As a result, we enjoy a very strong financing approach to pensions, one that I am extremely proud of.

There have been some comments in newspapers that the unfunded liability is somehow going to wreak havoc on the public budgets. I do take exception to those kinds of comments because we have a metered approach to financing this program that is very predictable from year to year. Now, I certainly am not going to tell you that we will not have a contribution rate increase if the markets do not seem to turn around. That is something that we will look at and manage over time. We are setting aside assets today to pay the benefits of retirees into the future. It is using the power of compounding over time.

Assemblyman Stewart:

Thank you. I appreciate my check every month.

Assemblywoman Pierce:

What is life expectancy these days?

Dana Bilyeu:

Over time, life expectancy is growing for the entire nation. That is not quite as true in the State of Nevada as it is everywhere else. We recently conducted an experience study of life expectancy as one of our demographic assumptions. We are catching up to the national norm, but we are still behind them. I am not exactly sure why that is, but Nevadans do not live as long as the national trend indicates. Our life expectancy is growing, though, both in the regular fund and in the police/fire fund.

The average life expectancy for Nevada PERS is not done to a single point; it is done on the basis of how old you are. If you are 47 like I am—I cannot believe I just said that on the record—I have an expectation to live a certain period of time beyond that, but when I am 48, the expectation is that I will live to a different age. The mortality tables are very age-driven, but we are increasing our life expectancy over time, just not at the same rate as the national average.

Chair Kirkpatrick:

What is the number?

Dana Bilyeu:

For a 47-year-old female, I believe it is 82. I am not certain; you cannot hold me to that.

Assemblywoman Pierce:

I remember, for the last couple of years, there have been reports about life expectancy going down, mostly due to obesity.

Dana Bilyeu:

That is correct. Those in the actuarial profession expect the next generation after the current generation of children to have a shorter life expectancy than that of adults today. That estimate has not been built in to the mortality tables yet, although I am expecting it will be calculated in to the age expectancies in the next three to five years.

Assemblywoman Pierce:

When PERS does the calculation, is it based on the life expectancy of Nevadans, which is slightly less than the actuary average, or is it based on the national average?

Dana Bilyeu:

We measure only Nevada public-sector employees because that is the experience of the program. We take all 106,000 members and divide them into the two funds—public safety and regular. We look at the demographics,

including mortality of the groups over the last three to five years. Both groups have been making gains in life expectancy but not at the national average. We use the actual experience of the program.

Assemblywoman Pierce:

Are public employees healthier and do they live longer than the rest of us?

Dana Bilyeu:

I do not think I can make that statement. My last comment, with respect to the financing of the program, is one that I always try to use to bring perspective to the discussion. It seems to be forgotten because we are a component of all of Nevada's public budgets, not just the state budget. We did research and tried to quantify what the total public budget was as of fiscal year 2008. We gathered the total public budgets in the state, which exceeded \$18 billion, from the Nevada Department of Taxation. We gathered total public budget sets from every county, city, and special improvement district and the rest of the world. Then we calculated the taxpayer portion of that cost, which is really, by proxy, the employers' half of the contribution rate, because as a proxy the taxpayers are paying for all the agencies. We did not use the employees' portion because, while I know that is taxpayer-financed through the employees' salaries, it also has been taken away from the individual members to finance their benefit.

Nevada PERS represents approximately 3.33 percent of Nevada's total public budget expenditure when you consider the taxpayers' contribution to the system. When we talk about financing the system, these are very large dollars. I mean, PERS is a very large pension fund, and as of June 30, 2008, there was \$22 billion in the fund. We want to put some perspective on what the contributions are as they come in. The system does finance over 200,000 people's benefits over time, depending whether they are active, inactive, or retired. We think that 3.33 percent cost to the total public budget is a very cost-efficient manner in which to secure retirement security for the state's public employees.

On page 7 of the report, a table shows the average benefits that are paid from the system over time. You can see how the numbers trend upward. In the regular fund, which has over 85 percent of the liabilities, the average benefit paid in 2008 was a little over \$2,300 a month, which equates to \$27,000 per year.

Retirement security typically has three components: Social Security, a defined benefit pension plan, and personal savings. Those are the three legs of the stool. In Nevada, that \$27,000 annual benefit represents two of the stools' legs—the Social Security portion that is not paid to the individual and the

defined benefit. Because both of those legs are represented by PERS, we almost have to be like a tree trunk, instead of just a leg of the stool, because there are two halves.

For the regular fund, \$27,000 is the average benefit paid; half are more and half are less. In the police/fire fund that number is about \$45,000 per year. The differential between those funds is related to salaries. The average salary for the regular fund members is about \$45,000 or \$48,000 a year. The average for police/fire fund members is approximately \$69,000 a year.

Again, I want to highlight that we are a nonparticipating Social Security state. Near the bottom of page 7, you can see the list of other nonparticipating states. It is a fairly significant list. We are not unique in that we do not participate. There are over ten states and over 8 million people in the United States that do not participate in Social Security.

Moving on to page 8, I want to highlight the system's efficiencies on both the operational side and the investment side of the house. Three charts show the cost of running the agency. The first shows the actual dollar cost per member and retiree associated with administering the benefits. That cost is \$51 in the State of Nevada. In our peer group, which includes similarly situated pension funds, the average cost is \$70 per retiree and active member. If you compare us to all the funds that participate in the benchmarking service, which include international funds such as those in Australia, the Netherlands, and Denmark, we are very cost-efficient. We spend \$51 per person, and they spend \$87 per person.

The middle chart shows the number of accounts administered per full-time employee. We administered 2,186 accounts per employee at Nevada PERS versus the national average of 1,635.

The final chart illustrates a calculated economic cost. A benchmarking service, Cost Effectiveness Management of Toronto, Canada, calculated our area's cost of living and the average salary of a college-educated individual within our area. Then the service determined a benchmarking cost they would expect us to pay to manage the funds. That cost was \$111, and we run the agency at \$51 per person.

On the next page is a similar comparison for investment costs. You will see on the left-hand side the cost associated with running the investment program for Nevada PERS. We run the entire investment portfolio for 14 basis points, which is 14 one-hundredths of 1 percent. The average large public pension plan, one with assets in excess of \$1 billion, is 29 basis points, so we are about half the

cost compared to the average large public pension plan. For the average institutional 401(k) or defined contribution plans, the average fee is 40 basis points. We are much more cost-effective. Many of you may be familiar with statewide deferred compensation programs, such as 457 or 403(b) programs. Their average cost is approximately 68 basis points. When you calculate the cost of running PERS, it actually results in more than \$532 million in fee differential over a ten-year period, which goes back to help finance the benefits over time.

Assemblyman Aizley:

What are the accounts administered by PERS? I do not understand why there are so many different accounts and what they are.

Dana Bilyeu:

There is an account for every active member and retiree in the system. When you are an active member, you are accumulating your service credit over time. We receive contributions from employers and employees, and those monies, while they are not credited to the individual accounts, are balanced to the employee's service credit. Every month we reconcile to the employers for every single active member of the system. Once you retire, you have an individual retiree account where we are potentially taking out insurance for you, deducting for dues for retiree groups, making changes in your taxes, and paying you a check every month. We have an identified individual account for every single person who is associated with PERS.

Assemblyman Settlemeyer:

On page 7 you indicated that the State of Nevada does not pay into the Social Security system. Do all counties, or does it vary county by county? In Douglas County, when some people tried to retire early, they indicated they had paid into Social Security. Do you have that information?

Dana Bilyeu:

If you are not qualified to participate in PERS, meaning you are not working half-time or more in a public sector position, you would have to be in an alternative program. In the early 1990s, Congress allowed local governments to create alternative programs to Social Security. But many of our local governments, and even the state at one point, although I think they have an alternative program now, have what are called 218 agreements with the Social Security Administration. Those 218 agreements allow people not eligible for PERS to participate in Social Security. Other than that, there should not be Social Security coverage for local government employees.

Assemblyman Goedhart:

Is it still possible for someone who retires from the state to then work in a private sector job, pay into Social Security, and still get Social Security? Is that still available?

Dana Bilyeu:

That is correct, it is available. There are two offsets that the Social Security Administration applies to individuals who would potentially qualify for Social Security at the same time they receive a public pension. One offset is called a government pension offset (GPO), and the other is called a windfall elimination provision. The GPO affects individuals whose spouse would have been covered by Social Security, so there are spousal benefits that may flow to the individual spouse. If the spouse actually had a public retirement benefit, such as one from Nevada PERS, that benefit is overlaid on the Social Security benefit, and if it is greater than the Social Security benefit, that person would not get Social Security.

The windfall elimination provision is a two-thirds offset. For instance, if I qualified for Social Security as well as my pension fund, Social Security would come in and measure, on a very complicated sliding scale, what my benefit is and what my benefit should have been under Social Security—basically, applying an offsetting amount to reduce the Social Security benefit. Typically they take two-thirds right off the top.

Assemblyman Stewart:

I qualify for Social Security as well as PERS. There is \$111 flowing into my bank account every month.

Dana Bilyeu:

I want to spend a little time on the investment portfolio and its goals and performance. The investment program is so important to the financing of PERS benefits because only 20 percent of the benefit is actually paid from the contributions that we receive. The contributions are the oil that primes the pump, and the rest of the benefit comes from the return on the investment portfolio.

At the bottom of the page you will see the way the portfolio was diversified ([Exhibit C](#)). Diversification lowers risk. We run this program as one of the least risky programs in the country for public pension plans. Our risk-adjusted return is typically at the top of the public pension plan database. We hold over 5,000 securities in the system. It is a diversification tool for us; we have securities in over 20 countries. Nineteen money managers run the fund on an external basis;

we hire professionals and then manage those professionals on behalf of the trustees.

On page 11 you will see the performance of the system for several different time periods. I would like to point to the long-term return numbers, which show that for the last 24 1/2 years we have generated a 9.1 percent annualized return, which is absorbing the very negative numbers for this current down market cycle. In the most recent fiscal year we have lost 17.5 percent, which actually puts us in the top 9 percent of all public pension plans across the country. In down market cycles, we spend a great deal of time attempting to ensure preservation of capital for the system.

The chart on page 12 compares Nevada PERS against the large public pension plans database; we are in the ninth percentile. The benchmark we use to measure the system was 17th, so we are beating our benchmark for the period. That is true for the most recent fiscal year as well as for the last three years. Although we do not target Nevada investments, because of our previously stated approach, we do have almost \$800 million invested with companies or in real estate within the State of Nevada. We have over 200 properties held in our real estate investment trusts within the state, as well as 18 publicly traded companies. We also have a number of private equity firms that have companies within the State of Nevada.

The final piece of my presentation is something new. Because of the system's concerns about making sure that people understand the nature of the fund and its economic impact, the board of trustees commissioned a study to determine PERS economic footprint within the State of Nevada. The key findings include that we paid over \$981 million to pensioners within the State of Nevada. Those pensioners live in all 17 counties of the state. Those individuals' expenditures made a ripple effect through the Nevada economy of another \$390 million. The payments to our pensioners created over 5,700 jobs in the Nevada economy and supported more than \$196 million in federal, state and local tax revenue.

The graphic at the bottom of page 13 begins with that same employer dollar, which represents the contributions of the taxpayers. For every dollar of taxpayer money that comes into the system, the system generates \$6.21 in the Nevada economy. Only a few agencies are generators of economic footprints within the state. The Commission on Economic Development and the Commission on Tourism may be those types of agencies, but Nevada PERS also is a very significant agency that generates tax dollars and economic input.

The last two pages of the report concern jobs creation. Page 14 shows the jobs outside the public sector. These are private-sector positions created because of the benefits cash flow that go to the counties. Clark County has the largest number; 2,845 jobs were created there because of the benefits that come from the retirement system. Jobs have been created in every single county because of Nevada's pension benefits.

Page 15 shows PERS's total output, by county, to the Nevada economy as of 2007, the last year for which we had up-to-date data. Again, Clark County tops the economic output list, as \$512 million came to the Clark County economy because of the benefits that were paid by PERS. We believe that PERS is an economic contributor to Nevada and a very stable one, too, because the money comes to the counties every year no matter what the economy is doing. Whether the economy is good or bad, these benefits generate an economic multiplier effect. With that, I am happy to answer any questions.

Assemblywoman Spiegel:

Do you have any data on what a similar multiplier effect would be in a defined contribution system?

Dana Bilyeu:

I do not. If the effect is not created, then you cannot measure the actual dollar cost out. The issue with defined contribution is that it is affected by economic upturns and downturns, versus the defined benefit, which is a smooth cost impact into each county.

Assemblywoman Spiegel:

Given the current downturn in the market, would the overall economic impact be much less in a defined contribution fund?

Dana Bilyeu:

I would agree it would be less at the current time and less predictable as well.

Assemblyman Settelmeyer:

I know that besides the regular PERS, we also have the judicial and legislative forms of PERS. Are all of those equally part of the unfunded liability, or are some better off?

Dana Bilyeu:

The PERS big fund is actually the best funded for a number of reasons. The big fund started when we went to the financing approach in the 1980s; it is better funded than the Legislature's fund.

The judicial fund was created in 2001. It used to be a "pay as you go" system. Every year the Administrative Office of the Courts would give the Legislature the cost of paying the judicial benefits, and legislators would have to make a General Fund appropriation. In 2001 legislators changed judicial to a pre-funded program and infused the trust with \$5 million. That put the funded ratio for the Judicial Retirement System at 41 percent funded. A payment is made on the unfunded liability each biennium, so there is an actual cost.

The legislative system's funded ratio is in the mid 60s at this point. The unfunded liability is scheduled to be paid off in approximately 17 years, a shorter period than for the judicial fund.

Assemblyman Settelmeyer:

I remember the judicial fund when it first came about. They infused \$5 million, whereas if they had given \$25 million, it would have been 100 percent funded. What if we could go backward in time? On the judicial fund, how much money would it take to get it 100 percent funded right now? Sometimes I worry that we are being penny-wise and pound-foolish.

Dana Bilyeu:

I understand. The original cash infusion was made right at the beginning of the market downturn in 2001, so there was actually a reduction in the trust at that point. Last session we calculated the amount needed for full funding, and I believe it was in the \$60 million range, but I am not sure. I would have to look at our original calculations.

Chair Kirkpatrick:

In the judicial fund, do they pay half, like all the other employees?

Dana Bilyeu:

The judicial fund is what we call a fully true employer pay, so the contributions are on top of salary; they are not cost-shared within salary to the individual judges.

Assemblyman Stewart:

First of all, it is good to hear that we are not 51st or 52nd in something, so I commend you for that. Secondly, your agency sounds like a long-term stimulus package that is very effective. Would you agree with that statement?

Dana Bilyeu:

I believe we do stimulate the economy.

Assemblyman Stewart:

Maybe you can send some suggestions to Washington. Thirdly, I noticed Clark County is the largest recipient of economic input, but if my calculations are right, Clark receives only about 52 or 53 percent while we have 70 percent of the population. Can you tell me why that is?

Dana Bilyeu:

I am going to speculate a little bit, but it would relate to the number of retirees that reside there and their individual benefit amounts. It has to do with breaking people by zip codes and putting them within counties. Also, 75 percent of our retirees stay in the state, but 80 percent of the money stays in the state. We know that those who are on the higher end of the pay scale in retirement remain in Nevada. We retain more of the money within Nevada. There is only about a 20 percent bleed where people leave the state and take their benefits with them.

Assemblyman Stewart:

Could we speculate that a higher percentage of Clark County people are leaving the state then?

Dana Bilyeu:

I would hate to speculate too much.

Assemblyman Aizley:

I am trying to understand the differences between the defined contribution and defined benefit. If we were to switch to a defined contribution plan, would that take the money out of Nevada's control? Would people invest their contributions the way they wanted to and Nevada would be losing out?

Dana Bilyeu:

The difference is that with defined contribution, the employee's contribution would go into an individual investment account. The plan's design and what sorts of funds were offered would tell you how people were going to invest. It would be a very different investment approach than the defined benefit plan that PERS currently uses, which is the big, pooled investment approach. Private equity investments would not be available to people in defined contribution plans. The money from our active portfolio side would not be in the Nevada economy.

Assemblyman Aizley:

The example I have in mind is that I am retired from the university system, where we do have a defined contribution, and the money is handled by the Teachers Insurance and Annuity Association-College Retirement Equities Fund, TIAA-CREF, which is a New York and Boston organization.

Dana Bilyeu:

That is correct; that can often happen. There are very few institutional investment managers in the State of Nevada, so you would see the monies moving to the big New York types of firms.

Chair Kirkpatrick:

Does anyone else have questions? Thank you. What a great presentation. It started at A and finished with Z, with everything in between.

At this time we will invite the Secretary of State to the table.

Ross Miller, Secretary of State:

I would like to introduce my staff—I brought the entire team over here. Nicole Lamboley, Chief Deputy Secretary of State, will be over here quite a bit. Scott Anderson, Deputy for Commercial Recordings, has been there since 1997. Matt Griffin is Deputy for Elections. Also, Kate Thomas is our Deputy for Operations.

By way of background, the Secretary of State's Office is the third highest ranking constitutional office and the third highest revenue generating agency in the State of Nevada. We contribute about \$100 million toward the General Fund. I service the state's chief elections office. We maintain all the official acts of the Legislative and Executive Branches. We process all the corporate filings for the Commercial Recordings Division. We oversee the Securities Division and the Notaries Division. We administer a number of programs, including the Living Will Lockbox that I am grateful to Madam Chair for putting in place for us. We administer the Confidential Address Program for victims of domestic violence. We license and regulate athletes' agents. I serve on a number of boards that you will see in your handout ([Exhibit D](#)). I sit on the Tahoe Regional Planning Agency, the State Board of Prison Commissioners, and the State Board of Examiners, and I am Chair of the State Records Committee.

We generate about \$100 million annually toward the General Fund, which is a little over \$800,000 per employee. Last time I presented to this Committee, we had 143 employees. Some months ago we had to institute a number of layoffs, so we are a little thinner today than we were two years ago. We eliminated 25 positions, a 16 percent reduction of our staff. We now have 118

employees. One factor was that many of our positions are fee-funded through our special services account, and that has been a declining source of revenue for some time. So the need to balance our budget, coupled with requests that we cut the budget, as you all are aware, resulted in a significant number of layoffs.

Obviously the highest profile area of the office, and probably the one most people associate with us, is that the Secretary of State serves as the state's Chief Elections Officer. We are responsible for all the enforcement of Title XXIV and all the elections statutes. The 2008 election went extremely well. I think we can all be very proud of the election we ran here in Nevada. It got some very favorable coverage—CNN, Fox News, and *The New York Times* all came to Nevada to profile how successful the election was. While there were many irregularities in other parts of the country, we really did not see them here. The turnout was about 80 percent, and 60 percent of the people who cast ballots did so by taking advantage of our early voting program, which is probably the strongest in the country.

Nevada is an early caucus state as well as a "battleground" state. There was significant attention on Nevada; the clerks and all those who volunteered for the election met the task admirably. We put a number of new things in place this election cycle. We had a statewide command center that coordinated with law enforcement to respond to complaints of election fraud or irregularities at the polls. We made good use of technology with My Voter File, a new application that allowed people to find out where their polling location was. That program was utilized at a very high rate, especially before the caucuses, when over a third of the caucus participants utilized My Voter File to figure out where to go. Also, our website, www.nvsos.gov, was recognized by the Pew Foundation for its accessibility and information. That ultimately transitioned to the election so that the reporting website received very favorable feedback.

On the business side, the Commercial Recordings Division represents the largest part of our office. We have 320,000 entities on file, which makes us number two per capita in the number of filings, behind only Delaware. That means, in the eyes of the country, Nevada is the second most popular place to do business in, and that is something that we should be proud of.

We have seen a minor decrease in commercial recording revenue, but the good news is we have maintained the number of entities we have on file in good standing. Renewables are where they need to be, and we hope that continues. Delaware's Commercial Recording Division contributes up to a third of their state's entire general revenue. They have seen a significant decline of upwards of 25 percent; fortunately we have not seen that in Nevada. Since 2005 we

have had in place an award-winning processing system that allows us to be very efficient; it is called the electronic Secretary of State (e-SOS). In 1996, if you wanted to set up your company, it would take several weeks for the office to process your paperwork and get it back to you. Now it takes about a week. Before the layoffs we were processing a little bit quicker, but since then the processing time has improved. We have seen a significant increase in the number of online filings, with nearly 215,000 filings processed via the Internet; that is up 64 percent since 2006.

We also oversee the Securities Division, which is responsible for all the licensing, compliance, and enforcement of our securities professionals in the state. The division generates approximately \$15 million in revenue. We are very aggressive on the enforcement side, where annually we return about \$5 million in restitution for victims. We oversee the state's 36,000 notaries. Last legislative session we made training for new notaries mandatory. We have monthly training sessions in Las Vegas, where we average about 300 people. We are also responsible for enforcement; last year we had enforcement actions of a little over \$70,000.

We oversee a number of programs. The Living Will Lockbox is the newest addition to our office. It is a free service that allows you to file your advance health-care directives with our office in a secure, confidential, online environment and is available to you 24/7. It offers features like durable powers of attorney. I would encourage you all to take a look at the Living Will Lockbox and make use of it. Since launching the program, we have received tremendous feedback, and I am grateful to many of the members of this Committee who put that program in place. This program exists in only a few states at this point. We were able to absorb it into our existing budget, although with the budget cuts going forward, we will have to take another look as to how to make that happen.

Those are the types of programs that the budget cuts can have an impact on. As for legislation before your Committee, this office has submitted two BDRs. The first is really an expansion of the Living Will Lockbox in the area of *Nevada Revised Statutes* (NRS) Chapter 225, which controls our office. It would allow people to file any type of documents, such as wills, marriage licenses, and birth certificates, so it would become a virtual lockbox. It is an idea that spawned from the Living Will Lockbox. We think we can implement this new service in a similar fashion, and hopefully it would be well received.

Chair Kirkpatrick:

Mr. Miller, we would love to have you come back and talk to us about your BDRs, but I have not let anybody else give specifics because we want you to come back as many times as possible.

Ross Miller:

We will be busy over the next few months. With that said, I will wrap it up now and would be happy to answer any questions.

Chair Kirkpatrick:

Does anyone have any questions?

Assemblyman Bobzien:

How many registrants do we have right now in the Living Will Lockbox?

Ross Miller:

We have 1,674 registrants.

Assemblyman Stewart:

When the Controller was here, she had an XBRL program. Could you implement that into your files for more efficiency, or does your e-SOS program handle that type of language?

Ross Miller:

One of the proposals we have talked about, and which has probably been discussed in a different committee, is the ability to transition our online processing system. It has become more of a one-stop portal for all your business transactions with the state. The system would use similar, although different, technology than the Controller is talking about; she is a big promoter of the XBRL program.

This system utilizes service-oriented architecture (SOA). At the same time you process your online transactions with our office, which we are seeing a number of entities doing, SOA would also let you pay your Department of Taxation license, process your filings with the DMV if you had to register a corporate fleet, and possibly deal with Employment Security. The potential is limitless once we put the technology in place. It just depends upon which agencies want to take advantage of the SOA program. It is a similar technology, and we have engaged the Controller's Office in a discussion as to how we can make things more integrated and more efficient.

Chair Kirkpatrick:

Is our definition of business a little bit loosey-goosey compared to other states' statutes?

Ross Miller:

Are you referring to the Commercial Recordings Division? Beginning about two years ago, Senator Levin, at the federal level, began to target Nevada, Delaware, and mainly Wyoming, saying the commercial recording practices were too lax and that we should require more disclosure. As a result, our office testified before the federal committee, and the legislation did not go forward.

I am very active at the National Association of Secretaries of State level as part of a task force to address that issue. Last legislative session we came forward with a proposal that reached a pretty good compromise in terms of not putting a barrier to commerce, but giving law enforcement the access to information that was needed. Senator Levin and some federal agencies have accused Nevada and other states of having filing practices that would encourage money laundering or shield terrorist activities. Our legislation contains something that we can be proud of, and it has been looked at as a model by other states. The legislation does not change the information that is required to be kept in our office, but it puts the onus on the entities to keep a record of their beneficial owners—in other words, who is getting the check at the end of the day. If an entity becomes a target of a law enforcement action, law enforcement can request that information, and then the entity is given a certain number of hours to turn that information over. Otherwise we can revoke their charter.

We also have the ability to send entities interrogatories to ask questions about the activity they are engaged in, and if they do not respond to those interrogatories, or they do not provide detailed information, we can revoke their charter. It is an ongoing debate that we discuss frequently at the National Association of Secretaries of States level, and I understand Senator Levin may be reintroducing legislation to try to deal with the issue at the federal level.

Chair Kirkpatrick:

Does anyone else have any questions? [There were none.] Thank you very much for coming. Is there anyone from the public who would like to come up? [There were none.] Does anyone in the Committee have anything they would like to say? [There were none.]

Meeting adjourned [at 10:13 a.m.].

RESPECTFULLY SUBMITTED:

Michelle Smothers
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 16, 2009

Time of Meeting: 9:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Dana K. Bilyeu, Public Employees' Retirement System, Carson City, Nevada	Prepared Report for NV PERS
	D	Ross Miller, Secretary of State	PowerPoint Presentation