**MINUTES OF THE**
**SENATE COMMITTEE ON FINANCE**

**Seventy-fifth Session**
**May 21, 2009**

The Senate Committee on Finance was called to order by Cochair Bernice Mathews at 9:25 a.m. on Thursday, May 21, 2009, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Bernice Mathews, Cochair
Senator Steven A. Horsford, Cochair
Senator Bob Coffin
Senator Joyce Woodhouse
Senator William J. Raggio
Senator Dean A. Rhoads
Senator Warren B. Hardy II

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Debbie Smith, Assembly District No. 30

**STAFF MEMBERS PRESENT:**

Bob Atkinson, Senior Program Analyst
Brian M. Burke, Principal Deputy Fiscal Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Russell J. Guindon, Senior Deputy Fiscal Analyst
Mark Krmpotic, Senior Program Analyst
Patricia O'Flinn, Committee Secretary

**OTHERS PRESENT:**

Andrew Clinger, Director, Department of Administration
Dino DiCianno, Executive Director, Department of Taxation
Lori Bagwell, Deputy Director, Support Services, Department of Corrections
Kate Thomas, Deputy for Operations, Office of the Secretary of State
Cecilia G. Colling, Chief of Staff, Office of the State Treasurer
Mike Torvinen, Deputy Director, Fiscal, Department of Health and Human Services
Joyce Haldeman, Executive Director, Community and Government Relations, Clark County School District
Martha Barnes, Administrator, Central Services and Records Division, Department of Motor Vehicles
Dana K. Bilyeu, Executive Officer, Nevada Employees' Retirement System
Renny Ashelman, Representative, Nevada Government Relations
Steve Hill, Chairman, Las Vegas Chamber of Commerce
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce
Rusty McAllister, Representative, Professional Firefighters of Nevada

Dave Kallas, Representative, Las Vegas Police Protective Association
Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO
Gina Polovina, Representative, Boyd Gaming
Ted Olivas, Representative, City of Las Vegas
Stephen W. Driscoll, CGFM, Assistant City Manager, City of Sparks
Steve Holloway, Executive Vice-President, Las Vegas Chapter, Associated General Contractors
Tim Crowley, President, Nevada Mining Association
Carole Vilardo, Representative, Nevada Taxpayers Association
Russell Rowe, Representative, Wynn Resorts
Josh Griffin, Representative, MGM Mirage
Lynn Warne, President, Nevada State Education Association
Marcus Hatcher, Director, Government Affairs Service Employees International Union, Nevada
Dennis Mallory, Representative, American Federation of State, County and Municipal Employees, Local 40410
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada
Carla Fells, Executive Director, Washoe County Employees Association
Dennis Carry, Vice-President, Washoe County Sheriff's Deputies Association
Martin Bibb, Representative, Retired Public Employees of Nevada

COCHAIR MATHEWS:
We will open the hearing today with Senate Bill (S.B.) 431.

**SENATE BILL 431**: Authorizes expenditures by agencies of the State Government. (BDR S-1317)

GARY L. GHIGGERI (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
Senate Bill 431 grants authority to various State agencies and boards to expend funds up to an authorized level over the fiscal year (FY) 2009-2011. It includes authorized funding for fees, federal funds, interagency transfer funds and other funds. This is one of four major funding bills that must be approved by the Legislature as quickly as possible.

COCHAIR MATHEWS:
Does the Committee have any questions or concerns? If not, I will entertain a motion.

SENATOR HORSFORD MOVED TO DO PASS S.B. 431.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RAGGIO AND RHOADS WERE ABSENT FOR THE VOTE.)

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COCHAIR MATHEWS:
We will close the hearing on S.B. 431.

We will now open the hearing on Assembly Bill (A.B.) 552.

**ASSEMBLY BILL 552 (1st Reprint)**: Makes various changes regarding certain tax collection allowances and the payment of certain taxes to the State. (BDR 32-1188)

ANDREW CLINGER (Director, Department of Administration):
Assembly Bill 552 is necessary to implement the Governor's budget. This bill increases the commission charged to local government for the collection of sales and use taxes. The Assembly added provisions that were not included in the Governor's Budget (Exhibit C). There is a provision that changes the collection allowance on liquor, cigarettes and other tobacco products. Another provision changes the timing of the collection of the room tax. The table on the handout before you (Exhibit D) is the Administration's projection of the revenues the increase in the sales tax commission would generate. The sales tax commission is currently 0.75 percent. The Governor requests the commission be increased to 1.75 percent. The last column, in the section titled FY 2009-2010 of Exhibit D, is our estimate using the Economic Forum's forecast of revenues generated with the increase in the sales tax commission. We estimate it would generate $12,929,411 in FY 2009-2010 and $13,477,302 in FY 2010-2011.

COCHAIR MATHEWS:
Are there any questions from the Committee? Is there an amendment to this bill?

MR. CLINGER:
There were some amendments to A.B. 552. Originally, the bill contained changes to the Local School Support Tax and not the other sales tax components which is the opposite of what we had intended. As it is written now, A.B. 552 excludes changing the commission on the Local School Support Tax, but changes it on the basic county relief tax, the supplemental county relief tax and the other local optional sales taxes. It also adds provisions for the collection allowance and the timing of the collection of the lodging tax.

SENATOR HORSFORD MOVED TO DO PASS A.B. 552.

DINO DICIANNO (Executive Director, Department of Taxation):
The Department of Taxation will experience a fiscal impact in implementing A.B. 552. We will have to change our computer system. The cost is approximately $10,000. If this bill and S.B. 429 both pass, there could be some economies of scale since we would be working within the system at that time.

**SENATE BILL 429**: Provides additional revenue for the provision of governmental services. (BDR 32-1320)

MR. GHIGGERI:
Fiscal Staff has information from the Department of Taxation indicating the total cost to implement portions or all of the tax packages being considered by the Legislature. As Mr. DiCianno indicated, there would be economies of scale if all are implemented. It is Staff's intention to recommend that any funding required for Mr. DiCianno be included in the legislation that has been approved by the Senate and is currently being considered in the Assembly for the restoration of fund balances.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RAGGIO AND RHOADS WERE ABSENT FOR THE VOTE.)

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COCHAIR MATHEWS:
We will close the hearing on A.B. 552.

We will open the hearing on A. B. 557.

**ASSEMBLY BILL 557 (1st Reprint)**: Makes a supplemental appropriation to the Department of Corrections for unanticipated shortfalls in Fiscal Year 2008-2009 for increased costs at various facilities. (BDR S-1260)

LORI BAGWELL (Deputy Director, Support Services, Department of Corrections):
Assembly Bill 557 is a request for a supplemental authorization for $2,872,874 so we can complete FY 2008-2009.

COCHAIR MATHEWS:
Are there any questions? Is anyone else here to testify either for or against this bill?

SENATOR COFFIN:
This is a cash outlay. How close are we to having to borrow from the local government investment pool?

MR. GHIGGERI:
At this point, Staff does not envision the necessity of borrowing from the local government investment pool during FY 2008-2009. Staff would point out that A.B. 557, if approved as amended, would result in savings of approximately $3.4 million from the amount originally recommended by the Governor.

SENATOR COFFIN MOVED TO DO PASS A.B. 557.

SENATOR WOODHOUSE SECONDED THE MOTION.

COCHAIR HORSFORD:
Is this supplemental appropriation only for utility costs? Are there other costs?

MS. BAGWELL:
The utility portion is $875,878. The portion for revenue shortfalls is $600,320. For our personnel budget, which includes medical costs, we need $708,564. At the Ely State Prison there is a small operating shortfall of $6,414 and a maintenance shortfall of $8,815. The Nevada Department of Corrections (NDOC) needs $672,883 for inmate-driven expenses.

COCHAIR HORSFORD:
My concern is the Casa Grande Transitional Housing is not being fully utilized and it is not paying for itself. We need to determine other programs that would allow full utilization of those bed spaces. We have tried to bring forward suggestions on intermediate sanctions and other proposals that cost money, but we keep paying for the shortfall because you are not using the facilities you have now. We should be putting those funds into providing offender services so we are not continuing to pay for them in prison.

MS. BAGWELL:
We agree we have been unable to utilize Casa Grande as originally envisioned. The job market is slim for the inmates and their ability to pay is affected. We have to make up those shortfalls.

COCHAIR HORSFORD:
Knowing the economy is not going to improve anytime soon and it will be harder for ex-offenders to get jobs when 15 percent or 11 percent of the general population is unemployed, changing the purpose of Casa Grande might be in order. Rather than the State continuing to pay for this shortfall we need different models, whether it is reentry programs or intermediate sanctions, so these offenders can occupy the space. Basically, we are paying $476,000 for empty space. That is a waste of money.

THE MOTION CARRIED. (SENATORS RAGGIO AND RHOADS WERE ABSENT FOR THE VOTE.)

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COCHAIR MATHEWS:
We will close the hearing on A.B. 557.

We will open the hearing on S.B. 428.

**SENATE BILL 428**: Revises provisions governing state financial administration. (BDR 31-1303)

KATE THOMAS (Deputy for Operations, Office of the Secretary of State):
Part of S.B. 428 pertains to the Office of the Secretary of State. It moves the money taken in by the Administrator of the Securities Division into the Secretary of State's operating and General Fund budget account. Due to a change in the budget we experienced during the process, we now have a provision that is no longer applicable in *Nevada Revised Statutes* (NRS) 90.851. This amendment contains language that allows the funds to be deposited into our account to be used for expenses involved with securities investigations.

COCHAIR MATHEWS:
Are there any questions from the Committee?

CECILIA G. COLLING (Chief of Staff, Office of the State Treasurer):
Section 1 pertains to a codification of the budget proposal passed by this Committee for moving funds from the Nevada College Savings Trust Fund into the Millennium Scholarship Trust to pay for administrative costs.

SENATOR COFFIN:
Are we reducing the amount of money that is available for scholarships to pay for the operating costs?

MS. COLLING:
No, the Nevada College Savings Trust Fund is an account used to hold funds received from the program administrators. These funds are to be used for the benefit of education. It is appropriate to use those funds to supplement the administrative funds for the Millennium Scholarship program to free up more money for tuition.

SENATOR COFFIN:
Is this the money the audit of the Treasurer's Office indicated should be accounted for differently?

MS. COLLING:
We have a contract with a program manager. Under that contract they pay a flat fee of $1.5 million. A portion of the fees from two of the plans are designated to be used for administrative costs for the College Savings Plan as well as other beneficial purposes for helping Nevadans obtain higher education.

SENATOR COFFIN:
Is the purpose of the action in Section 1 of S.B. 428 to make a cleaner accounting of the funds?

MS. COLLING:
The Treasurer's Office believed it was an appropriate action under existing statute; however, the Legislative Counsel Bureau Staff advised it would be more appropriate to officially codify this funds transfer.

COCHAIR MATHEWS:
Are there any other questions? If there are none, I will entertain a motion.

SENATOR COFFIN MOVED TO DO PASS S.B. 428.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO WAS ABSENT FOR THE VOTE.)

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COCHAIR MATHEWS:
We will close the hearing on S.B. 428.

We will open the hearing on S.B. 430.

**SENATE BILL 430**: Transfers money from the Trust Fund for Public Health and the Fund for a Healthy Nevada to the State General Fund. (BDR S-1214)

MIKE TORVINEN (Deputy Director, Fiscal, Department of Health and Human Services):
Senate Bill 430 essentially makes official the transfer of the Tobacco Funds that occurred during the 24th and 25th Special Sessions. The bill details the amounts transferred from each particular program of the Fund for a Healthy Nevada to which the funds had been allocated.

SENATOR COFFIN:
The effective date of this bill is upon passage and approval, although the actions have already taken place. Is there any reason the effective date of S.B. 430 is not retroactive?

MR. TORVINEN:
The money is being used to offset revenue shortfalls for FY 2008-2009. The bill must pass to make the money available in this fiscal year.

MR. GHIGGERI:
As Mr. Torvinen indicated, S.B. 430 formalizes actions that were taken by the 24th Special Session and actions discussed and approved in April 2008 to shore up the cash shortfall in the General Fund. This bill will provide for a transfer of approximately $60.2 million from these funds to the General Fund.

COCHAIR MATHEWS:
Are there any other questions? Is there anyone else here to testify on S.B. 430?

SENATOR COFFIN MOVED TO DO PASS S.B. 430.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:
We will close the hearing on S.B. 430.

We will open the hearing on A.B. 534.

**ASSEMBLY BILL 534**: Makes a supplemental appropriation to the Office for Consumer Health Assistance in the Office of the Governor for unanticipated shortfalls in Fiscal Year 2008-2009 for the Bureau for Hospital Patients. (BDR S-1249)

MR. CLINGER:
Assembly Bill 534 makes a supplemental appropriation to the Office of Consumer Health Assistance in the amount of $181,169. This is to address the incorrect reversion of prior year hospital assessments. The State General Fund is paying back those assessments based on a legislative audit performed in September 2008.

COCHAIR MATHEWS:
Are there any questions? Is there anyone else here to testify on this bill?

SENATOR HORSFORD MOVED TO DO PASS A.B. 534.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:
We will close the hearing on A.B. 534.

We will open the hearing on A.B. 549.

**ASSEMBLY BILL 549**: Temporarily suspends the requirement to transfer money from the Abandoned Property Trust Account in the State General Fund to the Millennium Scholarship Trust Fund. (BDR S-1206)

MR. CLINGER:
Assembly Bill 549 implements actions taken during the 24th Special Session to help cover the shortfall for FY 2008-2009. It suspends the transfer of $7.6 million from the Abandoned Property Trust account to the Millennium Scholarship account thereby keeping the money in the General Fund.

MR. GHIGGERI:
This is consistent with actions taken in the 24th Special Session.

SENATOR COFFIN MOVED TO DO PASS A.B. 549.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:
We will close the hearing on A.B. 549.

We will open the hearing on A.B. 556.

**ASSEMBLY BILL 556**: Eliminates the position of Weed Control Analyst within the State Department of Agriculture. (BDR 49-1314)

MR. GHIGGERI:
Assembly Bill 556 eliminates the position of weed control analyst and its assigned duties within the Department of Agriculture by repealing NRS 555.031 and NRS 555.033 which established the position. This bill implements the Governor's recommendation.

SENATOR RHOADS:
The Governor had to cut some positions. This is the one chosen for elimination.

COCHAIR MATHEWS:
Do the rural counties have any concerns about the loss of this position?

SENATOR RHOADS:
We do have concerns, but this position is a lower priority than others that might have been eliminated, and it is currently vacant.

SENATOR COFFIN MOVED TO DO PASS A.B. 556.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:
We will close the hearing on A.B. 556.

We will open the hearing on A.B. 560.

**ASSEMBLY BILL 560**: Reorganizes the Regional Training Programs for the Professional Development of Teachers and Administrators. (BDR 34-1300)

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):
Assembly Bill 560 aligns the Regional Professional Development Programs (RPDP) with the way the budget was closed. Funding for the RPDPs was not originally in the *Executive Budget* and the Legislature restored 60 percent of the traditional funding. To accommodate the 40-percent cut in funding, the administration of the RPDPs has been reorganized: some districts have been reassigned to new regions. The western region was eliminated and those districts were moved into the northern region. Some of the other districts were moved into the northeastern and the southern regions.

SENATOR COFFIN:
Why is it more appropriate for the Churchill district to be part of the northeast?

ASSEMBLYWOMAN SMITH:
The restructuring of the regions as well as the composition was worked out among the regions. They created a plan that reflected the assessment of how the districts could be best served.

SENATOR COFFIN:
It appears there would be additional travel costs incurred.

ASSEMBLYWOMAN SMITH:
The northeast region is spread out generally.

SENATOR RAGGIO:
Is there someone here from the Clark County School District? I received a communication from Mr. Bill Hanlon who is the Director of the Southern Nevada Regional Professional Development Program. He expressed concern that teachers who are assigned to that program are not eligible for some benefit. Do you know to what I am referring?

ASSEMBLYWOMAN SMITH:
I do not know the answer. We do know that some positions have been eliminated because of the cutbacks, and the RPDP instructors have not been allowed to return to their former districts.

JOYCE HALDEMAN (Executive Director, Community and Government Relations, Clark County School District):
We are in the middle of a reduction of force which is a complicated process in the Clark County School District. Considerations of longevity and seniority of the teachers must be considered along with their areas of expertise. The teachers who teach for the RPDP and return to the District retain their previous status. That is part of the reciprocal agreement the District has with the RPDP. The concern you have heard might be about the general process as a whole, rather than specifically about members of the RPDP.

SENATOR RAGGIO:
Can you provide us assurance they are not being penalized? These are important positions for these teachers to be involved in. We are supportive of the RPDPs,

what they accomplish and the necessity for them. I would request that you contact Mr. Hanlon with the reassurance these teachers are not being penalized.

COCHAIR MATHEWS:
Senator Raggio, we will ask Ms. Haldeman to honor your request.

MS. HALDEMAN:
I will give you that assurance and follow up with whatever communication you need. We love the teachers who went to the RPDP. They are some of our finest. We look for every opportunity to keep them working with our students. We simply have to follow the rules of the negotiated agreement in terms of seniority.

SENATOR RAGGIO:
If there is some misunderstanding, I would appreciate it being addressed.

ASSEMBLYWOMAN SMITH:
I would like to go a step further. I will ask the Nevada Association of School Administrators to get a response from the other districts. We have heard this same issue from other districts. I will follow up and ensure no one is being denied the opportunity to return to their districts. These teachers are the finest. They have skills they are teaching others. We do not want to lose them.

COCHAIR MATHEWS:
Please make sure this Committee gets that information as well.

ASSEMBLYWOMAN SMITH:
Yes, I will.

COCHAIR MATHEWS:
Are there any other questions? We will close the hearing on A.B. 560.

We will open the hearing on A.B. 547.

**ASSEMBLY BILL 547 (1st Reprint)**: Revises provisions governing the renewal of a motor vehicle. (BDR 43-1289)

MARTHA BARNES (Administrator, Central Services and Records Division, Department of Motor Vehicles):
I have distributed copies of a proposed revision to A.B. 547 (Exhibit E). The proposed amendment addresses language changes associated with funding options approved during budget closings for the Department of Motor Vehicles (DMV). During budget closings both Committees authorized the DMV to utilize funds generated by the Insurance Verification Program to fund the Agency's operations. The proposed amendment ensures that language in chapters 482 and 485 of the NRS parallels the intent of the Committee. The second change addresses language overlooked in the original amendment. For budget savings, A.B. 547 will allow the DMV to mail postcards in lieu of a registration renewal letter with a return envelope included. A leaflet cannot be enclosed with a postcard; therefore, the language regarding the leaflet should be deleted from the bill.

COCHAIR MATHEWS:
Are there any questions from the Committee? Is there anyone else to testify on A.B. 547? We will close the hearing on A.B. 547.

We will open the hearing on Bill Draft Request (BDR) S-1323.

**BILL DRAFT REQUEST S-1323**: Provides for salaries of certain state employees. (Later introduced as Senate Bill 433.)

MR. GHIGGERI:
This is another piece of the legislation required to implement the budget as approved by the Legislature. Bill Draft Request S-1323 is what is referred to as the Pay Bill for State employees. This lists the unclassified employees for the State, and it includes the language for the furloughs and the trigger language should sufficient revenues be generated.

MARK KRMPOTIC (Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
Section 1 provides for the unclassified pay for various unclassified positions throughout State government. The salary levels listed for each of these positions reflect the current maximum salary. Section 3 provides for the implementation of 12 furlough days for all positions including these unclassified positions. Therefore, the salaries listed in Section 1 would be reduced by approximately 4.6 percent once the unclassified positions take 1 day of furlough leave each month. Section 2 contains language that closely resembles that of the 2007 Pay Bill. It provides authority to the Interim Finance Committee (IFC) to determine the position, title and salary of a position that may have been omitted or to set the unclassified salary level if there was a typographical error in the bill. The bill also provides for retention of positions that are at more than the maximum salary listed in the bill at their current pay. In 2005, when a number of classified positions were moved to the unclassified State service, that bill provided for those positions to remain in classified State service while the incumbents remained in place. This language carries over the language from the 2005 Pay Bill. There are still incumbents in some of the positions that were moved in 2005.

Section 3 of the bill provides for the implementation of the furlough. Unclassified employees will take one 8-hour day each month and classified employees are to take up to 96 hours of unpaid furlough leave each year. Classified employees would have the option of breaking up their time and taking less than 8 hours of furlough each day. The distinction included by the Legal Division is to comply with Fair Labor Standards Act requirements and to avoid the occurrence of overtime pay for unclassified positions if they were to take less than an 8-hour day.

Section 4 of the bill is the hold harmless language for employees taking retirement pay. This provides for full retirement credit at the employee's current salary. Section 5 provides for exceptions to the furlough for employees of critical need. These would be employees who are critical to the health, safety and welfare of the State. It provides for various bodies to determine positions of critical need. In the Executive Branch that would be the Board of Examiners. In the Nevada System of Higher Education it would be the Board of Regents. The Public Employees Retirement System would be responsible for those employees in the Public Employees Retirement System. The Supreme Court would make the determination for Judicial Branch employees. Finally, the Legislative

Commission would determine those positions in the Legislative Branch of State Government.

Section 6 provides an appropriation of approximately $24 million. The budgets of State government were approved including the 6-percent reduction recommended by the Governor. The Senate Committee on Finance and the Assembly Committee on Ways and Means approved 12 furlough days which equates to an approximate reduction of 4.6 percent for State employees. The $24-million appropriation provides for the difference between the amounts approved in the budgets and the reduction in pay as implemented through the 12 furlough days if needed.

Section 7 of the bill provides similar appropriations from the Highway Fund for the DMV, the Department of Public Safety and the Transportation Authority. Section 8 provides for an appropriation of $4 million to fund salaries for those positions that may be exempt from the furlough determined to be employees of critical need. Section 9 and Section 10 provide trigger language in the bill. Section 9 requires the IFC to project the unappropriated General Fund balance as of June 30, 2010. Section 10 of the bill provides that if the unappropriated balance reaches at least $390 million by June 30, 2010, the number of furlough days for the Executive Branch is reduced from 12 to 9. If the ending balance reaches $425 million a reduction in furlough days from 12 to 7 would be implemented. The bill also provides for contingent appropriations to implement the increases in pay that would result. Section 11 provides for an increase of 1 percent to the Distributive School Account (DSA) for school district employees if the ending fund balance is $390 million, and a 2-percent increase if the ending fund balance is $425 million.

Section 12 of the bill is new language that provides for callback pay for physicians, psychiatrists and pharmacists employed with the Department of Health and Human Services (DHHS). These positions have been limited by their unclassified pay. This section would allow for callback pay for those positions who may be called back to conduct rounds after-hours on weekdays or on weekends.

Section 13 provides for credential pay for certain employees of the Gaming Control Board. Section 14 provides for the use of funds under Sections 6 and 8 of this Act to be transferred and used to meet the requirements under Sections 3 and 5.

SENATOR RAGGIO:
As I understand it, the trigger mechanism in Section 9 of this bill will be the unappropriated balance on May 31, 2010. Would the stated amount of $390 million be sufficient to fund a 1-percent addition to pay?

MR. KRMPOTIC:
The $390 million would cover the increases of pay that are listed in the bill. It would also provide for payment of the line of credit totaling $160 million.

SENATOR RAGGIO:
I did not see that. Is that language in here?

MR. KRMPOTIC:
There are provisions in Section 10, subsection 2, stating that the trigger would not apply if the State Treasurer borrows money on or after July 1, 2009, from the Local Government Pooled Investment Fund. The trigger amounts of $390 million and $425 million both provide for repayment of the line of credit the State currently has outstanding first and would also provide for the increases in the State employee salaries.

SENATOR RAGGIO:
In the event the State has utilized the line of credit that would be the first payment out of the new unappropriated balance. The computation by Fiscal Staff would also allow the increases at either the $390 million or $425 million level.

MR. KRMPOTIC:
Yes, that is correct.

SENATOR RAGGIO:
Does Section 13 allow the State Gaming Control Board to retain the ability to give the $5,000 credential pay annually to employees with special skills?

MR. KRMPOTIC:
Correct. That is the current level paid.

SENATOR COFFIN:
This bill represents a good faith effort by the Legislature to reduce what is essentially a tax on the public employees of Nevada to help balance the budget. By using the furlough system, State employees receive lower pay, but they also work fewer hours. If we can pass a moderate tax increase this Session and revenues improve, this bill creates a mechanism whereby the State can return both work hours and pay to its employees.

MR. KRMPOTIC:
The 1-percent trigger under Section 10 of the bill would reduce the pay reduction from approximately 4.6 percent to 3.6 percent for those employees. At the 2-percent trigger, the pay of State employees would continue to be 2.6-percent lower than it is currently.

SENATOR COFFIN:
Does this bill account for the pay employees are losing due to the lack of step increases?

MR. KRMPOTIC:
No, this bill strictly addresses the furlough, not the merit increases.

SENATOR COFFIN:
We all received a letter from the Governor (Exhibit F) with 19 questions about how the furlough plan will be implemented. Does the bill as drafted answer all of his concerns?

MR. KRMPOTIC:
A number of the points raised in the Governor's letter are addressed in the bill, or would be addressed through policy action taken by the Executive Branch.

SENATOR COFFIN:
I want to make sure that no area is left so vague that the Executive Branch proceeds on its own in such a way we would not have intended. Can Mr. Clinger give this Committee assurance there is no such grey area in the bill?

MR. CLINGER:
I have just received the bill. I will have to read it thoroughly and discuss it with the Governor's General Counsel before I could give assurance it addresses all the points raised in the Governor's letter. The Governor's General Counsel met with the Legislative Division Legal Counsel yesterday. Whether all the questions raised in the memo were addressed, I do not know.

SENATOR COFFIN:
In essence, these questions are technical in nature rather than fundamental differences of opinion.

MR. CLINGER:
Most of the issues raised in the memo are technical in nature. If they are addressed in the legislation, or the Administration has the authority through regulation to deal with them, it should not be an issue. I cannot say that unequivocally until I can talk to the Governor's General Counsel.

SENATOR RAGGIO:
The Governor's letter referred to some positions that are federally funded. Have those been addressed?

MR. CLINGER:
I do not know. I have not read the bill.

MR. GHIGGERI:
There is no differentiation of the furlough based on the way employees are funded. It is an equality issue. An employee who is paid with General Funds and an employee who is paid with federal funds who work together must both be subject to the furlough.

SENATOR HORSFORD MOVED TO INTRODUCE BDR S-1323.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:
Committee, I will take a motion to Do Pass the bill.

SENATOR RHOADS MOVED TO DO PASS S.B. 433.

SENATOR COFFIN SECONDED THE MOTION.

SENATOR RAGGIO:
We have never noticed this. It must be noticed.

COCHAIR MATHEWS:
Staff has informed me we must have the bill noticed at the bar and we will move to Do Pass on the floor of the Senate.

SENATOR RHOADS:
I will withdraw my motion.

SENATOR COFFIN:
I will withdraw my second.

COCHAIR HORSFORD:
We will open the hearing on S.B. 427.

**SENATE BILL 427**: Revises provisions governing public employees. (BDR 23-1290)

DANA K. BILYEU (Executive Officer, Nevada Employees' Retirement System):
Senate Bill 427 is a comprehensive Public Employees' Retirement System (PERS) benefit reform bill designed to reduce the overall contribution cost of the system for the long term. Contribution costs are managed for predictability by the Retirement Board, but not all volatility can be removed. Given the current market conditions it is likely that contribution rates will trend upward in 2011 and even into 2013. The provisions within the bill will affect public employees hired after January 1, 2010. No provision in the bill applies to current members of the system. The system's actuary has had an opportunity to price the bill as written. I have provided a copy of my written testimony, (Exhibit G).

For the Police and Fire Fund the savings generated by S.B. 427 will have a net overall cost reduction of 7.08 percent of payroll. The Regular Fund savings will be 2.17 percent of payroll reduction of costs. Those reductions would roll in over approximately 20 to 30 years as current employees are replaced with new employees covered under the new provisions of the act. With respect to the system itself, some costs will be incurred for programming changes. The system has not had an opportunity to estimate these costs. In keeping with past budget practices, the Retirement Board would supplement the system's budget to provide for these costs and inform the IFC. These amounts would be supplemental to the system's proposed budget and assessed against the trust fund.

Section 1 of S.B. 427 provides refunds of contributions paid by a member if the contributions are linked to pay that cannot be used to calculate the average compensation of the member for the retirement benefit. This section only applies to after-tax contributions paid by a member participating in the after-tax contribution plan. Even if it is intended to also extend to members who pay their contribution with pretax salary reduction, the Internal Revenue Code prevents such a distribution from the system, under the "in service distribution" prohibition. Because not all employer reporting is complete when a member retires, this payment would be processed at what we call final which occurs within six months of retirement.

Section 2 of S.B. 427 amends the definition of compensation in NRS 286.025(2) for members hired after January 1, 2010, by modifying the definition of callback pay. Currently, callback pay is defined in the system's official policies adopted by the Retirement Board pursuant to NRS 286.200. The intent of the new definition of callback pay within this bill is to severely restrict the reporting of callback pay to this system. Callback pay is a form of premium pay, typically above the regular hourly rate of the member. Section 2 is designed to prevent it, except in emergency situations.

Section 3 of S.B. 427 provides the system shall post on its public Website any documents a public employer is required to file with the system, on or after January 1, 2010, regarding the mechanism used by the public employer to implement contribution rate changes pursuant to NRS 286.410, 286.421 or 286.450. This refers to certification made by the employer as to the cost sharing of contribution rate changes.

Section 4 of S.B. 427 modifies the terms of the members of the Police and Firefighters Retirement Fund Advisory Committee. Currently, the statute provides that the Committee members serve at the pleasure of the Retirement Board. The Retirement Board has adopted a policy setting three-year terms for the Committee members, with members being eligible for reappointment. Section 4 provides for four-year terms for the Committee and removal for cause by the Retirement Board.

Section 5 of S.B. 427 modifies NRS 286.460, the wage and contribution reporting statute, to include a new section providing that if a public employer reports wages to the system that are ineligible pursuant to NRS 286.025, the public employer is responsible to the member for any impact to the member's benefit.

Section 6 modifies retirement eligibility for Regular and Police and Fire Fund members hired on or after January 1, 2010. Currently, a regular member may retire at age 65 with at least 5 years of service, at age 60 with at least 10 years of service, and at any age with 30 years of service. Section 6 requires a member hired on or after January 1, 2010 to be age 62 to retire with at least 10 years of service. Eligibility at age 65 with at least 5 years of service and at any age with 30 years of service would remain unchanged.

Members of the Police and Fire Fund have earlier retirement eligibility provisions than regular members. Police and fire members currently may retire at age 55 with 20 years of service, at age 50 with 10 years of service and at any age with 25 years of service. Section 6 will require a police and fire member hired on or after January 1, 2010, to be age 65 to retire with at least 5 years of service, age 60 to retire with at least 10 years of service, age 55 with at least 20 years of service and removes eligibility to retire at age 50 with 10 years of service and at any age with 25 years of service.

Section 6 of S.B. 427 also modifies provisions relating to reduction of retirement benefits if a member retires prior to the required age within the statute. The benefit shall be reduced by 6 percent for each year and by 0.5 percent for each additional month that a member is under the required age to retire for all members hired on or after January 1, 2010. This is a change from the current statute which requires a 4-percent reduction for each year, and a 0.33 percent reduction for each month. The way the bill is currently written approximates the actuarial cost to retire early.

Section 7 reduces the service time multiplier for both funds for members hired on or after January 1, 2010, to 2.5 percent. Section 7 also limits the average compensation calculation to no more than 10-percent increases from year to year. This is to ensure the benefit is based on a predictably increasing wage. Compensation as a result of promotion and assignment-related compensation will be excluded when calculating these caps. Assignment-related compensation is not currently defined in statute or the official policies of the System. The Retirement Board will have to make those findings and adopt policies concerning assignment-related compensation.

Section 8 of S.B. 427 removes spousal beneficiary coverage for police and fire members hired on or after January 1, 2010. These members would be eligible to select any of the optional retirement plans for beneficiary coverage that are currently available to regular members. The optional plans allow members to provide beneficiary coverage to one person with an actuarial reduction of the member's benefit to pay for such coverage.

COCHAIR HORSFORD:
Are there any questions from the Committee?

SENATOR HARDY:
The language of S.B. 427 is what we have discussed and what has been presented. I understood that the provision for 30 years and out is going to remain for firefighters and police. Can you draw my attention to where that provision is in the bill?

MS. BILYEU:
Thirty and out is contained in the first section of the retirement eligibility. Withdrawal of 25 and out means there is a default to the 30 and out provision of current statute and policy.

COCHAIR HORSFORD:
Do you have the monetary value of the reduction percentages you cited?

MS. BILYEU:
From the 2008 Actuarial Evaluation, the costs savings can be calculated going forward on the basis of reported payroll. It is an actual understatement since payroll grows all the time. For the Regular Fund, however, reported payroll to the system was $3.4 billion. One percent of that pay is approximately $34 million. The calculated cost reduction is 2.17 percent for the Regular Fund, or approximately $86 million. The reported payroll for Police and Fire is a little over $800 million to the System. One percent of that pay is approximately $8 million. There is approximately a $56 million savings. Those numbers would increase with payroll growth. These are rolling in over 20 to 30 years; the cost savings will occur over the long term.

COCHAIR HORSFORD:
What was the actuarial of the Spending and Government Efficiency (SAGE) Commission? How does that compare with the rates you just indicated?

MS. BILYEU:
I believe the SAGE Commission bill was less. The Regular Fund reduction was 3.79 percent of payroll and the reduction was slightly less for the Police and Fire fund, approximately 2 percent of payroll. Overall, the reduction in costs associated with S.B. 427 is more extensive than that in S.B. 367.

**SENATE BILL 367**: Makes various changes to the provisions governing the Public Employees' Retirement System. (BDR 23-1168)

COCHAIR HORSFORD:
Are there any other questions from the Committee? If not, I will ask for public testimony. In the interest of providing equal time, I will invite panels for and against to come up, three at a time. Please indicate those provisions you support, you are opposed to or about which you have concerns. We will start with individuals who signed in indicating support for the bill.

RENNY ASHELMAN (Representative, Nevada Government Relations):
I am here today representing the City of Henderson. You have before you a hastily prepared proposed amendment (Exhibit H). Section 5, subsection 7 of S.B. 427 states: "If an employer reports wages pursuant to this section that are ineligible pursuant to NRS 286.025, the public employer is responsible to the employee for the impact to the member's benefit, if any, that results from the erroneously reported wages." We have no problem with this concept, but our concerns are twofold. We want to ensure this language is not so ambiguous that, if someone has not actually retired in reliance on the error, we owe them the money because we corrected the error. Second, I have been told by other local governments there have been cases where the employee was responsible for an erroneous or fraudulent report that led to the problem in the calculation, and we do not think we should bear responsibility for that. With those two changes, the City of Henderson is generally in support of S.B. 427.

STEVE HILL (Chairman, Las Vegas Chamber of Commerce):
The changes that have been made in S.B. 427 are important. The State faces a $7-billion unfunded liability that is growing. The State pays 21.5 percent and 37 percent of payroll respectively for regular and police and fire employees to fund this program. A good portion of that money is devoted to keeping the unfunded liability from growing. That amounts to nearly $600 million a year in the next biennium. Keeping those costs under control and reining in the unfunded liability is extremely important. We support several of the changes in this bill. The change in the retirement age for police and fire is appropriate. New employees who are hired will remain healthy and live longer than we will. It is appropriate to extend the length of their life that they work and contribute in order to have that retirement. We support the elimination of the 25 and out and increasing the minimum age of retirement without penalty to 55 with 20 years of service. The benefit factor, the amount an employee earns each year toward their retirement, has been reduced from 2.67 percent to 2.5 percent is a step in the right direction. The provisions of S.B. 427 that limit the potential for "spiking," artificially increasing the retirement benefit and excluding callback pay except for emergencies, the 10-percent cap on increases in the final years of employment are also important. The increase of the penalty for early retirement from 4 percent to 6 percent aligns the benefit with the cost of early retirement.

The Las Vegas Chamber of Commerce continues to be concerned about the long-term costs of this program. A big problem for future generations is the unfunded liability we are passing on to them. It is increasingly difficult to fund these liabilities. The money used to pay these liabilities reduces the money that can be used to provide other services. The changes made to the PERS can only be made for new employees and they will impact State employees and the State budget over the next 50 years or 60 years. It is important to make promises we can keep. The Las Vegas Chamber of Commerce appreciates the work that has been done to make meaningful reform to the PERS. Additional steps need to be taken and we look forward to continuing to work with you to achieve them.

SENATOR HARDY:
Mr. Hill is an honorary board member of the Associated Builders and Contractors of Las Vegas. Senate Counsel has advised me to abstain from voting on matters on which Mr. Hill testifies. Not because of conflicts under Senate Rule 23, but due to an abundance of caution, I will abstain from such a vote.

SENATOR WOODHOUSE:
Please explain to the Committee what the PERS Board is doing regarding the unfunded liability.

MS. BILYEU:
The unfunded liability of the PERS is a piece of the contribution rate. There are three components to our contribution rate: the normal cost of the benefit; payment on the unfunded accrued liability; and a small administrative piece designed to fund the agency over time. Senate Bill 427 affects the normal cost of the benefit. The unfunded accrued liability of the system is created when the system's assumptions are either too high or too low. If we make demographic assumptions that we have a gain against, it reduces the size of the unfunded liability. The most significant portion of the unfunded liability is due to market return. The only place the return of the system affects the contribution rate is the unfunded accrued liability of the system.

The Board has adopted a series of management tools designed to manage the unfunded liability and to retire it over time. Currently, the PERS uses a layered amortization approach to pay the unfunded liability. We use a 30-year amortization period designed particularly to provide for inter-generational equity to our members and our employers. The system currently stands at a negative return of approximately 16.5 percent for this fiscal year. The assumption for the system is an 8 percent return. We are substantially below that assumption. That loss, between the assumption and the actual return, is an unfunded piece of the liabilities of the system. That amount is provided a 30-year amortization period. Because our contribution rate is shared equally between our employers and our employees, State employees take a salary reduction. We manage payment on the unfunded liability in a way that allows the employees an opportunity to pay it over time.

We also use another tool that is used predominantly in the public pension industry called a 5-year smoothing period. The losses that we take today come into the portfolio over a 5-year period, 20 percent at a time. Gains that we have had in previous years are brought in the same way. This is designed to smooth the contribution rate for both our members and our employers. The PERS knows it is important for the State to be able to predict contribution rates when creating budgets, and an erratic contribution rate makes that more difficult. The entire process we use to finance the unfunded liability of the system is Governmental Accounting Standards Board (GASB) compliant.

The layered approach is still a closed amortization approach, but it is designed to allow current members the same opportunity to pay for their portion of the unfunded accrued liability in the same fashion as employees who were hired in previous decades who had the benefit of a very long amortization period. The concept is to allow members and employers time to pay for that in much the same way as paying for a mortgage. Employees pay half of the unfunded accrued liability. The contribution rate statute specifically requires an equal cost sharing back to the employees. There are two mechanisms for that. For example, the police and fire rate is going to 37 percent, which means a State employee who is participating in the Police and Fire Fund will take an additional 1.5-percent pay cut to fund their portion of the contributions in that program. It is designed to make the PERS as predictable as possible. The Retirement Board cannot remove all volatility in the rates, but they do everything they can to manage them for the long term.

COCHAIR HORSFORD:
To simplify, the market is largely responsible for the loss, particularly the rate of loss this year. The impacts of the financial industry and the practices in the private sector have largely contributed to that loss in investment, correct?

MS. BILYEU:
The unfunded liability is primarily created by the market conditions. What has affected everyone has affected the retirement system as well. There are some pieces of our unfunded liability that are created when our retirement experience is different than what we expect it to be. For example, if people retire at a later age, but with a higher rate of pay, that may cause a loss to the system. Those are typically much smaller than the changes in the market. The last time there was a change to our unfunded liability to finance a benefit was in 1985 when we put in the post-retirement increase formula. We have not used that method to finance a benefit since then.

SENATOR COFFIN:
The words "unfunded liability" are tossed around loosely, as if this was some sort of debt we can never make up. The State of Nevada is a going concern. Corporations must account for things differently; they cannot assume the kind of perpetual life a government can. Once an employee takes a pay cut, what does that do to the unfunded liability?

MS. BILYEU:
The system adopts assumptions with respect to salaries. Any time salaries are below what those assumptions are, that is a gain to the system. We review those salary assumptions periodically, typically every three to five years. The assumptions adopted by the Retirement Board prior to the 2007 actuarial evaluation set salaries at a certain level. If salaries are reported to us at a lower rate, that would flow through to the actuarial evaluation and it would produce a gain in the system. That gain would be offset against the unfunded liability. If salaries are lowered, it helps retire the unfunded liability.

SENATOR COFFIN:
Employees share in the cost of government and assume responsibility for their own retirement. These are dollars they will never get back.

COCHAIR HORSFORD:
Mr. Hill, you outlined 9 or 10 provisions of S.B. 427 you supported. You indicated there were still changes you would like to see. What are those provisions? Do you have proposed amendments to offer the Committee?

MR. HILL:
I do not have written amendments at this point. The changes we would recommend would be relatively straightforward. The retirement for regular employees has not been changed in S.B. 427. Our recommendation would be retirement without penalty after 10 years of service at age 62 and the removal of the option to retire without penalty after 30 years of service at any age. Nevada is currently the only State in the country that does not have a minimum retirement age without penalty. Some states have a minimum retirement age so that an employee may not begin to receive a benefit until they reach that age. Other states have penalties linked to retiring before attaining a certain age. It is important to recognize that future generations will live longer and therefore, will have to work longer so they can contribute more, so they can retire with the same level of benefit. In order to do that, we recommend the current benefit factor should be reduced to 2.35. The effect of this reduction is that, with the contribution rate set at 2.5, it takes 30 years to earn the full benefit; with the contribution rate set at 2.35, it takes 32 years to earn the full benefit. Asking future generations to work 32 years to achieve the full benefit is a reasonable request. The last proposed amendment is that the calculation for purposes of the benefit should be over a 5-year period rather than a 3-year period. This ensures that any potential spiking is eliminated.

COCHAIR HORSFORD:
Please provide something in writing to the Committee.

SENATOR WOODHOUSE:
Mr. Hill stated that a regular employee hired on or after January 1, 2010, would be able to retire at age 60 with 10 years of service. Senate Bill 427 changes the age of retirement after 10 years of service to 62.

MR. HILL:
I appreciate that. I misspoke.

COCHAIR HORSFORD:
Which section of the bill is that?

SENATOR WOODHOUSE:
It is in Section 6, subsection b.

COCHAIR HORSFORD:
To the extent that the four areas the Las Vegas Chamber of Commerce would like to see in S.B. 427 are not included in the final version of the bill, would you still support the bill?

MR. HILL:
Yes. We do support the changes being made with S.B. 427. We do not believe it is enough to ensure the unfunded liability and the cost for the system does not continue to grow.

COCHAIR HORSFORD:
Some of the positioning has been that none of these reforms have been offered. It is important to make it clear on the record today that a strong effort has been made to reform the system and to enhance the pre-funded issues of the system.

MR. HILL:
I appreciate your making that clear. It is the intention of the Las Vegas Chamber of Commerce to express our appreciation for the steps that have been taken, as they are important. We also think there are a few more steps that need to be taken.

COCHAIR HORSFORD:
One other comparison that needs to be made is to the corporate pension plans. It is my understanding that they were not making appropriate contribution allocations to pre-fund their programs. The PERS has been making appropriate pre-funding allocations. There will be a certain level of gap based on the market. Ms. Bilyeu, can you help us understand the differences between the PERS and the corporate pension plans?

MS. BILYEU:
The private sector defined-benefit-pension world is governed by a federal law called the Employment Retirement Income Security Act of 1974 (ERISA). This law was enacted due to failures of retirement plans in the 1970s. The ERISA put into place a structure that required levels of funding for corporate defined benefit plans, as well as qualified defined contribution plans. Since 1974, a number of changes have been made. All corporations who sponsor a corporate retirement program are required to pay premiums to the Pension Benefit Guarantee Corporation (PBGC) as an insurer of their defined benefit pension plans. Congress passed the Pension Protection Act of 2006 requiring strict funding levels to ensure the federal government does not ultimately have to pay for corporate retirement programs. The private sector is no longer allowed to fund on an ongoing concern basis. However, the retirement systems for governments are allowed to fund on an ongoing concern basis because we are an ongoing concern with no potential for going out of business. Many people will say that the ERISA is very good and very bad at the same time. The premiums associated with the PBGC are significant. The funding cycle for the private sector is about seven years.

SENATOR RAGGIO:
Our differences have been outlined by Mr. Hill. It is not a secret we have been negotiating in this house between those who are Republicans and those who are Democrats. We had a long discussion early this morning about the differences that still remain in this negotiation process. This has been a condition precedent for the Republicans to support increases in taxes to fund the budget we have agreed upon. I reference this because the statement that Senator Woodhouse made regarding 62 years of age as the minimum retirement age only applies to those employees who have 10 years of service. Mr. Hill wants 62 to be the minimum age of retirement regardless of years of service. To compare apples to apples, most people we represent are not public sector employees. To be eligible for Social Security benefits, 62 is the minimum age to receive a reduced benefit. To receive full Social Security benefits you have to be age 65. Making the minimum retirement age 62 is a reasonable requirement. It is difficult to explain to those people employed in the private sector that there should be a difference for those employed in the public sector.

We all committed that no changes would be made to the PERS benefits now in place for active members or retirees. We are discussing what will transpire for new hires that will come into the system with full awareness of any changes. The changes we are suggesting are not that much of a burden. They will not really affect the system for another 30 years. I want to make clear why there is such emphasis on this issue. Without these changes meaningful reform will not be completed. I respect the opinions of the other side. I hope we can continue discussions to reach an agreement without acrimony.

MR. HILL:
I appreciate you clarifying our position. In response to Senator Coffin's comment, we certainly view the State as an ongoing concern. The PERS program is actuarially sound because rates have been increased over time to pay for the added costs. On July 1, 2009, the rate paid on payroll will go from 20.5 percent to 21.5 percent for regular employees and from 33.5 percent to 37 percent for police and fire employees. That is largely due to the growing unfunded liability. We are paying over 30 years, but it is costing the taxpayers who fund the costs of payroll $600 million every biennium to keep down the unfunded liability.

COCHAIR HORSFORD:
Ms. Bilyeu, can you remind us what the pre-funded percentage is for PERS currently and what the average has been?

MS. BILYEU:
At its height, the pre-funded percentage was about 85 percent. Since 1999, we have incrementally come down to approximately 77 percent for the Regular Fund and 71 percent for the police and fire fund. Our funded ratio changes incrementally because of the way we manage the monies into the unfunded liability and the payments out of it.

COCHAIR MATHEWS:
Is S.B. 427 a PERS Board bill?

MS. BILYEU:
The Retirement Board is not the sponsor of this bill. We took a neutral position with respect to this bill. We are here to provide as much information to the Committee to ensure the cost estimates were provided to you.

SENATOR COFFIN:
There are different kinds of occupations in State employment. Some are low-pressure jobs that are routine in nature. Some are high-pressure jobs, with no routine, that change every moment of the day. Teachers, for example, start work in their early 20s, and face burnout after 30 years of working. We have had to legislate for all employees. We may need to think about starting a separate retirement plan for educators. Ms. Bilyeu, do those employees who take retirement at 30 years have to pay a heavy tax penalty on their pension income?

MS. BILYEU:
Pension income is taxed in the same fashion as any other income, except the portion paid with after-tax income is adjusted downward slightly, typically about three percent over the course of when they receive their benefit. It is prorated out for the life of the annuity. The taxation level depends on the size of the benefit. The average monthly benefit out of the Regular Fund is currently $2,300; out of the Police and Fire Fund it is $3,500. Those are 20-year benefits; the average person retires out of the system with approximately 20 years of service rather than 30.

SENATOR COFFIN:
There are certain risky professions and naturally that is why we pay more for police and fire and have an earlier retirement. The military has a 20 year and out retirement that is equivalent to full retirement. We do not object to that because we think the risks inherent in that occupation deserve that consideration. The risks for police and fire are not different. We do not think for a minute to change that system.

SENATOR RAGGIO:
To keep the record straight, recipients also pay income tax on their Social Security benefits.

TRAY ABNEY (Director, Government Relations, Reno-Sparks Chamber of Commerce):
We appreciate the hard work that has gone into crafting S.B. 427. I would like to echo Mr. Hill's testimony. We owe a debt of gratitude to the Las Vegas Chamber of Commerce for the hard work and resources they have put into this issue. The Reno-Sparks Chamber of Commerce agrees with the changes as outlined by Mr. Hill.

COCHAIR HORSFORD:
We would like to see those in writing.

MR. ABNEY:
I will work with Mr. Hill on that.

COCHAIR HORSFORD:
We will now hear a panel of three against this bill: Mr. Danny Thompson serves on the board of Nevada Partners, of which I am President. That is a voluntary, non-paid position. Participating in these issues does not present a conflict for me. I wanted to have this on the record because I read a report that indicated Mr. Thompson was my boss. That is not the case.

SENATOR WOODHOUSE:
For the record, under Rule 23, I do not believe I need to disclose this, but in the spirit of full disclosure I will. I am a retiree and receive a benefit from the PERS after 40 years of service to the Clark County School District. But, more importantly for this discussion, I served on the PERS Board for 16 years and as the Chair for 13 of those years.

SENATOR HARDY:
I have attended the Nevada Legislature School of Law and Ethics for the last year and a half and it has been a real education. I had some questions and confusion yesterday about why I have been counseled not to vote on this issue. I concur with the majority leader that he has no obligation under Rule 23 or Senate Resolution 10 to disclose this relationship. But for the fact I have a court case pending before the Nevada Supreme Court, I would be in the same position relative to Mr. Hill. I wanted to take this opportunity to clarify the difference.

SENATOR RAGGIO:
I do not serve on any of these Boards; however I am a recipient under the PERS having served as the District Attorney of Washoe County for 19 and a half years. I do pay income tax on that benefit.

COCHAIR MATHEWS:
I was with the University System of the State of Nevada for about 26 years. I am the recipient of a small check every month.

SENATOR COFFIN:
My wife is an Associate Professor at the University of Nevada at Las Vegas, but, she is not a member of the PERS.

RUSTY MCALLISTER (Representative, Professional Firefighters of Nevada):
The reform of the PERS has been a negotiation process. Earlier in the Legislative Session we testified on a bill presented from the Governor's Office, S.B. 367, that dealt with the SAGE Commission recommendations.

At that time, we committed to Senator Raggio that we were willing to come to the table and talk. We did not impose conditions on our participation. We have participated in negotiations. Reviewing S.B. 427, Section 2, subsection 2(b.)(2), the changes to the definition of callback and emergency confuse me. The PERS already changed that policy in January 2008. It could create a conflict because of the different dates of implementation.

SENATOR HARDY:
On that issue, that policy change has currently been made but the dates are different?

MR. MCALLISTER:
The policy has already been implemented by PERS.

Section 5, subsection 7 of S.B. 427 states: "If an employer reports wages pursuant to this section that are ineligible pursuant to the definition of compensation under NRS 286.025, the public employer is responsible to the employee for the impact to the member's benefit." During the discussions we have had about this bill, we brought up a problem that has occurred. When employees decide to retire, they go to the PERS office to obtain benefit estimates. The PERS will take the information provided by the employer to calculate the benefits payable to the employee. That person will make a life decision based on that information. Benefits are not finalized for a 12-month period, however. During that period, if new or additional information comes in and the PERS discovers an error in reporting by the employer, the retiree will be notified that his or her benefit is being adjusted. Typically, it is adjusted down.

The PERS, by policy and statute, is not allowed to pay a benefit an employee is not entitled to; therefore the benefit is adjusted down. The employee loses that benefit and must repay what has been an overpayment during the period of adjustment. The repayment is taken from the benefit checks. In return, the employer who made the erroneous report receives a credit for the amount of overpayment. In addition, the funds credited to the employer in this situation were originally contributed on a 50-percent basis from the employee and 50 percent from the employer. I am not saying a person who is still employed and working is adversely affected by this. I am concerned about the employee who has made the decision to retire and is now unable to return to employment to fix the situation. Mr. Ashelman has proposed an amendment (Exhibit H) that states, a "retiree's benefit should not be impacted by the erroneously reported wages identified after their retirement date." If this amendment can fix that inequity, it would be great.

SENATOR RAGGIO:
Does not this amendment that has been suggested answer that? What else is needed?

MR. MCALLISTER:
The amendment conflicts with the current PERS statute which states they cannot pay a benefit to which the employee is not entitled.

SENATOR RAGGIO:
Section 5, subsection 7 states "the public employer is responsible to the employee for the impact to the member's benefit."

MR. MCALLISTER:
I represent people who are in both the regular members fund as well as the police and fire fund. Raising the minimum retirement age to 62 is problematic. Current statute says an employee caps out at 75 percent of their wage at 30 years of service. If the employee chooses, he or she can retire at that point. Senate Bill 427 would require an employee to stay until age 62. Employees who are hired prior to the age of 32 will reach the 75 percent cap with up to 10 years remaining before they are eligible for retirement. They will accrue no additional benefit to PERS other than receiving a paycheck. In the private sector the deferred compensation plans are not cut at 30 years of service. Basically, these people will serve more than 30 years, but they will not be able to accrue more benefit for the additional years worked.

The Las Vegas Chamber of Commerce wants to see retirement eligibility changed from age 50 to age 55 for 20 years of service. First of all, I find it ironic that Mr. Hill testified it was fine for us to work until age 55. On the SAGE Commission report, Mr. Hill voted to retain the current age limits for police and fire. When I testified before the SAGE Commission I asked them if they had received a report of the PERS study on the requirement to have a youthful vigorous workforce for the frontline protection of the public. This motivated the establishment of the police and fire plan, including the age limits for retirement. Not one person on the SAGE Commission had read that report. Thereafter, they withdrew the age requirements and suggested a study to determine if that data was still viable.

The most recent research from Oklahoma indicates the national average age of death for firemen is 56. In the last 5 years in my department, 16 out of 500 people have been diagnosed with cancer. Three have already died. I find Mr. Hill's assertion that it is the police and firefighters who are holding up the process of finalizing the budgets to be offensive. He voted to take that provision out of the SAGE Commission's recommendation. It is erroneous to blame the police and firefighters for holding up the process.

SENATOR HARDY:
I do not know what Mr. Hill said outside of negotiations. I do know what I said on the floor of the Senate yesterday. I said that the police and firefighters retirement was the sticking point last night. I was working off a document that the majority leader of the Assembly and I agreed to as a working document starting Saturday. We had not discussed the change that was proposed to take

the retirement age back to 50 until last night. That was the issue that led to the deterioration of the discussion. I stand by that. We had an agreed upon list. I made that comment on the floor of the Senate when the change in the negotiating position occurred at 2:00 a.m.

CHAIR HORSFORD:
There are attempts offline with leadership and various members to work on this. From my perspective, working on the drafting of S.B. 427, the age 50 provision is in the bill. Whatever other differences have been are not reflective of what is in the bill.

MR. MCALLISTER:
Decreasing the multiplier from 2.67 to 2.5 is something we understand. Before 2001, the multiplier was 2.5. At that time the fund was approximately 85 percent funded for police and fire. The fund is not in as good a position as it was then, so reducing the multiplier is reasonable. We are amenable to the anti-spiking provisions in Section 7, subsection 4 as long as there is a provision for promotions.

Currently, under the PERS provisions, there is a benefit available to police and fire. It is a choice to take an unmodified benefit for spouse option. After a retiree's death, and once the retiree's spouse reaches age 50, they can receive a 50-percent benefit. It is already figured into the contribution rate. It is being paid throughout the member's employment. We would like to see that benefit remain available to us. The employees hired on or after January 1, 2010, would pay the same contribution rate which means they are helping to pre-pay a benefit for which they will never be eligible. I do not think that is fair.

COCHAIR HORSFORD:
Ms. Bilyeu, what impact does that have on the actuarial numbers?

MS. BILYEU:
When figuring the cost savings of S.B. 427, of the 7.08 percent I testified to earlier, about 2 percent is the spouse option. This is not exact because we do not split them apart. From the PERS perspective it is about the costs you want to incur or take out.

COCHAIR HORSFORD:
Are there any questions from the Committee? Seeing none, we will hear the next testifier.

DAVE KALLAS (Representative, Las Vegas Police Protective Association):
I need to make a disclosure. I have had conversations with many of you regarding this issue in violation of a PERS policy which prohibits my conversations with anyone who may have something to do with any facet of the PERS, without disclosing it to the PERS and the PERS Board. I have done so voluntarily because I believe any conversation I have with a Legislator in this building should be kept confidential. Whatever consequences I may suffer because of that, it is for the greater good, because this is an important issue.

SENATOR COFFIN:
You are required to testify today. You have been required to act as an information source to us throughout the Session. I have asked questions of you that you have had to answer.

MR. KALLAS:
All State employees should be treated fairly and equally. It is disturbing that this reform package is holding up the Legislature's obligation to fund the budget. Public employees have benefits. We make up 20 percent of the population of the State. The other 80 percent of the population is made up of people who will benefit from the tax package. It is disingenuous to speak about doing the right thing for the people of the State. Services like sewer and water are being held hostage until people resolve their philosophical differences with the public employees. This is not a Democratic or Republican issue; it is a people issue.

I agree with Mr. McAllister's testimony, particularly in regard to Section 6 of S.B. 427. The PERS implemented a policy in 2008 regarding callback pay to define it narrowly to an emergency. At the Las Vegas Metropolitan Police Department (Metro), members have been told to take holidays in the form of pay during the last three years of employment to increase the value of their retirement. The PERS audited the Metro and discovered they had inappropriately reported holiday pay for the officers who had taken that option. Some of the retirees had their benefits adjusted down. They asked PERS what options they had for recourse. Unfortunately, PERS cannot provide them with any recourse. The employer should have provided recourse. The Metro received a credit for $2.2 million. I do not see an increase in my paycheck from that credit, even though by statute 50 percent of that contribution had to have come from the other employees in the Metro. Even though Section 6 of S.B. 427 addresses what happens to the employee if they are hurt by compensation inappropriately reported by the employer, it should also address potentially detrimental alliance. If someone has based a decision such as taking holiday pay on information provided by the employer, the employer should be held accountable. I do not know if this body has the authority to impose those types of sanctions, but I would be remiss if I did not raise the issue.

Much has been said about the minimum retirement age as an issue that is holding up this negotiation or agreement. Nobody receives a full benefit at retirement. If I retire after 20 years, I receive 50 percent of the value of the 36 highest consecutive months of my salary. Regarding the issue about 20 years at age 50, I do not believe we want our firefighters dragging hoses into buildings at age 55. I do not want some of the 55 year olds in our police department in a patrol car, chasing somebody down a street or fighting with a domestic violence suspect. It is disturbing when people ask why police and firefighters receive special privileges, why they are able to retire early. It is because of the job we do. If someone were to take a gun and fire a couple of shots in here, most people would be running out the door. The Legislative Police would be running in the door. That is the difference. Someone yells "Fire!" and everyone runs out of the building. The firefighters are running in.

It is problematic as we are moving forward. We said in April we were willing to sit down and have a reasonable discussion about issues, but not to allow the financial crisis the State is currently facing to be a burden on the back of good public employees. I have spent almost 30 years trying to keep bad things from happening to good people. As we move forward with this, we will be happy to continue to have discussions about modifications to the PERS. We will do what we can to help. I do not want this to become a philosophical land grab because we need to balance the budget and provide services to the other 80 percent of the population who reside in our State. I will be retiring in a few months. But the people behind me are the life and soul of this State. I would ask this body to stop thinking about what we personally believe in, our personal preferences and prejudices, and focus on the issue of resolving the crisis. Ask the banks who received the bailouts at the front of their offices and handed out the bonuses at the back of their offices to do their fair share. As you mentioned before, Senator Raggio, this is not a Republican versus Democrat issue, it is about people. The public employees of this State have made enough sacrifices as we have moved through this process. Do what you must do with taxes, we will discuss modifications, but one should not be connected to the other.

SENATOR RAGGIO:
I am sorry I missed some of your testimony. Nobody is more supportive of police and firemen than I am. I spent 19 years as a District Attorney and worked very closely with both of those segments. Concessions have been made with respect to police and firemen. Nobody on our side wants to do anything at all to active employees in that sector. More austere suggestions were made and rejected. Let us be clear, you might as well direct your comments to the other side. Finally, there is nothing in S.B. 427 relating to balancing the current budget. This bill makes changes with respect to new hires at the end of this calendar year. Employees who come into the system after January 1, 2010, are the ones who will be impacted. That impact will not be felt for 20 years to 30 years. If you are stating we are not supportive of the efforts and responsibilities and duties of the police and firefighters, you are missing the point. I personally have a deep appreciation for all of you. I have worked with you. I know what your jobs entail. I know there is a reason why a guy who is carrying a ladder in the fire department or a guy who is going into danger as a police officer experiences additional stress. That is why we recognize an early retirement program.

COCHAIR HORSFORD:
I have a question regarding the minimum retirement age of 62. The impact of S.B. 427 is on new employees. I care about those individuals who are 20 to 21 years of age who are considering public employment. I received an e-mail from a young man contemplating a law enforcement career, but he is concerned that he will lose benefits. Young people today are making decisions regarding career choices based in part on the benefit package they will receive, including retirement benefits. What is the breaking point at which these positions are no longer desirable?

MR. KALLAS:
We need to look at the long-term stability of the PERS plan itself. We need to take care of the employees 20 years or 30 years from now. I am testifying today, as are many other public employees, because we are concerned about the future employees. Some of the provisions of this reform are problematic. We are not sure if this will take care of the public employees as they move forward. We see this as throwing the baby out with the bathwater. In our hearts we understand there is a problem and we need to help. People often choose public employment to provide a service. After five years of service you start to think about what the retirement benefits will be like. But, as people become more and more educated, they begin to look at the benefits before they choose public employment. The more impediments we put in place to deter those people, the more difficult it will be to get good people.

DANNY L. THOMPSON (Executive Secretary-Treasurer, Nevada State AFL-CIO):
I have been part of these negotiations. I represent about 120 different organizations statewide. They all have plans similar to the PERS. Most of them have a point system so their employees can retire before age 62. Many of the plans do not have a minimum retirement age, per se. There is a point value that the employee must attain that may include an age. Generally that age is 55. All of those people, with the exception of the PERS retirees, enjoy Social Security in addition to the retirement they may receive from their existing systems. I attended a number of the SAGE Commission hearings. I listened to a presentation about the PERS one day in Las Vegas. One of the most pertinent facts was saved for the end of the presentation: public employees in Nevada are not entitled to Social Security.

There are over 400 vacant positions in the prison system. Over the last two years I have been to several of the prisons including the Ely State Prison. The officers are locked up with 178 to 200 people. I do not know if it is safe for the officers. I represent social workers for the State who have caseloads in excess of 600. It is impossible to talk to 600 people in a day. These social workers are being disciplined by their supervisors for letting these cases fall off the charts. They cannot fire them, because if they do the caseload per worker will rise to 800. I can go down the list of State employees, not to mention our teachers who are underpaid, and cite more examples.

We are faced with a budget the Governor has given to the Legislature which no one I represent wants to see implemented. The people I represent have made significant movement in these negotiations. We were told that if we do not support this, the Las Vegas Chamber of Commerce will not support the tax package to fund this budget. I have heard it said in this building that the reason we are in the mess we are in is because the PERS is out of balance and collective bargaining has destroyed the State. State employees do not have collective bargaining. The PERS is a good system. All systems are experiencing the downturn in the market. To imply that reform of the PERS will solve the problems is erroneous. The problem is we do not have a diverse tax base. That is partially my fault because I served in the Assembly for ten years. We rely on a single industry to pay almost half of our bills. Until we diversify the tax base, we will be back here doing this again. The people I represent fear what will come next. The danger in these negotiations is people get dug into positions and if you are not careful and you do not solve this problem, it will be left to the people. Be mindful of what has already been given up. Let us move forward, solve this problem and go home.

COCHAIR HORSFORD:
Are there any questions from the Committee? Hearing none, I will now ask a neutral panel to come up.

GINA POLOVINA (Representative, Boyd Gaming):
The position of Boyd Gaming on the need for PERS reforms has not wavered for the last several months. We support significant adjustments to the State's retirement system for all new employees. We strongly maintain that reforms need to be implemented in order to shore up this unfunded liability and lessen the tremendous financial burden that will fall upon all of our State's taxpayers. Our primary motivation is not to dissuade individuals from entering the ranks of public service; we are indebted to these dedicated men and women. Rather, our goal is to seek to stabilize and foster Nevada's economic viability for present

and future generations. I would like to extend our company's personal appreciation for all the work that has been done on this very important issue. We remain optimistic a positive outcome can be realized.

TED OLIVAS (Representative, City of Las Vegas):
We signed in as neutral today. We are supportive of what you are doing here and we appreciate the efforts. We do want to make a clarification. In Section 5, subsection 7, if it is determined the wages were erroneously reported due to our error or negligence, clearly we should be responsible to the employee for the impact to the member's benefit. However, if it is determined the wages were erroneously reported because of the employee's action, clearly the employee should be responsible.

STEPHEN W. DRISCOLL, CGFM (Assistant City Manager, City of Sparks):
We signed in as neutral. We recognize the economic issues we have at hand and the long-term solution is about changes in the future. To have something start at a future date and work itself forward provides for a more stable and systematic solution.

STEVE HOLLOWAY (Executive Vice-President, Las Vegas Chapter, Associated General Contractors):
I meant to sign in as supporting the bill, with one exception: we think the benefit factor should be adjusted from 2.5 to 2.35.

COCHAIR HORSFORD:
Are there any questions from the Committee? Seeing none, I will ask for a panel of supporters of the bill.

TIM CROWLEY (President, Nevada Mining Association):
We support this bill. We commend you for the work you are doing. No policy issues like this are easy. There is no clean delineation of right and wrong. We appreciate you have to find middle ground on all these issues and make tough decisions.

CAROLE VILARDO (Representative, Nevada Taxpayers Association):
We support any of the changes you will make to bring PERS in line. I was on the SAGE Commission. We have been recommending major changes. I testified before the Committee if there were no changes made we were looking at what has become increases in PERS on automatic pilot. We originally made recommendations to go to a defined contribution plan. When the GASB rules changed, we discovered that was impractical. We would like to see more restrictive changes. It is not because we do not believe public employees deserve to have a good benefit package. We are an entrepreneurial State, a small-business State. The bulk of the 80 percent of State workers are receiving only Social Security. They do not receive additional retirement benefits from a 401(k) or other pension plan. Social Security without changes will be bankrupt. We do not want to see that happen to PERS. It is still a viable benefit. It is a well-managed plan. However, one of the problems I have seen over the years is the increase to the cost of the PERS due to actuarial costs. In 2003, when the Legislature had to address the actuarial report to keep on track with funding the system, the cost went from 18.65 percent to 20.35 percent on the bulk of the employees. If in fact it were true, which it is not, that half of the employees under the system paid their contribution to the system, at a cost of $26 million that could have been used for other programs. Programs like classified pay

increases. Twenty percent of the employees I congratulate. They have been able to work under trying circumstances. But I represent a constituency that is part of the 80 percent. I have experienced huge losses in membership because of bankruptcies and businesses closing their doors. If we do not get a handle on the PERS and other expenditures, there will not be the type of home-grown businesses that Nevada is known for. Nevada is an entrepreneurial State because we have so many small businesses.

This is a partnership. We will take tax increases as individuals and businesses at a time we cannot afford them. That will be our contribution whether we like it or not. At the same time, we know that long-range, we cannot make any progress unless we make substantive changes. I hope to work with many of you during the interim. We would be most appreciative of whatever you can do prospectively to get a handle on expenses, so every time we have an economic downturn we are not raising taxes. What you have here is necessary. In my opinion it does not go far enough.

SENATOR RAGGIO:
When I first arrived in the Senate the contributions from the State for public employees were in the single digits. The costs have grown. We are not interested in punitive measures. We are interested in therapeutic measures. You referenced Social Security. Recipients of Social Security do not receive 75 percent of their salary as a benefit.

MS. VILARDO:
I am a recipient of Social Security. We are being advised there will be no cost-of-living increases for three years. I have worked over 50 years and I am not receiving anywhere near what I have paid into the system because it is a defined contribution, not a defined benefit.

SENATOR RAGGIO:
The PERS changes we are proposing do not touch the post-retirement increases, do they?

MS. BILYEU:
Current statute allows for permanent post-retirement increases beginning in the fourth year of retirement. There is a 2-percent benefit increase in years 3, 4 and 5. There is a 3-percent benefit increase in years 6, 7 and 8 and a 3.5-percent increase in years 9, 10 and 11. There is a 4-percent benefit increase in years 12 and 13. The benefit increases are capped at 5 percent. There is also a cap for the rolling three year average of the Consumer Price Index. This matches in some respects the Social Security caps in place with respect to post-retirement increases.

SENATOR RAGGIO:
The post-retirement increases are not addressed in S.B. 427.

MS. BILYEU:
That is correct.

MS. VILARDO:
Social Security has escalated the retirement age to 67 in acknowledgement that people are living and working longer.

COCHAIR HORSFORD:
We always welcome your suggestions.

RUSSELL ROWE (Representative, Wynn Resorts):
We have consistently supported the reform of the PERS under two guiding principles: upholding the promises made to existing public servants and their families; and adjusting the benefits for new employees to maintain the health and sustainability of the system. Wynn Resorts has had to make decisions to change their employees' benefits. The choice has been between laying off employees and adjusting benefits in the 401(k) plans. We have joined the teachers in support of increasing the room tax because we are concerned about public education. We support the proposed tax package. We support the concepts in S.B. 427. We understand there are issues that must still be worked out, but we ask you to find a way to reach a compromise so the State can move forward and preserve the work that has been done by all of you.

JOSH GRIFFIN (Representative, MGM Mirage):
We support and applaud the efforts of the Legislature. We support S.B. 427. We support the employees and the families who will receive these benefits and acknowledge their efforts in trying to find a compromise. The long-term savings to the State that will be realized as a result of these reforms is significant.

COCHAIR HORSFORD:
Are there any questions from the Committee? Seeing none, I will ask for a panel of opponents to the bill.

LYNN WARNE (President, Nevada State Education Association):
We do not believe that the PERS is broken. It is not perfect. We have heard about the steps the PERS Board is taking to address the unfunded liability. We are concerned about the liability of an underfunded public education system that is $1 billion short of adequately funding a Kindergarten through Grade 12 (K-12) public education system in Nevada. Currently, we open the school year with hundreds of vacancies because we are unable to attract or retain the best and the brightest teachers to our schools. We do not offer competitive salaries or comparative benefits. It is not only salaries and benefits that concern us. The Remediation and Innovation Trust Fund has been eliminated. What do Mr. Hill and his colleagues suggest as solutions for the underfunded liability of the K-12 public education system in Nevada? How would they help create a robust public education system? The reduction of retirement benefits in Nevada for educators and other public sector employees will not broaden our tax base nor will it build a strong education system. On the contrary, it will undermine our efforts to attract the best, brightest and most highly qualified educators we need in our schools so our students can receive a world-class education. We are concerned about the reduction in benefits and how it will impact our ability to provide a quality education for the children of Nevada.

COCHAIR HORSFORD:
It is interesting to compare the prefunded amount of the PERS, 77 percent of the cost, with the unfunded K-12 system.

SENATOR COFFIN:
Because the occupation of teachers is so different from most other positions in government, is the State getting to a point where we need a separate retirement plan for teachers?

MS. WARNE:
That is an interesting question. It is not a concept I have considered fully, so I am not prepared to answer that now. It may be something to be considered in the future.

SENATOR COFFIN:
Is it true California has a separate pension plan for teachers? And how many states besides California have such a plan?

MS. WARNE:
I do not know the answer to that. I can get it for you.

MARCUS HATCHER (Director, Government Affairs, Service Employees International Union, Nevada):
We represent over 10,000 public sector employees in southern Nevada from the Convention Center, Health District, three Housing Authorities, Clark County and the University Medical Center. We have difficulties with the proposal of a two-tier system. With a two-tier system there are not only potential morale problems but problems with recruitment. There is also little impact on the current budget; in fact, the impact will not be felt for 20 to 30 years. It is a reduction of benefits to employees we represent. It is an attempt to balance the budget by victimizing public sector employees who have already made significant concessions. We do not support S.B. 427. More importantly, we do not believe the PERS is broken.

DENNIS MALLORY (Representative, American Federation of State, County and Municipal Employees, Local 40410):
When this Legislative Session began we knew there was a budget crisis. We knew it would require cuts to public employees as well as taxes to solve the budget crisis. State employees have been taxed more than most. The PERS reductions alone may not seem significant, but added to the other concessions we have been asked to make, they add up. Twenty-four furlough days over the course of the biennium; frozen steps and grades; frozen longevity; and meaningful PEBP cuts. And now we are discussing PERS cuts. Public employees have been willing to negotiate since the beginning. To hear the Chamber say these cuts are not enough and they want more is disheartening. I cannot go back to my members and say I support S.B. 427.

SENATOR HARDY:
I appreciate your perspective. You have been involved in the negotiating process, working hard and in good faith. But, I want to reemphasize that the Chamber does not have a vote here. We keep referring to these as the Chamber's changes. I understand we have taken much of what the Chamber has offered here because we agree with them. There are numerous ways to address these issues and they have identified many of them. If this were a Chamber issue, we would be done: they do not have a vote.

COCHAIR HORSFORD:
Is there anyone else to testify on S.B. 427?

RONALD P. DREHER (Government Affairs Director, Peace Officers Research Association of Nevada):
Our organization is a professional organization representing over 38 professional peace officer organizations in the State. Some are union, some are not. This is

not a union issue, or a labor issue, it is a fairness issue. We as individuals are taxpayers too. That has not been stated here today. Every public employee in this State pays taxes like everyone else. They are being asked to pay more. The modified business tax will affect both public and private employees. I am also a private business owner. I do not mind paying my fair share. But we are discussing a system that is not broken. The PERS is the best-run system in the United States. Social Security and private employers could follow the same model if they wanted. Instead of a defined contribution we have a defined benefit plan. In the past several days I have heard three bargaining chips here all tied to the PERS: the business tax; collective bargaining and binding arbitration; and last best offer. When I read S.B. 427 I was surprised. I know there have been ongoing negotiations. There are 17 counties in this State and the Legislature did not hear from most of them. It is important all of our voices are heard. Everybody in this State is impacted by it. Senate Bill 427 has a major impact on law enforcement in two specific sections. The first is Section 6; retirement at age 50 with 20 years of service has to remain. Three weeks ago, Steve Barr, an individual who works in this building and also works for the NDOC, died of a massive heart attack at age 45. He did not smoke or drink. Two weeks ago, James Manor, a Metro police officer was killed in the line of duty in Las Vegas. He was 28 years old. We are being asked to raise the retirement age from 20 years at age 50 to 20 years at age 55. That is an enormous change. My ears were blown out when I was 49 years old during a training session in Reno. I cannot hear dispatch. By making us work those five additional years, you will increase worker's compensation claims and injuries. You will pay for it. I stated we could live with 25 years of service and out when I testified for S.B. 367. If changes needed to be made we could accept that. I was astounded when I read S.B. 427 and saw that 20 at 50 was also going to be eliminated.

The second part I object to in S.B. 427 is the spouse option in Section 8. We have paid for that for over 40 years. It means that if I die in the line of duty my spouse will be taken care of. We paid the 0.75 percent. I support the PERS. They are a well-run organization. They are conservative, sometimes to our detriment. I urge you to listen to what Mr. Hill said. We could reduce it all to 2.5 percent. For compromise purposes, I support the rest of S.B. 427.

I have a question regarding Section 7 subsection 5, "Compensation attributable to a promotion and assignment-related compensation must be excluded when calculating the limits pursuant to subsection 4." What is the definition of assignment-related compensation? When an officer at the Reno Police Department goes into a special assignment, they receive special assignment pay. If an officer is in this special assignment for several years, does Section 7, subsection 5 mean the last 3 years of that assignment is excluded? I could live with the rest of S.B. 427.

MS. BILYEU:
Currently, assignment-related pay is not defined in the act. The Retirement Board will have to adopt definitions related to that. At this time, if there is an assignment-related increase to your base wage it is reportable to PERS. We do not see it as an assignment-related pay but as an increase in the base pay. The intention is to retain that. As long as it is a percentage of the base wage it is reportable to the PERS.

COCHAIR HORSFORD:
That is our intent. It is a good suggestion to define or allow the Board to develop regulations regarding assignment-related pay.

CARLA FELLS (Executive Director, Washoe County Employees Association):
We are the largest employees association in Washoe County. The opposition we have to this bill is primarily to Section 6, the retirement age. We actively recruit people directly out of college for some of these very difficult to fill positions: social workers, public safety dispatchers, public health nurses and others. Many of these people start work before their 21st birthday if they have excelled. They would have to work 44 years to retire with their full benefits. These are difficult jobs. If you can find individuals who can handle these jobs for even 20 years it is a blessing. What we would like to see is an adjustment for some of these positions. We do not want to penalize those who come to public service at an early age. We go into high schools to recruit people for public service. These kids are smart. They look at the benefits package. When I started working for the County 31 years ago that was the last thing I looked at. These kids are savvy: they are the generation of the bank failures and the housing crisis. It will have a chilling effect for those of us who are trying to recruit public health nurses, social workers and public safety dispatchers.

COCHAIR HORSFORD:
We have heard presentations regarding critical positions that are hard to fill and the direct correlation between the benefit package, the wage rates and the fact we are not able to recruit the best and the brightest based on the other choices they have. Young people are considering careers in public service because they are more interested in mission-based work and serving their community. There is more emphasis placed on that. It is an important factor. The public sector is an important part of our workforce. It helps to spur the economy in ways that do not always get talked about or noticed.

DENNIS CARRY (Vice-President, Washoe County Sheriff's Deputies Association):
Many issues have already been discussed. In police work there are a lot of issues that are forgotten when discussing our salaries and benefits. The types of hours we work, shift hours, are disturbing to your lifestyle. Imagine an individual who works a graveyard shift who has to awaken two, three or four times that following day due to court, kindergarten and other things. These issues create a shorter life-expectancy. When young people come to me and ask me what training they should take to be a police officer, I tell them to become firefighters. It is not only the shift hours; it is the fact you must always look over your shoulder wondering who might recognize you. That wariness extends beyond retirement. It is unfortunate that someone I arrest for murder or crimes against a child will be out of prison before I retire.

The impact on our families and spouses is also not always considered. Due to the types of crimes I investigate, I am often called back to work. By the end of my career, I will have worked an additional five years without receiving retirement credit for it. That is five years away from my family. That is not taken into account. Police officers have a high suicide rate because of the stress of the job. Earlier testimony focused on the fact people are living longer. If there is a magic pill for police officers to prevent heart disease, liver disease and cancer, I have not heard about it. The reason police officers and firefighters have annual physicals is because job-related stress creates health problems. Police are held to a higher standard. People expect more from us. Every day of our lives, whether at home mowing the lawn or in uniform working, our behavior is scrutinized.

The unique thing about police retirement is how many people are retiring. I have gained a unique set of skills. I am approached monthly with job offers that promise better pay. I do not accept those offers because of the retirement package I have. I will be able to retire, and maybe have some time with my family before I die. Police officers typically die 5 to 15 years sooner than others. But, I also like my job. I was one of those individuals hired at 21 years old. Although the belief is I will not be affected by S.B. 427, I disagree. The impact on our recruiting ability will impact my safety. I know everyone here appreciates the work we do. Every day I put on my uniform and go to work I know that it could be the last day.

I do not want to minimize the importance of other public employees. I would not be here today if I had not received a good public education, or if nurses and health departments were not part of my community support. But, I want to make sure you understand police officers and firefighters do work extended hours, they die sooner and they always look over their shoulder.

COCHAIR MATHEWS:
Did you come from your shift to testify?

MR. CARRY:
No, I have been here all day, but I have not had a day off in two weeks.

MARTIN BIBB (Representative, Retired Public Employees of Nevada):
We recognize the cuts being proposed in this bill will affect public employees on their retirement. We are not overjoyed with all aspects of the bill, but we do understand the depth of the financial crisis the country and our State are facing. It is important the cuts are being proposed prospectively. The PERS is a well-run, well-managed, well-invested financially solvent plan. It is also a plan with a program in place to retire future liability. Ms. Bilyeu described the 30-year amortization well. Nevada's PERS had $24 billion at its apex; it currently has approximately $18 billion. That is a reduction of 25 percent. By contrast, California's PERS fund had $277 billion at its peak. It is down to approximately $170 billion. That is a reduction of nearly 40 percent. The difference highlights the PERS staff and Board who have adopted a prudent investment policy along with a plan to retire all liabilities. As Ms. Bilyeu stated, it is like a mortgage. You may own a $240,000 home on which you owe $60,000. That $60,000 certainly has to be of concern, but so too does the $180,000 of equity.

The PERS provides a good base retirement income. It is not designed to be absolutely all the income a retiree would need. But, it is worth pointing out again that PERS participants do not participate in Social Security. As such, they do not cost those employers whose needs are being heard in requests for this bill. It should also be noted that the PERS contribution rate has not only increased, it has also decreased. At which times, because of investment returns and the nature of the economy, there have been fewer demands made on employers in the form of taxes shared by employer and employee for contributions into the PERS.

It is worth mentioning the post-retirement increases that were brought up earlier. These increases are capped. They are not meant to put the retiree ahead of inflation, but to prevent the loss of purchasing power from the initial PERS check. I am reminded of the situation of a former president of this organization who retired in 1978. The first 3 years of inflation he faced were 12 percent, 14 percent and 13 percent: an average of 13 percent. He lost 39 percent of the purchasing power of his first PERS check before he got the 2 percent cost-of-living increase to which Ms. Bilyeu alluded. This is an example of why it is so important to retain the post-retirement increases. The PERS plan is not broken. It is well-managed and has a good plan to retire its future liabilities.

COCHAIR HORSFORD:
Are there any questions from the Committee? Seeing none, is there anyone else who would like to testify on S.B. 427? We will close the hearing on S.B. 427. I would like to thank the Committee for its attention this morning and into the afternoon. This is one of the issues that are critical for us to move forward. I thought it was imperative to have an extended hearing on S.B. 427.

SENATOR COFFIN:
I brought up the issue of a separate retirement system for teachers earlier and I have received some information. Thirty states have a separate retirement system for teachers. I do not want to advocate the break-up of PERS. For those of you who will be remaining in the Legislature, examining the dichotomies among different types of occupations within State government may be an important part of the future.

COCHAIR HORSFORD:
The PERS and PEPB are issues that come up every session that I am aware of. I am hopeful we are able to make a plan that will sustain the viability of the PERS. As there are no further items to come before the Committee at this time, the Senate Committee on Finance is recessed at 1:41 p.m. until the call of the chair.

COCHAIR MATHEWS:
The Committee will come back to order at 5:05 p.m.

We will resume the hearing with A.B. 563.

**ASSEMBLY BILL 563**: Ensures sufficient funding for K-12 public education for the 2009-2011 biennium. (BDR S-1322)

BOB ATKINSON (Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
Assembly Bill 563 is the school funding bill. This bill includes the Distributive School Account (DSA), the Grant Fund for License Incentives for Educational Personnel, the Remediation Trust Fund and the other Education State Programs accounts.

Section 1 establishes the basic support guarantee for FY 2009-2010, a statewide average of $5,251. Below that are the individual basic support amounts for each of the school districts. Section 2 establishes the basic support guarantee for FY 2010-2011, a statewide average of $5,395. Below that are the individual basic support amounts for each of the school districts. Section 3 establishes the Special Education units. The Special Education units for each year of the biennium are $39,768 each. There is a breakdown of the number of units in each district, noting that 40 of those units are reserved for allocation by the State Board of Education. That is in compliance with the way it has been done in past biennia.

Section 4 of the bill appropriates General Funds to the DSA. The appropriation for FY 2009-2010 is $1,201,169,591 and for FY 2010-2011 is $1,267,051,744. In addition to the General Fund in the account there are slot tax revenues, permanent school fund interest, mineral land lease, and out-of-state local support tax. Section 5 is the authority for the account to spend these other revenues. These revenues total $158.7 million in FY 2009-2010 and $163.6 million in FY 2010-2011. Section 7 allocates $21.2 million in FY 2009-2010 and $22.7 million in FY 2010-2011 out of the DSA for the adult high school diploma program.

Section 8 allocates $50,000 for each school district to ensure special counseling services are available for students considered at-risk. This is the minimum amount established several biennia ago so that at least some counseling would be available in each of the districts. Section 10 of the bill allocates $7.8 million each year of the biennium to the reorganized RPDP. The program was reorganized from four regions into three regions. This section of A.B. 563 allocates funding to each of the three new regions.

SENATOR RAGGIO:
Is that the equivalent of 60 percent?

MR. ATKINSON:
This funding represents 60 percent of what was allocated in the previous biennium.

Section 11 allocates $100,000 each year for additional training opportunities for educational administrators. This is in addition to any administrative training that may be provided by the RPDPs. Section 12 allocates $3.3 million each year for early childhood programs. The next few pages of the bill contain detailed language about the way the early childhood programs will operate. This is standard language that has been in the bill for the last several biennia. Section 14 allocates $170,908 for special transportation costs. This is reimbursement to the school districts for transporting children in a unique situation, such as transporting a child from a reservation across a county line into their district. Section 15 allocates $18,798 each year of the biennium for a 5-percent increase in salary for professional school library and media specialists. The requirement is in statute.

Beginning with Section 17 are several sections relating to the class-size reduction program. The bill continues the program with 16 pupils in Grades 1 and 2 and 19 pupils per teacher in Grade 3. Section 18 allocates $144.3 million the first year of the biennium out of the DSA for the purpose of employing 2,142 teachers for the class-size reduction program. Section 19 allocates $145.9 million in FY 2010-2011 to employ 2,163 teachers for the class-size reduction program.

Section 22 is the appropriation for the other State programs account: $10.3 million in FY 2009-2010 and $9.4 million in FY 2010-2011. There are a few programs in that account for which authority is included to spend the money in either year of the biennium with the approval of the IFC. These include the teacher certification program, the school support team substitutes, national counselor certification, and Local Education Program library books and educational technology funding.

Section 23 appropriates $25.5 million in each year of the biennium to the account for programs for Innovation and Prevention of Remediation. The only program in this account for this biennium is the full-day kindergarten program. It is a continuation of the existing program with no expansion. Section 23 also contains authorization for expenditure of interest from the account in the amounts of $951,327 in FY 2009-2010 and $1,277,496 in FY 2010-2011.

Section 26 provides an appropriation in FY 2010-2011 of $24.8 million to the Grant Fund for Incentives for Licensed Educational Personnel. Discussion in the Subcommittee hearings focused on the timing of these payments. It was determined to be more appropriate to pay for the credits in the year after they were earned. That is why there is an appropriation in FY 2010-2011 to fund the FY 2009-2010 credits. Using that same logic, Section 25 authorizes the money in that Grant Fund for FY 2008-2009 to be moved forward to FY 2009-2010 to be spent to purchase the retirement credits for FY 2008-2009.

Section 27 is a technical requirement regarding the $10 million each year that will come from the Clark County School District capital projects fund to be deposited into their operating funds. It is treated similarly to the other local revenues that are offsets to the State guarantee for basic support. Section 28 is a similar measure relating to the $6 million in FY 2009-2010 and $5.4 million in FY 2010-2011 in funding from the abolishment of the redevelopment agency in the Clark County School District. Section 29 is the reenactment of a provision originally enacted in 2001 which sunseted in 2007. It allows school districts in counties with populations greater than 400,000 to purchase buses for the transportation of pupils using capital projects funds. This essentially applies only to Clark County. The buses must meet green requirements.

Finally, Section 30 makes it clear that the provisions of A.B. 458, if enacted, do not apply to any reversions of money from the State Distributive School Account to the State General Fund for Fiscal Year 2008-2009.

**ASSEMBLY BILL 458**: Revises various provisions relating to funding for public education. (BDR 31-685)

COCHAIR MATHEWS:
Are there any questions from the Committee?

SENATOR COFFIN:
Which of the counties are donor counties and which are recipient counties for the money into the DSA?

MR. ATKINSON:
There are several ways to look at it. Some of the smaller counties, Eureka County for example, generally collect more money in local revenue than the State guarantees. They receive no money through the DSA. As far as the money collected by the State that supports the General Fund appropriation, I do not have a breakdown of which counties that comes from. If we compare the statewide average, in general, Clark and Washoe Counties will be slightly less

than the statewide average and the rural counties will be slightly more. Much of that has to do with the economies of scale in the larger districts.

SENATOR COFFIN:
So, Eureka, Washoe and Clark Counties would be donor counties?

MR. ATKINSON:
I would not consider Eureka County to be a donor county. They collect more revenue than is in their guarantee, but because it is local revenue they keep it. They do not cost anything out of the DSA in most years.

SENATOR RHOADS:
Are any of the rural counties operating under the hold harmless clause?

MR. ATKINSON:
Fourteen of the rural counties are operating under the hold harmless clause. The only counties where growth is projected are Clark, Washoe, Lincoln and Storey Counties.

SENATOR WOODHOUSE MOVED TO DO PASS A.B. 563.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:
As there is no further business to come before this Committee this evening, we are adjourned at 5:22 p.m.

RESPECTFULLY SUBMITTED:

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Patricia O'Flinn,
Committee Secretary

APPROVED BY:

________________________________________
Senator Bernice Mathews, Cochair

DATE:____________________________________