

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Eighth Session
February 5, 2015**

The Senate Committee on Finance was called to order by Chair Ben Kieckhefer at 8:09 a.m. on Thursday, February 5, 2015, in Room 2134 of the Legislative Building, Carson City, 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 Ben Kieckhefer, Chair
Senator Michael Roberson, Vice Chair
Senator Pete Goicoechea
Senator Mark A. Lipparelli
Senator David R. Parks
Senator Joyce Woodhouse
Senator Aaron D. Ford

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Emily Cervi, Committee Assistant
Jackie L. Cheney, Committee Secretary

OTHERS PRESENT:

Yvonne Nevarez-Goodson, Executive Director, Commission on Ethics
A.G. Burnett, Chair, State Gaming Control Board
Brian Duffrin, Chief, Administration Division, State Gaming Control Board
Tina Leiss, Executive Officer, Public Employees' Retirement System
Kevin Ranft, Labor Representative, American Federation of State, County and Municipal Employees Local 4041

Chair Kieckhefer:

On February 5, 2015, pursuant to Senate Standing Rule No. 41, Majority Leader Michael Roberson appointed Senator Ford to serve as an alternate for Senator Debbie Smith on the Senate Committee on Finance.

We will begin with the Commission on Ethics.

Yvonne Nevarez-Goodson (Executive Director, Commission on Ethics):

I will be presenting budget account (B/A) 101-1343.

ELECTED OFFICIALS

COMMISSION ON ETHICS

Commission on Ethics — Budget Page ELECTED-245 (Volume I)
Budget Account 101-1343

I have provided a copy of the “State of Nevada Commission on Ethics 2016 to 2017 Biennial Budget Request, Expanded Program Narrative” ([Exhibit C](#)).

The Nevada Commission on Ethics is a quasi-judicial, quasi-legislative agency consisting of an eight-member commission and six-person staff. Four of the Commission members are appointed by the Governor and the other four are appointed by the Legislative Counsel Bureau’s Legislative Commission. Generally, the Commission’s mission is to improve the public integrity of government representation through its public officers and public employees.

The Commission has jurisdiction over the State’s elected officials and State and local government public employees. Despite its joint branch appointment responsibility, the Commission’s jurisdiction over State legislators is somewhat limited. The Commission has no reach over State legislators with respect to core legislative functions or matters that warrant legislative privilege immunity.

One of the primary functions of the Commission staff is to educate the public employees and public officers throughout the State on the requirements and responsibilities of *Nevada Revised Statutes* 281A regarding conflicts of interest and improper uses of government positions.

Staff receives and investigates inquiries and complaints involving the ethical conduct of public officials and employees and provides ethical guidance through published opinions. Requests for Opinions (RFO) come from public officers and employees asking for advice about what they perceive as a conflict of interest and how they might address or avoid the conflict in their

public responsibilities or from public reporting of a violation of ethics in Nevada law by a public employee or public officer. Additionally, the Commission accepts and monitors various written filings required of certain public officers.

Since the 2003 Legislative Session, local governments have participated in the funding of the Commission based on the number of RFOs submitted and the population of the local governments. The handout entitled "State of Nevada Commission on Ethics Actual Requests for Opinion for FY 2013 to FY 2014" ([Exhibit D](#)), shows a breakdown by area of RFOs received during fiscal years (FY) 2013 and FY 2014. Commission funding in the 2015-2017 biennium will be 21 percent from the State and 79 percent from local government. The 2013-2015 biennium funding split was 31 percent State support and 69 percent local government support.

The performance standards for the Commission are intended to measure the effectiveness of ethics in government laws and operation of the Commission itself. They include the percentage of our first-party RFOs versus public complaints. More advisory opinions will lead to fewer complaints by members of the public about violations of public trust.

Another performance measure is the amount of time it takes to issue a written response to an RFO. We are projecting a posthearing response time of 45 to 60 days.

Chair Kieckhefer:

The performance measures indicate significant improvement in the number of days from the hearing request to the written opinion. How was that possible?

Ms. Nevarez-Goodson:

In the past, we had a large backlog of written opinions. In 2013, the Legislature approved an associate counsel position for the Commission, which proved to be a key factor in meeting our objective performance measure of 60 days. Consequently, we no longer have a backlog and anticipate we will continue to meet the 60-day requirement going forward.

Chair Kieckhefer:

That was the legislative intent when we approved the associate counsel position last Session.

Ms. Nevarez-Goodson:

Another performance measure is customer satisfaction. We use surveys to determine how well we are performing with public outreach and, so far, have done well in this area.

The final performance measure concerns the RFO lifespan. Many of our cases are complex and include a legal process before the Commission in its quasi-judicial capacity. The Commission has improved its processes and procedures and, with the assistance of the new associate counsel position, is able to turn these cases around more quickly.

Chair Kieckhefer:

It seems like 175 days is a long time to wait for an opinion. Is this consistent with what is occurring in other states?

Ms. Nevarez-Goodson:

I do not know the answer to that on a national level. The 175-day time frame is for resolving third-party complaints, as opposed to requests for an advisory opinion. We usually place advisory opinion requests before the Commission within a month. If there is an emergency, we can conduct a teleconference with a quorum of the Commission members.

The 2015-2017 Executive Budget does not have any new programs or major enhancements for B/A 101-1343. Three minor enhancements are requested as described in [Exhibit C](#).

Decision unit E-225 establishes a new budget category for employee training and education. This allows Commission staff to attend trainings and conferences directly related to their job.

E-225 Efficient and Responsive State Government — Page ELECTED-247

Decision unit E-226 includes funds for cellular phone reimbursement for the executive director, commission counsel, associate counsel and investigators who travel throughout the State conducting investigations and performing outreach and education.

E-226 Efficient and Responsive State Government — Page ELECTED-247

Decision unit E-711 requests funds for the replacement of our telephone system, which is over 10 years old and unable to accommodate additional telephone lines.

E-711 Equipment Replacement — Page ELECTED-248

No budget reductions are presented in B/A 101-1343; however, the Commission has worked hard during the past 2 years to improve efficiencies. For example, we reduced the number of monthly meetings, resulting in lower in-state travel and court recording services costs. We plan to continue this effort to achieve similar savings in the upcoming biennium.

Chair Kieckhefer:

We will now move to the State Gaming Control Board.

A.G. Burnett (Chair, State Gaming Control Board):

I will be presenting the 2015-2017 Executive Budget for the State Gaming Control Board (GCB) and Nevada Gaming Commission (NGC). You have been provided a handout entitled “Nevada Gaming Control Board, Nevada Gaming Commission Budget Overview” ([Exhibit E](#)).

The GCB has three full-time board members responsible for regulating Nevada’s gaming industry. The GCB protects the licensed gaming industry through investigations, licensure and enforcement of laws and regulations to ensure the collection of gaming taxes and to maintain public confidence and trust in gaming. The GCB budget, B/A 101-4061, supports the activities of the GCB and operating expenses for the NGC not supported by the NGC account, B/A 101-4067.

The regulation of Nevada’s gaming industry is conducted through a tiered system comprised of the GCB, the NGC and the Gaming Policy Committee as described on pages 2 and 3 of [Exhibit E](#). The GCB functions as the enforcement, investigative and regulatory agency. The NGC has final authority on all gaming matters. The 12-member Gaming Policy Committee serves as an advisory body and meets to examine and make recommendations on gaming policy.

COMMERCE AND INDUSTRY

GAMING

GCB - Gaming Control Board — Budget Page GAMING CONTROL BOARD-9
(Volume I)

Budget Account 101-4061

GCB - Gaming Commission — Budget Page GAMING CONTROL BOARD-19
(Volume I)

Budget Account 101-4067

The NGC is a part-time body, comprised of five members and one full-time employee. It acts as the final authority on recommendations made by the GCB regarding licensing matters and disciplinary matters and is responsible for the adoption of gaming regulations.

Employees of the GCB and NGC are expected to uphold the mission stated on page 4 of [Exhibit E](#). As illustrated in the organizational chart on page 3, the GCB has 404 employees and the NGC has one full-time equivalent (FTE) position. The GCB has six divisions: Administration, Audit, Enforcement, Investigations, Tax and License, and Technology. The chart on page 5 shows the number of FTEs and describes the activities within each division. Staff is located in Carson City, Elko, Las Vegas, Laughlin and Reno, as shown on page 6.

The Administration Division manages the executive and administrative services. Ten additional fiscal management positions conduct accounting, budgeting and revenue forecasting.

The Audit Division, comprised of 91 employees, audits the larger gaming establishments with gross revenues of \$6.2 million, or more, in a year. The 21 Tax and License Division staffers audit the smaller licensees with gross revenues of less than \$6.2 million in a year. Both Divisions have offices in Carson City, Reno and Las Vegas.

The Enforcement Division has 118 employees primarily comprised of peace officers and supportive clerical staff. Thirteen employees are assigned to registration processes for key employees, such as dealers or other positions that require registration with the police forces and the Board. The Tax and

License Division has seven persons assigned to tax collection. The Technology Division has 24 employees responsible for monitoring and field-testing gaming devices and associated equipment. The Investigations Division has 95 agents, special agents and supervisors assigned to applicant investigations and monitoring ongoing Nevada gaming market operations.

Page 7 of [Exhibit E](#) illustrates the funding by source from FY 2010 through projections for FY 2017. Funds come from the General Fund and revenues earned through billable hours for staff working in the Technology and Investigations Divisions. Revenues from these billable hours are expected to decrease slightly as efficiencies are realized in our mature gaming industry.

Page 8 illustrates revenues collected in FY 2014 by geographical area. The total revenues collected for FY 2014 were \$912,371,316 with nearly a 100 percent collection rate on taxes.

The charts on pages 10 and 11 of [Exhibit E](#) list the requested operating enhancements for GCB and NGC. Additional travel funds are requested for B/A 101-4061, decision unit E-225, for GCB members, Technology Division staff and senior agents and supervisors to attend conferences and training. This will help maintain Nevada's preferred gaming environment by giving staff the opportunity to gain useful information to advance Nevada's gaming standards.

E-225 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-11

In-state travel funds are requested in B/A 101-4061 and B/A 101-4067, decision units E-225, for audit division staff, tax and license agents and enforcement personnel to conduct their required activities within the State.

E-225 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-20

We also request an upgrade in motor pool rentals in B/A 101-4061, decision unit E-225, to provide agents traveling to various locations in Las Vegas and rural southern Nevada with greater comfort and storage place.

GCB - Gaming Control Board — Budget Page GAMING CONTROL BOARD-9
(Volume I)
Budget Account 101-4061

Chair Kieckhefer:

Why is in-state travel increasing so much?

Mr. Burnett:

The in-state travel will be used by Audit, Tax and License, and Enforcement Divisions' staff to conduct audits and investigations outside their main office areas. The Audit Division's goal is to audit every Group 1 licensee on a 2.67-year cycle. The Tax and License Division's goal is to audit every Group 2 licensee on a 2.5-year audit cycle. Enforcement Division staff conduct observations and investigations, and may make arrests, throughout the State wherever there is a gaming location.

Similar travel enhancements are requested in B/A 101-4067, decision unit E-225, to attend education and training opportunities.

Registration fees are requested in B/A 101-4067, decision unit E-229, for NGC members to attend conferences, trainings and seminars to learn about gaming regulatory topics and new gaming technologies.

E-229 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-21

Chair Kieckhefer:

I understand some Commissioners have attended these in an official capacity paying the fees with their own funds.

Mr. Burnett:

Yes, that is correct. The gaming industry has ongoing conferences where industry people and other regulators from around the world gather to share valuable information. The GCB and NGC are members of several regulatory organizations in the world and are frequently asked to speak and participate in these events.

Governor Brian Sandoval recommends funds to implement ergonomic remedies including computer accessories, workstation adjustments, ergonomic chairs and

adjustments to lighting in B/A 101-4061, decision unit E-229, as discussed on page E12 of [Exhibit E](#).

E-229 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-12

Two network specialist positions and related costs are requested in decision unit E-240 of B/A 101-4061. These positions will provide support for the network and hardware projects, respond to help desk issues and support the GCB's videoconferencing systems. Furthermore, as part of the Information Technology (IT) team, these positions will assist in determining and implementing IT security, assist in determining backup methods for users, support physical network infrastructure and identify and assist in IT strategies to enhance the GCB's IT support. The Agency is moving from an antiquated paper and Common Business Oriented Language (COBOL) programming system to a more technologically advanced system of storing records and data. As we proceed, I want to do everything possible to protect our data.

E-240 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-13

Senator Lipparelli:

Will there be adequate protection for the individual applicant's personal information?

Mr. Burnett:

If the requested staff is approved, they will conduct testing and alleviate any risks revealed from testing. If we need additional funds, we may be able to use the Enforcement Division's forfeiture funds. I will never be 100 percent confident our data is totally protected. Large-scale companies with far more resources have data breaches. I welcome any money the Legislature gives us to further our efforts on data protection.

Senator Lipparelli:

Does the law provide enough flexibility to access the forfeiture funds?

Brian Duffrin (Chief, Administration Division, State Gaming Control Board):

The statutory issues are both federal and State. We will review this and report our findings.

Mr. Burnett:

Decision unit E-250 in B/A 101-4067 includes \$3,000 in each fiscal year for merchant fees associated with online payments of gaming taxes and fees. The online payment option began in FY 2015. Merchant fees are the responsibility of the agency collecting the money, which in this case is the NGC.

E-250 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-21

As described on pages 13 through 18 of [Exhibit E](#), we propose to abolish ten investigation agent positions, add two gaming technicians and three enforcement agents, reclassify two investigative agents and retitle two positions in B/A 101-4061, decision units E-230, E-235, E-245, E-806 and E-811.

E-230 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-12

E-235 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-12

E-245 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-14

E-806 Unclassified Position Salary Increases — Page GAMING CONTROL BOARD-16

E-811 Unclassified Position Changes — Page GAMING CONTROL BOARD-17

Chair Kieckhefer:

Are the investigative positions being abolished vacant?

Mr. Burnett:

Yes.

Chair Kieckhefer:

Why are two new gaming technicians needed? Please describe, generally, what they will be doing.

Mr. Burnett:

Please refer to page 15 of [Exhibit E](#). Adding these positions will restore two positions that were cut during the 76th Legislative Session as part of the mandatory budget reduction. They will be assigned to Las Vegas where they

will perform field inspections of gaming devices and associated equipment, check for approved software, ensure there have been no machine modifications, check for proper display of gaming licenses and required literature and compare the number of gaming machines versus the amount of taxes paid.

Chair Kieckhefer:

Please explain the need for three enforcement agents.

Mr. Burnett:

We have created a cyber investigations team, as described on page 16 of [Exhibit E](#) that monitors online poker activities, reviews player point theft cases, illegal bookmaking operations and all other technology-related criminal activities. As technology increases, criminal activities will increase. You will hear Senate Bill (S.B.) 9 at some point, and if that bill is passed, we will continue to utilize personnel who work both in the Enforcement and Technology Divisions to give us an edge on technology-related gaming crimes.

SENATE BILL 9: Requires the Nevada Gaming Commission to adopt regulations relating to the development of technology in gaming. (BDR 41-61)

Budget Account 101-4061, decision unit E-710, includes funds to replace computer hardware and software and to maintain our infrastructure as described on page 18 of [Exhibit E](#). This equipment is needed to limit exposure to data security issues, move toward server virtualization, reduce the overall number of servers going forward and avoid unfunded repair costs. The equipment replacement list includes desktop software licenses, server software licenses, desktop hardware and infrastructure hardware.

E-710 Equipment Replacement — Page GAMING CONTROL BOARD-15

Our Alpha Migration project is discussed on pages 21 through 25 of [Exhibit E](#). The legacy Alpha System that hosts the GCB's most critical gaming applications is over 30 years old. Additionally, it was written in the COBOL-programming language, which has been replaced by more efficient programming languages over the years. The 2013 Legislature approved a \$2 million, one-shot appropriation to begin phase one of a three-phase project to modernize the system. A summary of the progress is shown on page 25. The Executive Budget includes funding for phase two of this project in B/A 101-4061, decision units E-550 and E-555.

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E-550 Technology Investment Request — Page GAMING CONTROL BOARD-14
E-555 Technology Investment Request — Page GAMING CONTROL BOARD-15

Chair Kieckhefer:

Have the costs incurred been in alignment with the projections?

Mr. Duffrin:

We are within the projected budget and planned time frames. We have spent approximately \$1.1 million to date, are happy with our progress and pleased with the work that Ciber, Inc. has accomplished.

Chair Kieckhefer:

What are the next milestones to be achieved in the upcoming biennium?

Mr. Duffrin:

Several programs will be rolled into one. All the personal, application and license information in our database will be moved into various applications within the new system where it will be easier to access and utilize. Numerous transactions will tie into this effort.

Senator Lipparelli:

Is the system well documented and flexible so, if we no longer have the support from Ciber, Inc., the system can be maintained by other programmers?

Mr. Duffrin:

Yes, the new system is not proprietary or unique to Ciber, Inc.

Chair Kieckhefer:

Is there anything in the Governor's recommendations that would negatively affect the GCB operation?

Mr. Burnett:

No. Proposed changes can adequately be addressed by our Tax and License, and Audit Divisions.

Chair Kieckhefer:

We will now move to the Public Employees' Retirement System (PERS).

Tina Leiss (Executive Officer, Public Employees' Retirement System):

I will be presenting the PERS budget, B/A 101-4821.

SPECIAL PURPOSE AGENCIES

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

PERS - Public Employees' Retirement System — Budget Page PERS-3
(Volume III)

Budget Account 101-4821

I will begin by reviewing the results of the most recent actuarial valuation. Actuarial valuations determine the liabilities of the System and the contribution rates needed to fund the System on an actuarial reserve basis. Several areas are analyzed during the course of an actuarial valuation including plan design, member demographics and economic assumptions.

By statute, contribution rates may change with the first full reporting period after July 1 of each odd-numbered year, as determined by the previous even-numbered year's valuation. Therefore, the valuation for the 2014 plan year will affect contribution rates beginning July 1, 2015.

I have provided a handout entitled "Public Employees' Retirement System" ([Exhibit F](#)) that further describes how those rates were developed and the demographics of the System as of June 30, 2014. We are seeing a rate increase in the retirement contribution for the regular PERS fund, no change in the PERS police/fire (P/F) rate, a decrease in the contribution for the judicial retirement system (JRS) and a decrease in the contribution for the Legislators' retirement system (LRS).

Page 2 of [Exhibit F](#) provides the demographics for the four categories of members: PERS, PERS P/F, JRS and LRS. The PERS fund has 100,522 active members participating in the System, 88,709 members in the regular PERS fund and 11,813 members in the PERS P/F fund.

The number of active members is down from the high of 106,123 in FY 2008. Currently there are 55,208 beneficiaries, 48,283 from the PERS fund and 6,925 from the PERS P/F fund. The average monthly benefit for PERS is \$2,706 and \$4,788 for PERS P/F. Members of PERS do not participate in Social Security so

the benefit provided by PERS is often their sole source of income in their elder years.

The JRS has 109 active members and 59 annuitants. This fund includes State judges, as well as municipal judges and justices of the peace from local governments who have elected to allow participation in this fund. Some of the local jurisdiction judges are in PERS and some of them are in the JRS. The LRS has 40 members and 79 annuitants. Participation in this plan is voluntary as Legislators have the right to opt out, which creates fluctuation in the membership.

Chair Kieckhefer:

Have term limits impacted participation in the LRS program?

Ms. Leiss

Yes. Considering the benefit is only \$25 per month, per year of service, some Legislators opt out knowing they will not be able to achieve full benefits.

The chart on page 3 shows a comparison of the FY 2014 and FY 2013 valuations for the regular PERS fund and the PERS P/F fund. It also shows the impact on the pretax employer-paid contribution (EPC), which is where most of our members participate. The EPC is a shared contribution plan with employees paying one-half of the contributions on a pretax basis, either through salary reduction, as with the State, or by foregoing equivalent pay increases.

The first portion of the chart on page 3 of [Exhibit F](#) shows the actuarial accrued liability, actuarial value of assets, unfunded actuarial accrued liability, actuarial funded ratio, market value of assets and the market value funded ratio of each plan. The market value funded ratio is essentially U.S. Government Accounting Standards Board's (GASB) Statement No. 67 regarding disclosure required at the beginning of FY 2014 for public pension systems. From FY 2013 to FY 2014, the unfunded liability decreased and the actuarial funded ratio increased. The funded ratio on a market value basis is almost five percentage points higher than the actuarial funded ratio. The market value funded ratio for the regular PERS fund has increased to 75.5 percent and, for the PERS P/F, the market value funded ratio has increased to 79.4 percent.

Using the actuarial assets and liabilities of the System and applying the Public Employees' Retirement Board's funding policy, the actuary determines the total contribution rate needed to fund the System. This formula includes the normal cost and payment on the unfunded liability. For PERS, the total actuarial contribution amount is then divided by the projected payroll to determine the percentage of payroll needed to reach the required contribution amount. The last line on this chart shows the actuarial rate for the FY 2016 contribution rate for PERS regular members and PERS P/F members. From FY 2013 to FY 2014, that rate remained steady.

On page 4 of [Exhibit F](#), the actuarial valuation results are shown for the JRS, LRS and comparison results for the FY 2014 valuation and that of the prior period. For the JRS, the prior period is the FY 2013 valuation and for the LRS it is FY 2012 valuation because the LRS is only valued every other year. The same financial information is shown as on the previous chart. The actuarial funded ratios for both funds increased from their prior valuations, with the JRS at 79.3 percent and the LRS at 77.5 percent. On a market value basis, the funded ratios are 87.2 percent and 87.8 percent, respectively.

Page 5 illustrates how the contribution rates were determined for the JRS and LRS. Both plans include a direct payment on the unfunded actuarial accrued liability along with their contribution rate. The State's portion of the contribution cost for each of these funds is decreasing for the 2015-2017 biennium.

The chart on page 6 of [Exhibit F](#) shows the pretax-contribution rate and the employer-paid contribution rate for regular PERS members and the PERS P/F members. The existing statutory rate is 25.75 percent for the regular PERS members with a FY 2014 actuarial rate of 27.99 percent. Because that is more than 0.5 percent higher than the current statutory rate, the new rate effective July 1, 2015, is 28 percent, shared equally between the employer and employee. One-half of the 2.24 percent increase will come from the employer and the other half will result in a reduction to the State employees' salaries.

The existing statutory rate for the PERS P/F members is 40.5 percent. The FY 2014 actuarial rate is 39.65 percent resulting in a difference of 0.85 percent less. However, the changes approved during the 2009 Legislative Session require the rate be 2 percent lower before the statutory rate will

decrease. Consequently, the rate effective July 1, 2015, will remain 40.5 percent, one-half paid by the employer and one-half paid by the employee.

The chart on page 7 of [Exhibit F](#) shows the results of the PERS valuation for members participating in the employee/employer after-tax contribution plan. About 18 percent of System members participate under this contribution plan. The main difference between this and the employer-paid rate is the after-tax treatment of the contributions and the fact that employees can withdraw their contributions if they terminate employment. Because the contributions are refundable, it is a slightly more expensive plan and it has a more expensive contribution rate. The employees have a higher take-home pay, but have an after-tax deduction for one-half of the contribution rate. As shown in the chart, the matching rate for regular PERS members is going from 13.25 percent to 14.475 percent, resulting in an increase in an employee's after-tax deduction of 1.225 percent. The rate is not increasing for PERS P/F members.

In summary, the PERS regular-fund contribution is increasing, the PERS P/F rate remains the same, and the rate for the JRS and LRS is decreasing. Three main factors contributing to the increase in the contribution rate for PERS regular fund members are listed on page 8 of [Exhibit F](#). First is the *2013 Actuarial Experience Study* conducted by the Retirement Board's Monitoring and Reporting Policy Committee. This study is conducted every 4 to 6 years. The purpose is to determine if we have the correct amount of contributions by reviewing the actual experience, compared to our assumptions for items such as salary increases, longevity, retirement and withdrawal rates. The main item that had to be adjusted upward was longevity because our current and future retirees are living longer.

The number of active employees decreased 4 percent from FY 2009 to FY 2014, resulting in a negative payroll growth. Because contributions are a percentage of payroll, when the payroll is lower than expected, contributions are less, and we have to now make up the loss with an increase in the employee contribution rate.

The third factor is that the System uses an asset-smoothing process in order to smooth market returns over time. The System is currently smoothing recent investment gains over a 5-year period. We use a mechanism to smooth the highs and lows of the market.

The PERS System is not a General Fund State agency; it is a public agency with the powers and privileges of a corporate body. Pursuant to the *Constitution of the State of Nevada*, the System is governed by the Retirement Board. Revenue for the PERS administrative budget comes from transfers from the trust fund on a per-capita basis for each member and benefit recipient. These revenues are derived from employer and employee contributions we receive from the 190 public employers and 100,000 active members participating in the System. Our largest employer, the Clark County School District, comprises approximately one-third of our public employees in the System. The State is the second largest employer, at about 17 percent.

The PERS proposed budget contains no new programs or projects. The Base Budget, as adjusted for maintenance, includes those items necessary to administer the trust fund and fulfill the fiduciary duties owed to the members and beneficiaries of the System. Expenses contained in the administrative budget include amounts for actuarial and audit services, required client communications and notices, existing satellite counseling offices and the disaster recovery site. The budget also includes amounts for legal expenses associated with ongoing benefits litigation and information technology services to ensure the security and efficiency of the pension processing system. We are requesting one new position in decision unit E-225 and IT equipment and pension processing modifications in decision unit E-710.

E-225 Efficient and Responsive State Government — Page PERS-4

E-710 Equipment Replacement — Page PERS-5

The PERS participates in an annual benchmarking study of other public pension systems. As part of this, we have an outside service that reviews our administrative costs and service levels, comparing us to other public pension systems of similar size and nature. The PERS has consistently ranked near the bottom in total administration costs, at the median for level of service to members and beneficiaries and near the top for workload per FTE in national and global comparisons. Our staff is responsible for approximately 47 percent more work per FTE than the average U.S. peer public pension system, based on the number of FTEs per 10,000 members and beneficiaries. The System's total administration costs are approximately 33 percent lower than the average U.S. peer public pension system.

The administrative side of PERS consists of the following divisions: Member and Retiree Services, Employer and Production Services, Information Technology, Accounting Support Services and Internal Audit. Decision unit E-710 includes amounts for necessary software upgrades and maintenance for the pension processing system and changes necessary to complete implementation of S.B. No. 427 of the 75th Session. These pension processing system upgrades are necessary for enhanced efficiency and continued support and security. Each of the software upgrades in this decision unit is intended to maintain necessary applications within the pension processing system at a supported level, to enhance the efficiency of each process and to ensure the most up-to-date security features. It also includes amounts for hardware replacements based on end-of-life cycle, as determined by the vendor's schedule.

The modifications largely stem from the changes set forth in S.B. No. 427 of the 75th Session. This bill made various changes to the benefit structure for members hired on, or after, January 1, 2010. As of that date, changes to the benefit structure for new hires include higher age eligibility for retirement, increased penalty for early retirement, reduction of the multiplier, reduction of the postretirement-increase formula, new definition of average compensation and a modified definition of reportable compensation. Additional changes include increased employer responsibility for erroneous reporting that affects a member's benefit and a modified contribution rate mechanism. These changes significantly increased the complexity of the wage and contribution report and calculation processes. The PERS implemented the first phase of the modifications necessary to enroll and accept reporting for new hires. However, the System must implement the final stages of S.B. No. 427 of the 75th Session as post-January 2010 hires become vested.

Decision unit E-672 mirrors compensation changes to PERS staff proposed in the Executive Budget for State employees.

E-672 Salary Adjustment For 2015-2017 Biennium — Page PERS-5

A new general counsel position, within the executive staff structure of PERS, is included in decision unit E-225. The Board has requested this position because of the increase in the number of documents requiring legal review, the specialized nature of pension law and the technical nature of compliance with federal law. The general counsel will have the authority and responsibility to

advise the Board and staff on legal pension matters on a daily basis, reducing potential conflicts in legal representation.

Currently, the System's legal representation is through the Office of the Attorney General (AG), outside litigation counsel and outside tax counsel. Given the growth of PERS, the increasing number of litigation cases, the complexity of benefit and tax issues and the sensitive nature of records held by the System, legal risk to the System may best be mitigated by having a specialized counsel solely devoted to representing PERS and providing daily legal advice to our staff. The general counsel position will enhance the current constitutional and statutory independence mechanisms in place for the System. The position places the primary responsibility for legal advice in an employee who reports directly to the executive officer and the Board, eliminating potential conflicts due to other clients and responsibilities. The PERS anticipates a decrease in costs spent on outside counsel and substantial reduction in the risk of error.

The PERS is also seeing an increase in the number of qualified domestic relations orders from courts to split benefits of our members and their divorced spouses. A significant amount of time is required to review these orders for compliance with our statutes.

A bill draft request will be submitted to the Legislature to establish this general counsel position in statute, similar to other executive staff positions.

Chair Kieckhefer:

Do you review a domestic relations order from the judge for legality after they have already issued the order?

Ms. Leiss:

We review the order to ensure the order complies with our statutes.

Senator Goicoechea:

Why is it necessary to have another general counsel position in addition to using outside counsel and the AG counsel?

Ms. Leiss:

By adding this position, we expect to reduce the representation from outside counsel and the AG Office and create more efficiency. We need things completed on a daily basis and because the AG's Office serves many clients,

they have not always been available when we need them. In addition, there have been cases where a dispute occurs involving another client of the AG's Office, creating a conflict of interest.

Senator Ford:

You mentioned the conflict of interest issue occurring at the AG's Office. The specific statutory remedy for that is to obtain outside counsel. Could a position be added in the AG's budget to provide the legal support services PERS is seeking through the addition of the general counsel position?

Ms. Leiss:

The PERS is designed through the Nevada Constitution to be an independent agency. The AG's Office is an advisor to the Executive Branch of State government. We are not included in the Executive Branch of State government. We have been using them because we have a statute that allows us to use them. By constitutional authority, PERS is governed by the Retirement Board and when we use the services of the AG's Office, we are not allowed to choose our own legal representative. Given that the Board has fiduciary duty and under the Constitution is the governing body of PERS, the Board should have the ability to choose their legal advisor. Public pension is a complex area of law including many tax-compliance issues that carry large penalties if not handled correctly. What might seem to be a small mistake in benefit issues can result in a large liability to the System, considering our benefits are for a lifetime. The Board is the constitutional governing body of PERS, and as such, wants to appoint its own legal advisor and have someone available to staff on a daily basis to help reduce/eliminate our risks in a number of areas.

Senator Ford:

Are there any other states that employ their own general counsel position?

Ms. Leiss:

At least 60 statewide public pension systems have in-house general and associate counsel positions. The way Nevada operates is an exception. It is more normal in the industry to have an in-house counsel, particularly when providing service to a statewide system.

Senator Lipparelli:

Of the \$150,000 expended for outside counsel, how much of that is litigation versus advisory services? What is expected to be saved with an in-house counsel?

Ms. Leiss:

Approximately 95 percent is related to litigation and 5 percent is general legal advice. I expect the new general counsel position to handle much of the in-house litigation. All but one of the current litigation cases could be handled internally.

Chair Kieckhefer:

Why are you proposing to make this position a statutory position?

Ms. Leiss:

Our staff is organized in two ways under the statute. We have seven positions that are statutory positions, including all our executive staff whose salaries are set by the Board. The remainder of the staff is paid like those in classified service. As this is an executive staff position, we are proposing the job requirements be included in statute.

The PERS has administrative fees for LRS and JRS staff time to administer each of these systems as well as auditing and actuarial expenses. Historically, the LRS has conducted actuarial valuations every other year, unlike PERS and JRS, which have annual valuations. We propose moving to annual valuations in order to improve the efficiency of the financial reporting in the implementation of the new GASB financial reporting standards. Annual evaluations results in a cost savings of approximately \$8,800 over the biennium.

Chair Kieckhefer:

The Legislature passed A.B. No. 555 of the 71st Session allowing members who retire at full eligibility, with both age and service credit, to return to work with a public employer and continue receiving retirement benefits while working in a position to which a critical labor shortage exists. The law was renewed in 2005. Assembly Bill No. 488 of the 75th Session extended the sunset date for the program to June 30, 2015. Has anyone reviewed this and are there any plans for extending the program beyond its June 30 sunset date? Does this program present a significant impact on the unfunded liability of PERS?

Ms. Leiss:

We have reviewed this. The law is set to sunset on June 30, 2015, unless legislative action is taken to extend this bill. If the Legislature continues the program, the costs would need to be funded in the contribution rate.

Chair Kieckhefer:

If we extend the sunset date to continue the program, would there be a rate impact on existing employees?

Ms. Leiss:

No, it would not trigger a further increase.

Chair Kieckhefer:

Is there any public comment?

Kevin Ranft (Labor Representative, American Federation of State, County and Municipal Employees, Local 4041):

During the 14 years I was a State employee, I have seen the actuarial rate go up while salaries have decreased and furloughs have been imposed. One-half of the 2.25 percent increase requested by PERS will result in a decrease in State employees' paychecks. The majority of State employees are in low-paid grade levels and many are single mothers who have not seen a cost-of-living increase for years. The turnover rate is high. Please evaluate the impact on the State employees for the past decade. It is time to take care of our hard-working State employees. I urge you to consider a cost-of-living increase for State employees.

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Chair Kieckhefer:

Your comments do not fall on deaf ears.

Seeing no other comments, this meeting is adjourned at 9:45 a.m.

RESPECTFULLY SUBMITTED:

Jackie L. Cheney,
Committee Secretary

APPROVED BY:

Senator Ben Kieckhefer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness/Entity	Description
	A	2		Agenda
	B	3		Attendance Roster
	C	3	Yvonne Nevarez-Goodson	State of Nevada Commission On Ethics 2016 to 2017 Biennial Budget Request ,Expanded Program Narrative
	D	1	Yvonne Nevarez-Goodson	State of Nevada Commission on Ethics Actual Requests For Opinion For FY 2013 to FY 2014
	E	26	A.G. Burnett	Nevada Gaming Control Board Nevada Gaming Commission Budget Overview
	F	8	Tina Leiss	Public Employees' Retirement System