MINUTES OF THE
NEVADA LEGISLATURE'S
INTERIM RETIREMENT AND BENEFITS COMMITTEE
(*Nevada Revised Statutes* 218.5373)
February 2, 2010

A meeting of the Nevada Legislature's Interim Retirement and Benefits Committee (IRBC) was called to order by Chairman Morse Arberry on February 2, 2010, at 9:04 a.m. in room 2134 of the Legislative Building in Carson City and videoconferenced to room 4412 of the Grant Sawyer State Office Building in Las Vegas.

COMMITTEE MEMBERS PRESENT IN CARSON CITY:
Assemblyman Morse Arberry, Chair
Senator Bob Coffin
Senator William J. Raggio
Assemblyman Bernie Anderson
Assemblyman Pete Goicoechea

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:
None

COMMITTEE MEMBERS ABSENT:
Senator Bernice Mathews (Excused)

OTHER LEGISLATORS PRESENT:
None

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:
Tracy Raxter, Assembly Fiscal Analyst, Fiscal Analysis Division
Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division
Laura Freed, Program Analyst, Fiscal Analysis Division
Eileen O'Grady, Deputy Legislative Counsel
Becky Lowe, Secretary, Fiscal Analysis Division

EXHIBITS:
Exhibit A: Agenda and Meeting Packet
Exhibit B: Attendance Record
Exhibit C: Audited Financial Statements of the Self-Insurance Trust Fund, Provided by Casey, Neilon & Associates
Exhibit D: Actuarial Report for GASB OPEB Valuation – Final, Provided by AON Consulting (distributed but not discussed)

I. ROLL CALL.

The meeting of the Interim Retirement and Benefits Committee was called to order by Chairman Arberry at 9:04 a.m. The secretary called roll and determined a quorum was present.

II. APPROVAL OF MINUTES OF THE DECEMBER 15, 2008, MEETING.

> ASSEMBLYMAN GOICOECHEA MOVED TO APPROVE THE MINUTES OF THE DECEMBER 15, 2008, MEETING OF THE INTERIM RETIREMENT AND BENEFITS COMMITTEE.
>
> SENATOR COFFIN SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.

III. PUBLIC EMPLOYEES' BENEFITS PROGRAM (PEBP).

1. Report from Independent Certified Public Accountant as of June 30, 2009, (NRS 287.043 and NRS 287.04366).

Kateri Cavin, Operations Officer and Interim Executive Officer, Public Employees' Benefits Program introduced Donna Lopez, Quality Control Officer; Jon Hager, Chief Financial Officer; and Dr. Randall Kirner, Chairman of the Board; and noted representatives from the certified public accountant (CPA) firm were also present. Ms. Cavin offered to go through the presentation or answer questions at the direction of the chair.

Chairman Arberry asked Ms. Cavin to begin the presentation with a report on the Self-Insurance Trust Fund.

A. Self-Insurance Trust Fund (NRS 287.0435).

Nicola Neilon, partner, Casey, Neilon & Associates, said her firm was the auditor for the Self-Insurance Trust Fund, PEBP and the State Retirees' Health and Welfare Benefits Fund. She referred to page 49 of the meeting packet (Exhibit A) to the independent auditors report. The auditor's opinion was unqualified, which was the highest level of assurance given on a set of financial statements.

Continuing, Ms. Neilon said regarding the balance sheets on page 50, the Statements of Net Assets for this particular fund, the total assets decreased from $141 million to $102 million, primarily due to the discontinuation of the Securities Lending Program within the Treasurer's Office. In the prior year of FY 2008, the collateral on loan securities and the offsetting obligations on securities lending transactions were $26,508,000. For FY 2009 the amount was zero due to the discontinuation of the program. The amount of cash with the Treasurer decreased by approximately $7 million due to timing of payments both received and expended. The receivables remained consistent with some normal fluctuations that could be attributed to timing of payments. The accounts payable increased by approximately $2.6 million due to timing of payments. The reserve for losses increased by $3.2 million. The amount was reported by Aon Consulting, the actuarial consultants that provided the services to PEBP. Total net assets, less total liabilities decreased from $70.4 million to $51.6 million, which was not unexpected as it was part of the plan design changes. The statement of revenues expenses and changes in fund assets on page 51 decreased from $70.4 million in FY 2008 to $51.6 million in FY 2009. The insurance premiums constitute most of the operating revenues, increased for FY 2009. It was a function of the rate that was charged and the number of members that were covered. The other revenues were Medicare Part D subsidies, which increased from $2.8 million to $3.5 million.

Ms. Neilon said the first two categories of operating expenses, salaries and benefits, were really the operating expenditures of the fund. They showed how efficiently the fund's management was working. Ms. Neilon explained there was consistency from FY 2008 to FY 2009. The large changes were in claims expenses. Insurance premiums depended on the experience of the members of the group with losses and claims and the cost of external insurance. Interest and investment income in FY 2008 on page 51 was $4.6 million and zero in FY 2009 due to the discontinuation of the Securities Lending Program. Interest expenses also significantly decreased for the same reason.

Senator Raggio asked what the significant change was in the interest expense.

Ms. Neilon answered in prior years the Treasurer's Office had engaged in a Securities Lending Program, which was part of its investment strategy. In FY 2009, it was discontinued.

Assemblyman Goicoechea did not understand why the Securities Lending Program was discontinued, since it appeared to be performing well.

Ms. Neilon asked Mr. Hager to answer.

Jon Hager, Chief Financial Officer, Public Employees' Benefits Program, said he lacked the expertise to answer. The Treasurer's Office had various programs to invest money. He said PEBP invested its money through the Treasurer's Office and used whatever mechanisms the Treasurer had in place to invest the cash.

Assemblyman Goicoechea asked whether the program had been performing fairly well.

Ms. Neilon said the fund was performing, but she could not speak to the market conditions that would have made the Treasurer's Office reconsider the program.

Ms. Neilon referred to the letter (Exhibit C) by Casey, Neilon & Associates that was provided to the PEBP Board (Board). The letter was a required communication to inform the Board if there were any difficulties in performing the audit and to identify the significant areas of attention for the Board. The only significant area was the reserves. The reserve amount was based on an accounting estimate made by an actuary and could change significantly from one year to the next.

Mr. Hager said the letter was not provided in the packet, but it was provided to the Board and would be provided to the Committee.

Senator Raggio referred to the estimated claims on page 55 of Exhibit A. He asked if Aon Consulting was the actuary and whether it was a new actuary for PEBP.

Mr. Hager replied Aon Consulting was the actuary and had been for approximately five years.

Senator Raggio asked if there had been a significant change in the approach to actuarial soundness and Mr. Hager answered it had been consistent.

Ms. Neilon offered to answer any questions from the Committee on the financial statements.

Senator Raggio asked was there anything in the letter (Exhibit C) that indicated any concern.

Ms. Neilon said there was nothing that indicated any concern, but the letter drew attention to the actuarial estimate, which was significant to this fund.

Senator Coffin commented on the reduction of benefits and increase in premiums. He said PEBP was probably in a better position than on June 30, 2008.

Mr. Hager said from a funding prospective, the subsides provided by the State were lower due to the Board's cuts that were provided to the Legislature in the fall of 2008, in the budget that was passed and enacted in 2009. The program was funded in an actuarially sound basis, and the Incurred But Not Reported (IBNR) and the rate stabilization reserves were fully funded for about five or six years. Mr. Hager said the program itself was not any more or less solvent then it was before. It was fully solvent.

Senator Coffin thought as benefits were cut and premiums were raised then PEBP would be in good shape and Mr. Hager agreed.

B. State Retirees' Health and Welfare Benefits Fund (NRS 287. 0436-287.04366).

Ms. Neilon referred to page 61 (Exhibit A) to the report on the State Retirees' Health and Welfare Benefits Fund. The independent auditors report on the PEBP Self-insurance Trust Fund was a clean opinion. This statement of plan net assets for this fund remained relatively stable from one year to the next. At the end of FY 2008, there was $24.7 million in net assets held in trust for other post employment benefits (OPEB). At the end of FY 2009, there was $23.5 million.

Mr. Hager said the funds for the State Retirees' Health and Welfare Benefits Fund were held in trust by the Board and were invested with the Retirement Benefits Investment Fund, which was run by the Public Employees' Retirement System (PERS).

Ms. Neilon said her firm interacted with the auditors from the Retirement Benefits Investment Fund and received their audited report to assist in preparing the financial statements. The total assets were consistent. The liabilities decreased, and again, due to the discontinuation of the Securities Lending Program, there was $285,000 worth of offsetting collateral and liabilities in the prior year.

Ms. Neilon referred to page 69 of the meeting packet (Exhibit A) to the Statement of Changes in Plan Net Assets, which showed the changes in the net assets from the end of FY 2008 to the end of FY 2009. Employer contributions decreased by $27 million and the investment income also decreased. There was some depreciation in the fair value of investments in the prior year, which meant that there was a loss on investments, but it was not unexpected given the market conditions. The total addition to this fund was $27.8 million and benefit payments were just under $30 million, which resulted in a net decrease in the fund of $2 million.

2. Report from Attorney on PEBP's Compliance with Federal and State Laws Relating to Taxes and Employee Benefits (NRS 287.043).

Donna Lopez, Quality Control Officer, Public Employees' Benefits Program, referred the Committee to page 81 of the meeting packet (Exhibit A). Ms. Lopez said PEBP was required by statute, specifically 287.043(j), to perform a Biennial Legal Compliance Review to assure that PEBP was in compliance with federal and state statute requirements. Aon Consulting and its attorneys, who specialized in employee health plan benefits, performed the legal compliance review. Page 83 (Exhibit A) states that, overall, PEBP was in compliance; however, there were several areas that could be improved upon such as the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations. The report indicated, based on the documentation provided and the fact that over five years had passed since PEBP had been required to comply with HIPAA and security rules, PEBP should consider the completion of a HIPAA privacy and security compliance review. When the report was completed by Aon Consulting Ms. Lopez thought PEBP would be in full compliance. Another HIPAA issue was the business associate agreements (BAAs) with each of the vendors, which was updated June 2009; all but two of the vendors had signed the BAAs. Ms. Lopez said PEBP would update the BAAs again to include more security rules and updated BAAs would be sent sometime in March 2009.

Ms. Lopez said the next item on the report was the Consolidated Omnibus Budget Reconciliation Act (COBRA), specifically the flexible spending account vendor. There was a separate summary plan description for flexible spending and within that summary plan description there was not a provision that would allow an individual to continue their flexible spending benefits under COBRA. In July 2009, the summary plan description correction was made.

Ms. Lopez said the next item was the National Defense Authorization Act of 2008, which extended family medical leave entitlements for relatives of members of the Armed Services. The extension of benefit coverage information was included in the PEBP Master Plan Document

Ms. Lopez said the next item was Internal Revenue Code, Sections 79,105(h), 125(h), and 129, completion of a nondiscrimination test. Ms. Lopez said PEBP had not completed this test to assure that highly compensated individuals did not receive more benefits than individuals who were not highly compensated. PEBP intended to complete this test by the end of 2009 to comply with the next legal compliance review.

Continuing, Ms. Lopez said the next item was about federal laws that would happen in the future. The first one was Americans with Disability Act (ADA) amendments. This particular item had been updated in the Master Plan Document to include the necessary language to assure that individuals who fall under the ADA were not discriminated against under PEBP's benefits. This information had been provided to the State Department of Personnel as it also applied to the Employee Handbook.

Ms. Lopez said the next item was Genetic Information Nondiscrimination Act (GINA). The PEBP Master Plan Document had been updated to include language in regard to GINA to assure participants that any genetic testing paid for under the PEBP plan would not be shared with their employer or anyone else.

Ms. Lopez said the next item was the Paul Wellstone and Pete Domenici Mental Health Parity Act, which assures that individuals in need of mental health or substance abuse treatment would be provided with benefits that were no less than any other benefits provided for any other type of illness. The PEBP Master Plan Document was in full compliance. In the Eligibility and Enrollment section of the report it was determined PEBP was not in compliance with its own regulations in several areas. However, the Master Plan Document was fully updated and was corrected effective November 1, 2009.

Chairman Arberry asked Ms. Lopez to discuss transactional testing.

Ms. Lopez replied there was a form online for PEBP to answer a list of questions as to whether individuals making a certain amount of income receive a greater benefit. A greater benefit could mean that their deductibles were somehow compensated for, because there was a separate plan for them, or they could receive greater life insurance or long-term disability amounts. For PEBP every answer to the online questions was "no," because all participants had equal benefits.

Assemblyman Anderson commented on the notes that suggested the need for a transaction sample to make sure the transactional statements had been monitored. It was apparent to Assemblyman Anderson that it had not been done with the past recommendations. He wanted to know when it would take place, or whether it was going to take place sometime in the future.

Ms. Lopez said it was PEBP's intent to complete the transactional testing by the end of 2010.

Assemblyman Anderson asked if the PEBP Board knew that was part of the recommendations in the past.

Ms. Lopez said PEBP completed a transactional testing, but it was not to Aon Consulting's satisfaction.

Assemblyman Anderson asked Ms. Lopez if the report was examined by PEBP's attorneys and wondered if the results were satisfactory, even though the auditing firm had a disclaimer about legal obligations.

Ms. Lopez replied that the two Aon Consulting staff who completed the evaluation were attorneys. In addition, the Deputy Attorney General, as well as executive staff, reviewed the draft report.

3. Recapitulation of Plan Year 2010 Plan Design and Contribution Rates (NRS 287.043), Report on Open Enrollment Process Prior to Beginning of Plan Year 2010, Update on Current Budget Status as of November 30, 2009, and Report on Financial Projections Through the End of Fiscal Year 2010.

Mr. Hager reported the start of plan year 2010 was delayed from July 1, 2010, to November 2010, due to the uncertainties regarding the state budget for the 2009-2011 biennium. He explained that extending plan year 2009 allowed contribution rates to be set in late June when the final state subsidy amounts were known. In order to meet the budget targets to provide the same overall subsidy during the 2009-11 biennium, as in the 2007-2009 biennium, it was necessary for PEBP to reduce projected state subsidy needs by approximately $50 million. The Board went through a deliberative process, which took approximately four months to accomplish. Nearly half of the reductions were accomplished through plan design changes with the remainder through premium cost shifts. Mr. Hager said the list on page 167 of the meeting packet (Exhibit A) showed the plan design changes and the contribution share changes that were implemented effective November 1, 2009. In addition, page 168 displayed the changes to the subsidy percentage and pages 169 through 186 showed the rates for plan year 2010.

Senator Coffin asked Mr. Hager to discuss proposed benefits and benefit changes.

Mr. Hager replied the benefits for plan year 2011 had been discussed at the Board meetings and currently PEBP was finalizing benefit changes and making minor revisions to the plan. Aon Consulting would provide PEBP with a trend presentation so PEBP can determine rates with the new deductable levels based on the new policy of indexing the out-of-pocket maximums and the deductibles. Mr. Hager stated that rates would be provided to the Board in March 2010 for the plan year beginning July 1, 2010.

Senator Coffin expressed his concern that PEBP was not structuring benefits for the younger employees and there were young families who needed orthodontia. Senator Coffin commented on a recent poll that showed participants did not put orthodontia as a priority. He asked if orthodontia benefits were being presented to the Board as a possible benefit for the 2011 plan year.

Ms. Cavin did not believe orthodontia benefits would be presented to the Board for consideration.

Senator Coffin stated that benefits were meant to help attract and retain employees. He asked Ms. Cavin if there were any Board members present at the meeting. Ms. Cavin replied that Dr. Kirner, the Board's Chair, was in attendance.

Senator Coffin addressed Dr. Kirner and said something needed to be done for the younger employees. Many youth received the benefits scheduled for reduction, such as elimination of neurotherapy and psychotherapy, Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder (ADHD) benefits. Senator Coffin believed management of the plan was excellent, but he did not think the Board was doing its best to attract and retain employees.

Ms. Cavin replied that she would pass on Senator Coffin's concerns to the Board.

Chairman Arberry asked PEBP to explain how they plan to recover from extending Plan Year 2009 and shortening Plan Year 2010.

Mr. Hager explained that the cost of the plan year extension from June 30, 2009, through October 31, 2009, would be available by the end of FY 2010. There were costs associated with increased claims due to the deductibles that were not reset right away and a portion of that should be offset by a shortened plan year for 2010, which was an eight-month plan year. At the end of FY 2010, PEBP would have two years to compare and would be able to see the actual costs. Mr. Hager added that the cost of plan year extension was paid for through excess reserves that PEBP had at the end of June 30, 2009.

Chairman Arberry asked if PEBP noticed a higher utilization at the end of 2009.

Mr. Hager replied that for the months of July through September of 2009, PEBP had a much higher utilization than in the past; October dropped slightly; November increased; and December and January were at expected levels. The experience PEBP had in claims met internal projections and PEBP was on track to reduce claims expense for plan year 2010 due to budget cuts that were passed during the 2009 Session.

Chairman Arberry asked about the budget projections for June 30, 2010.

Mr. Hager responded that PEBP was projecting over-all funding available reserves would be approximately $2.6 million less than budgeted at year-end (page 185, Exhibit A). He noted that many assumptions were necessary to develop a projection and actual results would be impacted by enrollment changes and claims incurred in the last seven months of the fiscal year. The table on page 185 showed the projected revenues and expenses. In addition, a summary description of the most significant variances was also provided. Premium revenue was projected to be 12.9 percent lower than budgeted; $7.1 million of this decrease was due to the plan year extension and the remainder was due to participant mix, plan selection and the termination of the contract with Southern Nevada Health District. State subsidies were expected to be 0.3 percent below budget due to lower state active enrollment. All other revenues include Medicare D subsidies, Preferred Provider Organization (PPO) prescription drug rebates and interest. The program's receipt of the Medicare Part D subsidy from the Centers for Medicare and Medicaid Services for retirees, which provided Medicare eligible drugs, was expected to be $3.1 million higher than budgeted due to delayed receipts for FY 2009 and increased receipts on a per member basis. The PPO prescription drug rebates were $350,000 higher than budgeted due to delayed receipts for FY 2009 rebates. Mr. Hager explained that interest was expected to be $300,000, higher than budgeted.

Expenses for the fully insured program costs were projected to be $8.2 million under budget due to the termination of the contract with Southern Nevada Health District and migration from the self-funded plan to the Health Maintenance Organization (HMO) that was less than originally predicted (page 186, Exhibit A). Self-insured claim costs were projected to be $2.8 million or 1.1 percent lower than budgeted, due to slightly better claims experience. However, the surplus was subject to the variability of claims that were experienced during the remainder of the fiscal year.

Mr. Hager stated that self-funded administration costs were projected to be $400,000 lower than budgeted due to the removal of the Health Assessment Questionnaire (HAQ) administration costs and other contract negotiations. Operating costs included salaries, travel, training assessments and other costs associated with the day-to-day operations of PEBP. Operating costs were currently expected to be 0.3 percent under budget. The reserves budget approved by the Legislature provides a $900,000 increase in reserves due to a projected increase in the IBNR reserve offset by a decrease in the excess reserves from $6.3 million to $3.2 million. Based upon actual balance forward from FY 2009 and current projections for FY 2010, the ending reserves were estimated to total $79.3 million. The reserve level represented a $1.7 million reduction from the beginning balance of $81 million. Mr. Hager noted that PEBP was expected to end FY 2009 with $2.5 million less in reserves than currently budgeted.

Assemblyman Anderson asked Mr. Hager whether the loss of employees was due to the State's hiring freeze and whether that had an impact on revenue. In addition, he asked whether the revenue underestimated the impact of individuals retiring early.

Responding, Mr. Hager noted PEBP used per head cost and per head revenue to set rates and estimate the budget. If the enrollment was decreased, the revenue would have decreased, as would costs in general. The majority of the costs were claims and HMO expenses. From a financial soundness perspective, a loss of enrollment would not affect the plan extensively. Enrollment could cause the projections to be under budget or over budget; however, PEBP would have the revenue to offset the increases in costs.

Assemblyman Anderson asked if retirees who were no longer contributing to PEBP put a greater demand on services.

Mr. Hager replied as the population increased in age, the costs would increase as well; however, the enrollment shifts have been minor. He said that PEBP had a large increase in retirees enrolling on the non-state side through November 2008 due to the late enrollment periods. Incentives created by A.B. 286 in 2003, and the discontinuance of allowing non-state employees to join, was effective November 2008 due to S.B. 544, Mr. Hager stated. Enrollment stabilized considerably and decreased in the number of active employees at the end of FY 2009 due to agencies preparing for budget cuts, which were in line with PEBP's enrollment projections. There were slight increases in the number of active employees of 10 to 20 employees per month. Additionally, the non-state retiree enrollment typically decreased by approximately 30 individuals per month due to death.

4. Discussion of PEBP's Board Approval of Extension of Health Insurance Benefits to Domestic Partners Effective July 1, 2010, with Consideration of Rating Methodology for New Tiers and Discussion of Fiscal Impact on Claims Costs, Enrollment/Eligibility/Payroll System Costs, and PEBP Budget for 2009-11 Biennium.

Mr. Hager said on June 30, 2009, pursuant to regulation R016-08, the PEBP Board determined that funding for domestic partner benefits would be available by assessing participants 100 percent of the premium for adding domestic partners and their dependants. The Board voted to delay implementation of domestic partner benefits until July 1, 2010, so proper attention would be given to implementation matters. The adoption hearing for regulatory changes regarding this decision was planned for the Board's February 2010 meeting. In October 2009, the Board voted to offer the same benefits to domestic partner dependants as are offered to other dependants, which allowed domestic partners and their children to receive the same benefits as married couples and their children, including, but not limited to, medical, prescription, dental, vision and life benefits. However, due to Internal Revenue Service (IRS) regulations, exclusion of premiums from gross income reported for federal income taxes, pre-taxed premium deductions for some domestic partners and their children may not be allowed.

With regard to voluntary benefits, medical costs and dependant care for some domestic partner dependants would not be reimbursable expenses under the flexible spending account rules according to IRS regulations.

Mr. Hager said that the Board also determined that participants with domestic partner dependants would pay the full cost of their new coverage tier, less any subsidy of their coverage tier without the domestic partner dependants. Because domestic partner benefits would be unsubsidized, it was expected that few participants would enroll. Due to adverse selection, domestic partners may receive an implicit subsidy similar to COBRA participants. In addition, the Board decided the current supplemental subsidy policy would be applied to tiers with domestic partner dependants. He explained that supplemental subsidy was currently provided to any tier with cost increases greater than one and a half times of blended medical trend and with total dollar increases greater than $100. Based upon the Board's decision that participants with domestic partner dependants would pay the full cost of their new coverage tier, less any subsidy of their coverage tier without domestic partner dependants, 18 new tiers for state participants with domestic partner dependants were presented and approved by the Board in November 2009. The tables on pages 188 and 189, (Exhibit A) reflect the impact on the state rating tiers effective July 1, 2010. In addition, each participant-dependant change scenario was included.

Chairman Arberry asked how PEBP was going to react in the short-term and long-term if this new group generated catastrophic claims that eliminate excess reserve or even cut into the Rate Stabilization Reserve.

Mr. Hager responded that the enrollment for domestic partners was expected to be low, approximately 20 to 30 individuals. The chance that 20 to 30 domestic partners would have a large claim was the same as any other group. In a self-funded program, participants who were healthy and rarely visit the doctor were, in fact, subsidizing participants who visit to the doctor or the hospital more often. Implied subsidies between various groups were inherent.

Chairman Arberry asked if PEBP had a plan in the event of a catastrophic claim.

Mr. Hager replied that if there was a large claim by domestic partners, the group size was not large enough for that claim to significantly affect the rates.

Chairman Arberry asked if PEBP would monitor the effects that this new group could have on the plan's claims experience. Mr. Hager replied that the domestic partners claims would be monitored.

Ms. Lopez added that PEBP had certain limitations built-in to protect against catastrophic situations. It would be difficult for the domestic partners coverage to have a significant financial impact to PEBP. Every individual would have to have a catastrophic situation, which the actuaries believed would probably not happen. She noted that PEBP met weekly with the third-party administrator to monitor the large claims and to help minimize that cost.

Senator Coffin stated that he was under the misimpression there had been coverage for domestic partners, but the plan was going to switch to the Secretary of State's criteria under S.B. 283. In fact, the plan did not cover domestic partners prior, and he agreed that using a measuring tool to determine who qualified should prevent fraudulent enrollment. If an individual pre-qualified under the five-year relationship and got married, he or she would be covered the next day, which would be a problem. Senator Coffin said in 1982 and 1983 there was concern that HIV/AIDS would destroy health insurance plans, which did not happen. Senator Coffin stated that what the Board was doing was not a concern to him.

Chairman Arberry said his understanding was the premium holiday was being pursued for budget reduction purposes. He wondered how fiscally vulnerable PEBP might become as a result of such reduction.

Mr. Hager said there were many options considered for cutting the budget. He could not say which option the Governor's staff and Budget Office staff would pursue. A premium holiday would cost approximately $30 million and would leave the Rate Stabilization Reserve underfunded by approximately $20 million based on current projections. As the Rate Stabilization Reserve was set currently, it provided the plan with a 95 percent confidence level that PEBP would maintain long-term solvency. If the Rate Stabilization Reserve were reduced by approximately two-thirds, the chance that PEBP maintains long-term solvency decreases significantly. If there were a premium holiday, the State would receive approximately two-thirds of that savings through savings of subsidy dollars. Mr. Hager stated that approximately two-thirds of that amount would be saved in the General Fund, which would be about $15 million. He said that PEBP would have to confirm the funding ratio for General Fund versus federally funded positions with Fiscal staff and Budget Office staff. However, if the plan were to become insolvent and require bailouts as in 1998 and 2003, in the amounts of $18 million and $22 million, the entire amount of a bailout would come from the General Fund.

Returning to the domestic partner coverage discussion, Chairman Arberry noted there was some discussion between PEBP staff, the Department of Personnel and the Nevada System of Higher Education (NSHE) prior to the PEBP Board pursuing the policy change that might affect those agencies' budgets and workloads with respect to benefits administration.

Mr. Hager replied there was a cost associated with updating the system to create a split-tax contribution status (page 190, Exhibit A). In December, the Board approved the creation of a split-tax contribution status. All participants with domestic partner dependents would be placed automatically into the split-tax contribution status. The participant would pay all contributions for the participant and the participant's children on a pre-tax basis.

Regarding the possibility of a premium holiday to effect budget reductions, Assemblyman Goicoechea said it sounded like Mr. Hager's recommendation would be to not implement a premium holiday.

Ms. Cavin responded that PEBP did not make recommendations, but provided information to the Budget Office of the Department of Administration.

Senator Raggio asked PEBP to clarify, if a premium holiday was declared to benefit the State's budget situation, what would be the reduction in premium revenue to PEBP. Mr. Hager said the total reduction would be approximately $30 million.

Senator Raggio asked how the $30 million was calculated. Mr. Hager responded that the $30 million was estimated based on the current enrollment projections and the current premium costs. He noted the amount would change depending on whether the premium holiday was in June 2010 before the rates were changed or July 2010 when the rates increased, which could adjust by a couple million dollars.

Senator Raggio asked for the rate differential between the two periods. Mr. Hager replied the difference between the savings was approximately $2 million to $3 million. The savings to the State in subsidy dollars was approximately two-thirds of the total cost of the premium holiday. The savings in General Fund dollars to the State was approximately 60 to 66 percent of the subsidy dollars.

Senator Coffin acknowledged Ms. Johnstone, former Executive Officer, PEBP and said she was a wonderful asset to the State. He hoped she was in attendance at the meeting. Senator Coffin thanked Ms. Johnstone for her long and faithful service to the State of Nevada.

PUBLIC COMMENT – PEBP

Marty Bibb, Retired Public Employees' of Nevada (RPEN), stated that he attended the IRBC meeting on December 15, 2008. He recognized that Nevada had an effective .workforce, but funding for public employee benefits had become an issue. The cuts of $50 million that were put into place by the 2009 Legislative Session increased the deductible in the PEBP plan to $725, and reduced the Governmental Accounting Standards Board (GASB) liability for this plan going forward by $400 million. As the cost of the plan decreased, the future cost of those liabilities decreased as well. He noted that the GASB rules did not require pre-funding of the future cost of health care, but did require anticipated costs be shown on the books. The November 2009, study conducted by the Center for State and Local Governments Retiree Health Benefits Plans, entitled *Myths and Realities,* showed only 10 states, including Nevada, deposited money in the bank to help offset future liabilities under the GASB proposal. Following the 2007 Session, there was a plan to put $50 million into this pre-fund, but only $25 million was deposited in the account. Mr. Bibb noted that Senator Coffin was concerned about attracting and retaining employees. He agreed, and noted the benefits of this plan were average. If those benefits were not preserved, the whole idea of attracting and retaining employees would be a concern.

Continuing Mr. Bibb stated another issue discussed was individuals retiring early, or not retiring early. One of the trends was, as subsidies were retained and stayed normal, there would be a normal retirement cycle. The purpose of creating the PERS fund in 1947 was that Nevada was one of the few states that did not have a retirement system. Individuals ended up working far longer than their most productive years. If the benefits and premium costs of the PEBP plan were not effective for the older individuals, workers would remain on the job rather than retire without an adequate subsidy.

In closing, Mr. Bibb said another issue discussed was the premium holiday. He recalled the $22 million and $18 million shortages that the program endured a few of decades ago. For at least ten years, money was not available. He urged extreme caution in the area of premium holidays. It may save the individual in the plan a monthly premium and save the State money, but it could dangerously undermine and negatively affect the financial solvency of PEBP, and should be approached extremely carefully.

IV. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS).

1. Report on Actuarial Valuation for PERS as of June 30, 2009.

Dana Bilyeu, Executive Officer, Public Employees' Retirement System, introduced Ken Lambert, Investment Officer, and Tina Leiss, Operations Officer. Also present was Charles Silvestri, PERS Board member, and Karen Kimball, Administrative Services Coordinator.

Ms. Bilyeu referred to items 1 and 2 in Section IV, page 191 of the meeting packet (Exhibit A) the actuarial valuations for the PERS, the Judicial Retirement System (JRS) and the Legislative Retirement System (LRS). By statute, actuarial valuations for PERS and the JRS were performed in odd-numbered years and did not affect contribution rates, but were used by the Retirement Board to keep abreast of the demographic and economic trends affecting the systems. PERS was divided into two separate plans, one for the regular members and another for public safety (police/fire) members. The regular fund covered approximately 92,000 active members, while the police/fire fund covered approximately 12,500 members. The differential between the two funds was retirement eligibility. Members of the police/fire fund may retire at an earlier age and with fewer years of service than members of the regular fund.

Ms. Bilyeu said the PERS's valuation for 2009 showed a decline in the funded ratio of the System, which was expected due to significant decline in the markets, which were down from 76.2 percent in 2008 to 72.5 percent in 2009. According to the amortization schedule adopted by the Retirement Board the unfunded liability of the System would be paid in approximately 26 years. She said if it were a rate-setting year, the regular fund, employer-paid program in which the majority of members participate would see a rate increase of approximately 1 percent. The after-tax employee-employer paid contribution plan and the police/fire fund would also experience a rate increase. Ms. Bilyeu referred to pages 193 and 194, which contained the valuation rates.

Ms. Bilyeu recalled that she had indicated to the Committee on previous occasions that the police/fire fund was much more volatile than the regular fund given that it is a much smaller fund with fewer members and a higher unfunded liability.

Ms. Bilyeu referred to page 195 of the meeting packet (Exhibit A) to key measures of the System, as well as key demographics of the System. Page 195 provides a history of the active-member-to-retiree ratio. This ratio had been static over the past few years, but in 2010 there was a decline that was linked to two separate facts. In September 2008, PERS had approximately 1,000 retirements, due to the closing of the Public Employees' Benefits Program (PEBP) to local government retirees. Second, the regular fund saw an overall reduction of almost 2,000 in the number of active members participating.

Senator Raggio recalled that in 1978, for every retiree there were seven active members. That ratio was decreasing, and was currently 2.5 to1. He asked how PERS compared to other retirement systems in that respect. He thought some of the change was due to longevity. He observed that most states were cutting the number of active employees, or freezing positions. He asked if it was unusual to have that low a ratio.

Ms. Bilyeu replied the PERS active-member-to-retiree ratio was a significant measure of the System. She explained that PERS benefits were pre-funded, meaning while employees were actively employed, PERS was setting aside the contributions to fund going forward. It was not a significant measure as in the Social Security System where they pay as they go and active membership was currently paying the current retirees' benefits. Across the country, in all public pension plans including Social Security, there was a reduction in the ratio of active workforce to retirees. For PERS the most significant impact was the decline in growth in the public sector in Nevada compared to prior years.

Senator Raggio said some years back the membership was expanded to include not only state employees, but also many other employees, which had some affect on the ratio. He said if the ratio kept decreasing, the younger employees would be carrying an unreasonable burden in supporting the retirees.

Ms. Bilyeu explained the normal cost of the benefit paid by all members of the program, regardless of what fund they were in, was paid every year that they were actively employed. It was the same regardless of where they were in their careers. Rates were driven more by the unfunded liability payment, which expanded and contracted with the market. There was some demographic impact on the unfunded liability. PERS had a significant surge in retirement since September 2008, which was part of this plan year. This surge caused a loss in the regular fund of $299 million, which would be paid off over a certain period. She explained that PERS was "borrowing" retirees from future years and putting them into this valuation.

It was financed over a long period and was referred to as "intergenerational equitable." New members had an opportunity to pay for unfunded liabilities that were created during their active work time, as well as helping PERS retire that over a period of time, which was GASB compliant.

Ms. Bilyeu referred to page 196 (Exhibit A), which showed a 20-year history of the funded ratio being at its highest point in 2000 prior to the last two recessions, including the most recent down period. Page 197 displayed the average member profile in both the regular fund and police/fire fund, and page 198 displayed benefit recipients for each fund.

Ms. Bilyeu gave the Committee a brief update on the status of the implementation of S.B. 427, 2009 Legislative Session. She explained that S.B. 427 made certain benefit reductions and changes to the funding mechanism within Chapter 286. The System implemented the computer changes necessary to enroll new members according to the new, lower benefit structure. PERS was in the process of modifying all publications, summary plan descriptions and benefit presentations to include information with respect to new employees hired after January 1, 2010, that would be subject to the new lower benefit structure. The changes to the average compensation period for purposes of a retirement benefit under the new tier were in process and were anticipated to be completed within the Information Technology budget during the current biennium. Ms. Bilyeu stated no one would be vested for five years under that new tier and PERS would have more time to make changes to the computer system. Ms. Bilyeu asked if there were any questions regarding the actuarial valuation for the regular fund.

Assemblyman Arberry asked what was expected to change in the actuaries' assumptions, based on the experience study that would be performed prior to June 2011.

Ms. Bilyeu said the experience study would not be done to affect the 2011 valuation. The experience study was performed so that changes were made for the non-rate setting year. That allowed PERS to see how the assumption changes affected the rates. For 2011, the assumptions currently in place would be the same assumptions in place for the rate setting year valuation.

Assemblyman Arberry asked if PERS intended to perform the experience study prior to June 2010.

Ms. Bilyeu replied PERS would perform the experience study for the 2011 valuation so it would be done based upon the experience of the 2010 valuation, but the 2010 valuation was the actual rate setting valuation. Therefore, the rate changes would be discussed during the 2011 Legislative Session and there would be no assumption changes made between now and that valuation. The experience study was performed every three to five years based on the experience.

The last study completed was four years out from the prior one using a five-year period of experience. The current experience study would be a full five years after the last experience study. PERS performed this study to see how it was making those changes and how those assumptions affected the actual valuation.

Senator Raggio referred to page 197 (Exhibit A) regarding the average member profile. He noted that the average salary for police/fire was just under $72,000, which seemed unusually high. He asked whether local government salaries were driving up that average salary.

Ms. Bilyeu reported the valuation was based on an average salary. PERS used all salaries in the State, which included local government. The police/fire fund had a premium pay structure, primarily due to the hazardous job duties involved in the direct protection of the public. She stated there would always be a premium over the regular fund. Average salaries had gone up 4.5 percent from the prior year's valuation and were under $70,000 in the last valuation. As the workforce ages, the average is driven up by workers at the top of the pay scale. This was a small fund with only 12,500 members: 75 percent local government and 25 percent state.

Senator Coffin asked about the percentage of funded liability. Ms. Bilyeu replied that PERS lost funding due to the market cycle.

Senator Coffin asked Ms. Bilyeu to estimate the current percentage. He noted the market was considerably higher than it was on June 30, 2009. In March 2009, when the Committee was considering the PERS budget, the market was at its low.

Ms. Bilyeu said the System used several tools to meter volatility in contribution rates, one of which is a five-year smoothing period where both gains and losses are brought into the program. In any given five-year period there would be up years and down years that would meter the impact of market volatility into contribution rates. In the recent period, they have absorbed one fifth of the loss of the most recent fiscal year. There were still four more years of losses to absorb into the System, 20 percent at a time. In FY 2010 PERS would conduct a detailed analysis of where PERS was presently. She indicated that PERS would have a gain as of June 30, 2010, partially to offset that loss. From an actuarial basis, PERS funded status could be creeping up or down. Her assumption was PERS would continue to see a slight downward trend in funding on an actuarial basis due to the smoothing mechanism. PERS had to absorb those losses over time. The loss was significant at -15.8 percent in FY 2009. The return assumption was 8 percent. A significant amount of money was needed to be brought back into the System over time to recoup what was lost due to the recession.

In response to a comment from Senator Coffin on the State's contribution level, Ms. Bilyeu said PERS was not out of the hole that was dug because of the market cycle. It would take some time. By design, the System could not take all the market gains from the last year and put them back into the portfolio. She said PERS was concerned about contribution rate volatility, because it affected all budgets. PERS tried to measure each valuation in accordance with actuarial standard practices.

Assemblyman Anderson asked if it was a factor of the volatility of the market to anticipate a fully-funded system in 27 years.

Ms. Bilyeu said page 193 (Exhibit A) showed the components of the contribution rate: normal cost, which is what is paid to accrue benefits each year, and the unfunded accrued actuarial liability (UAAL). That percentage was used to pay off the unfunded liability. In 2004, the Board adopted "layered amortization" and approximately $4 billion of the unfunded liability was going to be completely retired in 25 years. In each year after that, PERS could have a gain, which meant PERS made more than the actuarial assumption under the gain-loss attribution analysis. PERS may have a positive application to that amortization schedule. PERS would be fully funded in 26 years because the existing unfunded liability of the System would be paid off in 26 years under the current approach. Ms. Bilyeu stated if there was another new unfunded liability created due to a new recession period in the future, that unfunded piece was also given a 30-year funding cycle so PERS could retire it over time. As of the June 30, 2009 valuation, the currently existing unfunded liability as reported would be completely retired and, PERS would be 100 percent funded.

Assemblyman Anderson asked, if there would be a new 25-year plan.

Ms. Bilyeu said potentially there were gains or losses in out years that would be given their own funding periods from a generational perspective.

2. Report on Actuarial Valuation for the Judicial Retirement System as of July 1, 2009.

Moving to the next agenda item Ms. Bilyeu stated that she would provide an update on the Judicial Retirement System (JRS). The JRS was created in 2001 to replace the pay-as-you-go system. The JRS was created to prefund judges' pensions similar to PERS. The JRS was initially valued and normal cost payments were calculated as a percentage of payroll. Payment on the unfunded accrued liability was designed to be paid in a lump sum at the beginning of each fiscal year. There was no percentage typically attributed; rather a lump sum General Fund appropriation retired that unfunded liability. The JRS also covered limited jurisdiction judges for cities and counties if the jurisdiction had elected to participate. She said that all cities and counties that covered judges in this system were responsible for the total cost to cover their judges and were valued separately from the State District Court Judges and Supreme Court Judges. In this valuation, 23 members of the JRS were limited jurisdiction judges.

Ms. Bilyeu stated that the Board approved a change in the funding cycle from a calendar year to a fiscal year for both the JRS and the Legislative Retirement System (LRS) to match the plan year for PERS. This change provided actuarial information in a more timely fashion to the Legislature for budgeting purposes. The 2009 JRS valuation was a short valuation, or a bridge valuation to get PERS to the fiscal year cycle.

This was a non-rate setting valuation for the JRS. The current normal cost and the payment for the unfunded accrued liability budgeted during the 2009 Session were below the calculated amounts determined by this valuation. Normal cost was close, but not exact (22.9 percent versus 22.5 percent budgeted) and payment on the unfunded accrued liability was budgeted at 14.3 percent of payroll and was required to be 17.4 percent in this valuation. The increase in the unfunded accrued liability of this fund was related to the significant market decline of the most recent period.

Senator Raggio asked at what date were there total assets of $36.4 million in the JRS (page 206, Exhibit A).

Ms. Bilyeu replied that amount was correct as of June 30, 2009. Senator Raggio asked if the amount had declined. Ms. Bilyeu replied the amount had increased since June 30, 2009. She explained that Mr. Lambert would present information on the fund amounts.

Ms. Bilyeu stated that related to the LRS, the Board adopted a biennial actuarial valuation schedule, providing for a single valuation of this system in a biennium as a cost saving measure. The valuations cost approximately $30,000. Due to the size of the LRS, PERS keeps expenses related to that fund as minimal as possible. The benefit structure was a flat dollar amount that was not tied to salary, nor did it grow with inflation; reviewing the liabilities of this fund annually was often not necessary. Ms. Bilyeu said the next valuation for the LRS would be at the end of FY 2010, which was June 30, 2010. It would incorporate only the legislators currently in the plan. The election of new legislators would not affect the valuation.

Senator Raggio noted the LRS was not employer paid and there was no match. He asked how many former legislators were still receiving the enhanced benefits from the pension increase. Ms. Bilyeu answered, there was only one.

3. Update on Investment Earnings – PERS, Legislators' Retirement and Judicial Retirement Funds.

Mr. Lambert, Investment Officer, Public Employees' Retirement System, referred to page 199 of Exhibit A and said Item 3 included an update regarding the status of the investment programs for the PERS, Legislators' and Judicial funds. The exhibits summarize information regarding performance and strategy through FY 2009, which ended June 30, 2009. In addition, he would provide updated data for FY 2010 to date.

The objectives for each fund were to generate an 8 percent average annual return over the long-term; Manage risk; and emphasize high quality investments while aggressively controlling costs.

Mr. Lambert said page 201 (Exhibit A) summarized performance for all three funds. The first column reflected results for FY 2009. PERS ended the fiscal year with $18.7 billion in assets and a return of -15.8 percent, net of all fees and expenses. While well below the long-term actuarial assumption, this return outperformed the System's market objective and ranked in the top 19 percent of public pension funds across the country. The Legislators' fund, which was $3.7 million, experienced a return of -17.2 percent for the fiscal year. The Judicial fund ended the fiscal year with $36.4 million in assets and a return of -17.5 percent.

As the markets continued to recover from their lows, Mr. Lambert noted that all three funds generated positive results. Fiscal Year 2010 to date through the close of the markets on February 1, 2010, PERS generated a 14.1 percent positive return and the fund currently contains $21.4 billion in assets. This was an increase of $2.7 billion in the last seven months. Currently, PERS had recovered $5.6 billion from its low of March 2009 and was within distance of its FY 2007 high of $22.6 million. The Legislators' and Judicial funds were up 15.7 percent fiscal year-to-date. Currently, the Judicial fund had $44.9 million in assets and the Legislators' fund had $4.1 million in assets, all three funds were substantially higher than FY 2009 balances.

For FY 2009, in addition to outperforming a majority of peers, PERS risk ranked among the bottom 23 percent of other pension plans. For the past fiscal year, as well as the last three years (encompassing the entire bear market), PERS generated returns in the top of its peer group while experiencing risk near the bottom of its peer group.

Mr. Lambert explained that this performance pattern was consistent with the plan's historical experience and in FY 2009, this outperformance versus the median plan saved the fund over $750 million. Given the plan's lower risk profile, PERS had expected to trail its peer pension funds in a strong market environment, which was again consistent with past experience.

Continuing, he said that PERS was able to outperform in this volatile environment due to the Board's simple, high-quality strategy and disciplined rebalancing policy. PERS bought over $2.0 billion in U.S. and non-U.S. stocks as the markets dropped last year, allowing the fund to profit during the recent rally. This systematic process of buying stocks low and selling them higher has added over $350 million in value to the fund since the bear market started.

Over the last 25 years, PERS had generated a 9 percent average annual return, which ranks above median of its peers. Inception to date, PERS' investment risk was lower than all but 10 percent of state pension plans nation-wide and as a result, PERS' risk-adjusted return ranks in the top 15 percent of pension funds nationally.

The Legislators' fund had generated a 7.4 percent return since inception (1990) and the Judicial fund's return was 3.1 percent since inception (2001).

Mr. Lambert directed the Committee to page 202 of Exhibit A titled PERS' Annual Performance, which reflects PERS' net fiscal year-by-year results. He explained that the horizontal line in the center of the chart depicted the 8 percent actuarial objective. Even though PERS employed a conservative approach compared to other pension plans, which helped smooth out interim period volatility, the fund was still influenced by market cycles. The fund's long-term return of 9 percent had been achieved despite three recessions and three bear markets in stocks during the last 25 years. The same data for the Legislators' and Judicial funds was displayed on pages 203 and 204. While the performance inception dates were different, the return pattern and the relationship between long-term returns and the objectives were similar to PERS. PERS' Investment Strategy on page 205 details PERS' diversified investment structure. While the Legislators' and Judicial Investment Strategy depicted on page 206 differs modestly from PERS' strategy due to size, the statistical risk/return profiles for all three funds were similar.

Mr. Lambert stated that diversification was a key risk control measure for all of the plans the Board oversees. The portfolios were allocated to U.S. and non-U.S. stocks, as well as real estate, and, in the case of PERS, private equity and U.S. and non-U.S. bonds. PERS employed 18 investment management firms and held in excess of 6,000 individual securities to diversify risk and stabilize returns. The portfolio held more high quality assets than the average public pension plan and avoided direct exposure to riskier strategies such as using of leverage, emerging markets, high-yield bonds or hedge funds.

Mr. Lambert informed the Committee that a number of exhibits were attached to this report, which provided detail requested previously by the Committee. Information includes performance, benchmarks, fees and mandates for each portfolio. One item of note was the investment management fees paid by the fund. PERS' investment costs were .15 percent of assets, which was 60 percent below the average public pension plan. This translated into a fee savings of approximately $43 million per year, or $623 million in savings compounded over the next ten years. Investment costs for the Legislators' and Judicial funds were .04 percent of assets. These were the lowest cost investment programs in the country for asset pools of this size.

Mr. Lambert reported that PERS continued to stay committed to its long-term investment strategy, which involves consistent exposure to the global capital markets, cost effective management and the methodical purchase of undervalued assets and sale of overvalued assets over the course of market cycles. While this approach was not complicated, its success was dependent on having the discipline to implement the strategy consistently. The Retirement Board's discipline in this regard had been critical to the fund's success in a challenging market environment. Mr. Lambert concluded his testimony and welcomed questions from the Committee.

4. Status Report on Critical Labor Shortage Exemptions from PERS' Reemployment Restrictions – Assembly Bill 555 (2001), Senate Bill 439 (2003), Senate Bill 485 (2005), and Assembly Bill 488 (2009).

Ms. Bilyeu said A.B. 488 of the 2009 Legislative Session on page 213 (Exhibit A) significantly restricted the use of the critical labor shortage exemption from PERS' reemployment restrictions. It declared the policy of the State was to ensure that reemployment of retired employees pursuant to A.B. 488 was limited to positions of extreme need. In addition, it required employers who sought to declare positions of critical need to make that determination based upon the appropriate and necessary delivery of services to the public. In addition, it required employers to hold a hearing in an open public meeting and make findings to support the designation of those positions. A report must be filed with the System as to the findings, and the System must then compile these findings in a report for the Committee on a biennial basis.

Ms. Bilyeu noted that only 19 positions have the critical labor shortage designation under A.B. 488. Some employees were grandfathered-in from prior periods. Seventeen retirees had been reemployed pursuant to this provision. Therefore, the restrictions on the critical labor shortage designation appeared to be working. In addition, 100 percent of those positions that had been designated under A.B. 488 were education related. The provision was used solely by the educational employers and in a more restricted approach that was done prior to the new language adopted by the 2009 Legislature.

Assemblyman Goicoechea asked how many individuals were grandfathered into the plan.

Ms. Bilyeu responded that there were 348 retirees employed in positions designated from prior periods (page 215, Exhibit A).

Assemblyman Anderson asked if there had to be proof of a critical labor shortage. He noted Clark and Washoe County School Districts had many people on the list. In the past, the list was made up of math and special education teachers. Currently the list included bus drivers (page 216). He thought PERS was trying to preclude the selective use of this as a means of retiring, then getting back in the system.

Ms. Bilyeu agreed that the concept was to severely restrict the use of the critical labor shortage exemption. Prior to the passage of A.B. 488, (2009) the designation merely had to be approved by the governing bodies of the various organizations. There was no review of that criteria or reporting to the Legislature. Ms. Bilyeu defended the bus driver's designation in many instances stating that the rural counties had a difficult time hiring bus drivers for the long routes, which can be 60 or 70 miles. She noted that Eureka County was one county that designated the bus driver position as critical labor shortage. In Washoe County, she explained, the critical labor shortage designation was due to how rural the position was compared to the urban areas. The Clark County School District had been particularly aggressive in their out-of-state and out-of-country recruitments, and worked hard to ensure that the retirees were the last group to be used. Based on the experience study of the program, there was a cost to the System to allow those exceptions. The last Legislative Session limited the exceptions and the employers have complied by limiting their designation of critical positions.

5. Status Report on Benefit Provided Under the Former Provisions of NRS 391.165 – One-Fifth of a Year Purchase of Service for Certain Education Employees.

Ms. Bilyeu referred to page 247 (Exhibit A), which contained an update of the benefit provided to certain education employees pursuant to NRS 391.165. The benefit was designed to be an incentive to certain employees to work at schools that have been designated as "needs improvement" or where at least 65 percent of the pupils were children who were at-risk. Additionally, any teacher who holds an endorsement of mathematics, science, special education or English as a second language, meets all eligibility requirements and has been employed for one year in the area of endorsement, may be entitled to the benefit as well.

Section 4 of A.B. 1 of the 23rd Special Session repealed this benefit effective July 1, 2007, and phased it out over five years. Section 5 of A.B. 1 required the school district to purchase one-fifth of a year of service credit for certain employees who were under contract with a school district prior to July 1, 2007. The employee may elect to participate in an incentive pay program rather than continue to participate in the one-fifth of a year purchase program. If an employee elects to continue in the one-fifth of a year purchase program, his participation would cease when the employee had received, after his election, one full year of service credit pursuant to that program. Under the one-fifth of a year purchase program, the employee would be out of that program once they received a full year. Since January 2009, the System has processed 4,289 of these purchases. Since the inception of the program, there have been 29,000 purchases with a cost of over $96 million. Ms. Bilyeu said that page 248 displayed a spreadsheet showing which school districts were paid in the most recent period.

6. Status Report on the Administration and Investment of the Retirement Benefits Investment Fund (NRS 355.220).

Tina Leiss, Operations Officer, referred to page 249 of Exhibit A, which provided an updated report on the implementation of S.B. 457 of the 2007 Legislative Session. She said S.B. 457 provided for the elective creation of trust funds by local governments for the management of Other Post Employment Benefits (OPEB) liabilities. The State was provided similar authority pursuant to S.B. 457 for a trust to be administered by PEBP.

Ms. Leiss reported that local governments and PEBP may invest their OPEB trust funds in the Retirement Benefits Investment Fund (Investment Fund). Senate Bill 457 created the Retirement Benefits Investment Board to administer the Investment Fund. The membership of the Investment Board consisted of members of the Public Employees' Retirement Board.

Two local governments, the Washoe County School District and Truckee Meadows Water Authority (TMWA), have established an OPEB trust fund. The Washoe County School District OBEP trust deposited $14.3 million with the Investment Fund; the TMWA trust deposited $4.1 million; and the State has deposited $26 million to date.

Continuing, Ms. Leiss stated, by statute, the money in the Investment Fund was invested in the same manner as money in the Public Employees' Retirement Fund and interest and income earned must be credited to the fund after deductions for administration of the fund. An independent financial audit was conducted on the Investment Fund by certified public accountants for the FY 2009 ending on June 30, 2009, resulting in an unqualified opinion.

Chairman Arberry asked why there were only two local governments participating. Ms. Leiss said the reason was PERS had inquiries from only six local governments. She said mainly due to budgetary concerns and the lack of money to deposit in the Investment Fund.

7. Status Report on Internal Revenue Service Regulations Regarding "Normal Retirement Age."

Ms. Bilyeu said page 253, (Exhibit A) displayed a brief memorandum on the status of the Internal Revenue Service's (IRS) implementation of regulations concerning "normal retirement age." The IRS issued these regulations for public plans in 2007 with an implementation date of 2009. The regulation was formulated based on the Employee Retirement Income Security Act (ERISA), a provision that affects private sector pension plans and tax code provisions that apply to private sector pension plans, but were not applicable in the public sector. The regulations would have required all public pension plans in the country to adopt an age for retirement within the plan document related to the calculation of an in-service distribution from the pension plan. Most public pension plans used a service-based retirement, which is very different from the private sector, which used a combination of years of service at any age. Nevada's was 30 or more years and 25 or more years for the police/fire fund. Many public sector groups, including the Conference of Mayors, Conference of State Legislatures and the National Association of State Retirement Administrators, asked the IRS to delay implementation for two years for plan years beginning January 1, 2011. Since the original delay, PERS asked for another delay to plan years beginning after January 1, 2013. The IRS was now asking for comments regarding the regulations to better accommodate the public sector plans. If there were changes in those regulations that require plan document changes, PERS would bring the changes to the 2013 Legislative Session, and make the appropriate changes for Internal Revenue Code compliance.

8. Annual Report of Investments of Money from the Public Employees' Retirement System in Scrutinized Companies – Assembly Bill 493 (2009).

Mr. Lambert directed the Committee to page 256 (Exhibit A). He stated that A.B. 493 of the 2009 Legislative Session required PERS to identify and annually report investments of money in certain scrutinized companies with business activities or connections to Iran's petroleum sector. Using only publicly available information, as stated in the statute, to identify scrutinized companies as defined in A.B. 493, PERS screened 6,119 holdings for the presence of any of the scrutinized securities.

As detailed in the report on page 256 of Exhibit A, as of December 31, 2009, PERS held stock in seven scrutinized companies, which were reported to be conducting some element of business inside the country of Iran. These were global organizations and each company's activities in Iran were a minor percentage of total firm operations. As a result, specific revenue and personnel data related to activities within Iran were not publicly available.

Mr. Lambert stated that PERS' international stock market benchmark was the Morgan Stanley Europe, Australia, Far East (MS EAFE) index. The index held 963 securities in 21 countries and was the most widely used developed market international stock benchmark. Since the scrutinized companies were constituents of that benchmark index, the majority of PERS' holdings were within the plan's index and active international stock portfolios.

He said that the U.S. Federal Office of Foreign Asset Control identified none of the companies in the report for sanctions; therefore, all of the companies were eligible for investment by U.S. investors under U.S. regulations. He indicated that PERS would monitor the list daily to ensure compliance with all the government requirements for investments.

Senator Raggio commented on the state employee furloughs imposed because of the budget crisis, and stated local government was on the same kind of plan reductions. He asked what reductions PERS imposed on itself to help expenses and personnel costs.

Ms. Bilyeu responded that the PERS staff was also subject to the furlough bill. PERS implemented furloughs with the exception of 5 positions out of 65. The 5 exempted positions included; the Director of IT, to continue the changes to the computer system for S.B. 427; Managers of both Las Vegas offices, which were three-person offices where an employee had to be present while other employees were on furlough; the Director of Production Services; and the Director of Counseling Services. Ms. Bilyeu indicated that PERS was subject to the same budgetary cuts as the rest of the state government.

Senator Raggio asked Ms. Bilyeu if PERS was deferring previously authorized executive salary increases.

Ms. Bilyeu replied that PERS was not exempted, and they were taking furlough days, and the same pay cuts.

Senator Raggio thought there were planned increases for PERS executive staff, and Ms. Bilyeu replied that there were no planned salary increases for PERS staff.

Senator Raggio said the Committee would like a compilation from PERS as to what expenses had been cut from the System. Ms. Bilyeu replied that PERS would provide that information to the Committee.

Senator Coffin asked Mr. Lambert about the math on page 256 (Exhibit A). Senator Coffin noted the System's interest was considerably smaller than what was shown. For example, the System owned $14 million of a $105 billion company. Senator Coffin said there should be two zeros after the decimal.

Mr. Lambert answered two decimal places would be added in future reports and PERS would be glad to provide an amended report to the Committee.

Chairman Arberry requested that the changes be included on future reports.

V. PUBLIC COMMENT – PERS

Marty Bibb, Retired Public Employees' of Nevada (RPEN), reported that he heard good news from both the Executive Officer and Investment Officer in terms of the financial status of PERS. PERS' sound investment policies were closely tracked by RPEN.

He noted some reports on PERS benefits were not accurate. He noted that when an individual considers total retirement benefits, that would include PERS covered benefits and Social Security benefits. The PERS benefit combined with Social Security benefits made Nevada among the lowest in cost entities. Nevada was 1 of 13 states in which the retirement system did not participate in federal Social Security coverage. Viewed as a total retirement benefit between Social Security and PERS, he also found the fund to be wisely and carefully invested.

VI. ADJOURNMENT.

There being no further comments, the meeting was adjourned at 11:22 a.m.

Respectfully submitted,

____
Tracie Battisti, Transcribing Secretary

APPROVED:

____
Senator Steven A. Horsford, Chair

Date: ______________________________________

Copies of exhibits mentioned in these minutes are on file in the Fiscal Analysis Division at the Legislative Counsel Bureau, Carson City, Nevada. The division may be contacted at (775) 684-6821.