

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-sixth Session
April 12, 2011**

The Senate Committee on Legislative Operations and Elections was called to order by Chair David R. Parks at 3:51 p.m. on Tuesday, April 12, 2011, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Steven A. Horsford
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Don Gustavson, Washoe County Senatorial District No. 2
Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12
Senator Michael Roberson, Clark County Senatorial District No. 5

STAFF MEMBERS PRESENT:

Carol Stonefield, Policy Analyst
Eileen O'Grady, Counsel
Michael Geissinger, Committee Secretary

OTHERS PRESENT:

Rusty McAllister, Professional Fire Fighters of Nevada
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada
Michelle R. Jotz, Detective, Director of Governmental Affairs, Las Vegas Police Protection Association; Southern Nevada Conference of Police and Sheriffs

Senate Committee on Legislative Operations and Elections
April 12, 2011
Page 2

Dane R. Watson, Deputy Executive Director, Field Services, Clark County Education Association
Dotty Merrill, Ed.D., Executive Director, Nevada Association of School Boards
Janine Hansen, Citizen Outreach; President, Nevada Eagle Forum
Dennis Carry, Vice President, Washoe County Sheriff's Deputies Association
Juanita Clark, Charleston Neighborhood Preservation
Geoff Lawrence, Deputy Policy Director, Nevada Policy Research Institute
Mark Coleman, Clark County Association of School Administrators and Professional Technical Employees
Steve Hill, Las Vegas Chamber of Commerce
Cadence Matijevich, Legislative Relations Program Manager, Office of the City Manager, City of Reno
Martin Bassick, Service Employees International Union Local 1107
Danny Thompson, Nevada State AFL-CIO
Greg Esposito, Business Representative, Plumbers, Pipefitters and HVACR Technicians Union Local 525
Ray Bacon, Nevada Manufacturers Association
Randi Thompson, State Director, National Federation of Independent Business
Dale Erquiaga, Senior Advisor, Governors' Office
Braxton Pacatte
Karen Nielsen
Lynn Chapman, State Vice President, Nevada Families
Frank Schnorbus, Chair, Nevada Home School Network
Patrick R. Gibbons
Tony Dane
Jim Blockey
Steven Dane
Christine Burns
Carol Stewart
Jillian Stewart
Joseph Stewart
Craig M. Stevens, Director of Government Relations, Nevada State Education Association
Allen Lichtenstein, American Civil Liberties Union of Nevada
Lonnie Shields, Assistant Executive Director, Nevada Association of School Administrators
Joyce Haldeman, Associate Superintendent, Clark County School District
Mary Pierczynski, Nevada Association of School Superintendents

Senate Committee on Legislative Operations and Elections
April 12, 2011
Page 3

Tom Morris, Au.D.

Liane Lee, Legislative Officer, Government and Community Affairs, City of Las Vegas

Mike Cathcart, Senior Financial Analyst, City of Henderson

Constance J. Brooks, Senior Management Analyst, Office of the County Manager, Clark County

Val Sharp

Carole Vilardo, President, Nevada Taxpayers Association

Joshua G. Wilson, Washoe County Assessor

David Fraser, Executive Director, Nevada League of Cities and Municipalities

Jeff Fontaine, Executive Director, Nevada Association of Counties

CHAIR PARKS:

I will open the hearing on Senate Bill (S.B.) 373. I would like to rerefer this bill to the Senate Committee on Finance with no recommendation from this Committee. The bill has a fiscal impact of \$275,500 from the Office of the Secretary of State.

SENATE BILL 373: Requires photographic identification for voting. (BDR 24-778)

SENATOR DENIS MOVED WITHOUT RECOMMENDATION TO REREFER S.B. 373 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

SENATOR SETTELMAYER:

Will this bill automatically become exempt from the rules when it goes to Finance? Is there paperwork to be filed to make it eligible for exemption? I want the sponsor to know the process.

CAROL STONEFIELD (Policy Analyst):

The Senate Fiscal Analyst confirmed S.B. 373 is eligible for exemption. When it is rereferred to the Senate Committee on Finance, the exemption will become effective.

SENATOR DENIS:

This bill does need to be exempted. The Committee rereferring a bill to Finance does not make it exempt. The fiscal staff needs to exempt the bill, which has already happened to S.B. 373.

CHAIR PARKS:

We will open the hearing on S.B. 98.

SENATE BILL 98: Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):

The genesis of S.B. 98 was the concept that sometimes mediation has advantages in building consensus over arbitration. I looked at how I could positively affect the mediation process when it comes to collective bargaining. This bill was drafted after consulting union members. There are two kinds of arbitration; one is contract, or interest arbitration, which looks at specific contracts or interests. The other is grievance arbitration, which deals with people being wronged. The conceptual amendment presented ([Exhibit C](#)) proposes to require both parties take part in nonbinding mediation before submitting disputes to binding arbitration during the collective bargaining process. The process may include local governments, employee organizations, police officers, firefighters and school district employee organizations that represent teachers and educational support personnel. Under existing law, both parties must agree to the dispute, within a certain date, as to when it will happen.

This amendment removes the date and requires four sessions of negotiation to reach an agreement before it goes to a mediator. The Federal Mediation and Conciliation Service is free. However, if federal mediation is not the choice of one or more of the parties, this bill will allow for arbitration through the American Arbitration Association, which has trained mediators on a list for the parties to choose from. The union representatives have said more mediation within the process will facilitate less arbitration.

CHAIR PARKS:

Does the amendment, [Exhibit C](#), make substantial changes to the bill?

SENATOR HARDY:

The change will require the arbitrator to pick one of the final offers of the party involved. In theory, having gone through the mediation, the parties will be much closer to reconciliation and perhaps avoid arbitration. If the parties involved cannot agree in the four sessions of mediation, they will be required to go for arbitration. The fact-finding during mediation will help each party better understand their positions and help with negotiations of the issue.

RUSTY MCALLISTER (Professional Fire Fighters of Nevada):

We were opposed to the original version of S.B. 98. The conceptual amendments make the bill more palatable. The right to use mediation, fact-finding and finally binding arbitration is already in statute. It is not mandatory; both parties can either agree or disagree for arbitration. In [Exhibit C](#), Senator Hardy lists the mediation phase as "may," yet his testimony indicated a party "must" participate in the mediation process prior to going to arbitration.

SENATOR HARDY:

I would like to have "must," but "may" might work.

SENATOR CEGAVSKE:

Is the word "may" throughout the whole amendment?

SENATOR HARDY:

The "may" referred to is in the second line of the second bullet point.

RONALD P. DREHER (Government Affairs Director, Peace Officers Research Association of Nevada):

The language in the present law has worked well for years. Senator Hardy, through discussions with the unions, has presented a good amendment.

MICHELLE R. JOTZ (Detective, Director of Governmental Affairs, Las Vegas Police Protective Association; Southern Nevada Conference of Police and Sheriffs):

With the word "may," we are in support of the bill as amended.

Senate Committee on Legislative Operations and Elections
April 12, 2011
Page 6

DANE R. WATSON (Deputy Executive Director, Field Services, Clark County Education Association):
We support S.B. 98 with the conceptual amendment.

DOTTY MERRILL, Ed.D. (Executive Director, Nevada Association of School Boards):
We agree that mediation within the process is healthy, so we support the amendment.

CHAIR PARKS:
Another document ([Exhibit D](#)) dated April 11 was submitted. Does the wording in [Exhibit D](#) contain the same expression of support for the conceptual amendment?

SENATOR HARDY:
[Exhibit D](#) was prepared by Mr. Dreher and others. We should let him clarify the document.

MR. DREHER:
The only change occurs in section 1, fourth line from the bottom; we would use the word "may" instead of "must."

JANINE HANSEN (Citizen Outreach):
We support the bill.

DENNIS CARRY (Vice President, Washoe County Sheriff's Deputies Association):
We support the bill.

JUANITA CLARK (Charleston Neighborhood Preservation):
We support S.B. 98.

GEOFF LAWRENCE (Deputy Policy Director, Nevada Policy Research Institute):
We are neutral on this bill. We do not advocate for or against specific legislation. The fiscal impact of unionization and collective bargaining at the local government level is relevant to this bill. State of Nevada public employees at the local government level are highly paid when compared to the taxpayers who support them. Public sector workers in Nevada are paid 28.1 percent higher than private sector workers in similar job classifications. The disparity is most pronounced at the local level where administrators are required to negotiate collectively with workers. Nevada Policy Research Institute (NPRI)

recently reviewed the most recent annual statistics on public employee pay published by the U.S. Census Bureau.

Those figures revealed Nevada State workers average 7 percent more than the national median per state workers. Local government workers are paid 31 percent more than the national median in spite of Nevada's relatively low cost of living. With benefits included, Nevada public employees are the third highest paid in the Nation, according to the Cato Institute. This wage premium adds to the labor costs faced by local governments, constraining their ability to respond in cases of extreme fiscal crises. Based on the Census figures, NPRI has calculated if local government workers in Nevada were compensated at the national median level, local governments would realize a savings of \$2.3 billion over a two-year period. If lawmakers do not amend Nevada's collective bargaining statutes to grant more flexibility to local government administrators, the trend of excess costs will be higher in the future.

MARK COLEMAN (Clark County Association of School Administrators and Professional Technical Employees):

We have gone to arbitration only once in the last five to six years. The language in the *Nevada Revised Statutes* (NRS) already deals with the issues of mediation and arbitration. The additional language is S.B. 98 is not necessary.

SENATOR HORSFORD:

Why are administrators allowed to have collective bargaining and then bargain for the approval of teachers and educational support staff?

MR. COLEMAN:

Could you clarify the question?

SENATOR HORSFORD:

Administrators have the right for collective bargaining. There is a perception that it may be a conflict of interest in that you also have to sit at the bargaining table with teachers and educational support personnel to arrive at their contracts.

MR. COLEMAN:

During negotiations with teachers and support staff, the district will select high-end administrators to be on the district side of the table. My office then negotiates for the rest of the administrators in the district during their session.

SENATOR HORSFORD:

Are collective bargaining rights standard practice in other states for administrators? Do any states not give administrators that benefit?

MR. COLEMAN:

I cannot testify to what is going on in other states. Large districts do not always have an administrators association. We are unique in that regard. We are the largest association that bargains with the district in the State of Nevada. Some districts in the State do not have associations. There is a perception that our association's bargaining is bankrupting the State. Each year when pass-through money comes from the district, we work with that return as our only source of funding. We do not negotiate for more money from the State or from the district. The rest of our negotiations are for employee relations and personnel issues. We have had this form of negotiations for 30 years.

SENATOR HORSFORD:

Do administrators in other states have collective bargaining rights?

MR. COLEMAN:

I know Arizona does not have collective bargaining rights for teachers or administrators. I do not know what percentage of states have collective bargaining for administrators. I am only familiar with our association in Nevada and our association with Clark County School District.

CHAIR PARKS:

My experience in collective bargaining always asked the question: who can be represented, and who should be represented? This often resulted in the establishment of supervisory union elements for those persons who did supervise the frontline employees. This kept all employees from being in the same bargaining unit.

SENATOR HORSFORD:

Does the 5.3 percent cut being recommended by the Governor, with the 5 percent wage reductions, apply to administrators or teachers?

MR. COLEMAN:

If there are salary reductions to teachers, they will apply to administrators as well.

SENATOR HORSFORD:

The 5 percent is salary. The 5.3 percent is for the employees to pay 25 percent of their contribution toward their Public Employees' Retirement System (PERS) benefits. Will that apply to administrators?

MR. COLEMAN:
Correct.

SENATOR HORSFORD:

Where are you in the negotiation process with the district?

MR. COLEMAN:

I do not know at this time. We have been working closely with Superintendent Dwight Jones of the Clark County School District, understanding the need for concessions. We were the only bargaining group whose members took a salary reduction in the Clark County School District last year. We knew the district was in trouble, and we took measures to help the district. We have approximately 1,300 administrators in the district, and all of them took a 1.5 percent salary reduction.

SENATOR HORSFORD:

What is the number of days in your contract for the district?

MR. COLEMAN:

Twelve-month employees are contracted for 247 days, 11-month employees for 222 days and 10-month employees, 210 days. We are expecting to pick up our portion of the PERS contribution in the upcoming negotiations.

SENATOR HORSFORD:

Budget cuts must not be overly placed on the teachers alone. The 5 percent, 10 percent or 11 percent salary reduction relative to their pay will be more difficult for the teachers than the administrators who have higher salaries. We need administrators to contribute and negotiate in a way to protect resources within classrooms.

MR. COLEMAN:

Mr. Jones would say our Association has taken the lead in the present negotiation process.

CHAIR PARKS:

We will close the hearing on S.B. 98 and open the hearing on S.B. 343.

SENATE BILL 343: Revises provisions governing collective bargaining between local government employers and local government employees. (BDR 23-1084)

SENATOR MICHAEL ROBERSON (Clark County Senatorial District No. 5):
I have prepared testimony ([Exhibit E](#)).

SENATOR HORSFORD:

We know there are questions regarding public employee pay and benefits added over the years. Provisions were agreed to that have not been agreed upon. Why do local managers or elected officials fail to do their jobs? Do we, at the State level, need to reform the entire statute? Where is the balance point between State Legislators and local officials? I do not want to overreact as a Legislator and change statute beyond what is balanced. The local employers and local officials must take some responsibility for the agreements and provisions they agreed upon. Can you reconcile what should be done at the local level and what should be done by us as State Legislators?

SENATOR ROBERSON:

Local government employers were negligent for years with regard to reviewing and renewing contracts. Many people in the State take political contributions from public sector unions.

Local government management can only do so much with the contracts of today. If management and labor do not agree, it goes to an arbitrator. The arbitrator is unaccountable to the people of Nevada. Senate Bill 343 will put the pressure on local government elected officials and give them the final decision. The bill will allow for municipal councils to accept management's last offer for the ensuing 12 months. This issue is incumbent upon State Legislators because we are the only ones who can modify NRS 288.

SENATOR HORSFORD:

How often does the arbitration process get used in local government contracts?

SENATOR ROBERSON:

Based on conversations with officials, it happens on a regular basis, and the taxpayer usually loses.

SENATOR HORSFORD:

I would like to know the correct number, specific to particular local governments. The problem may be with the decisions they make and not the responsibility of State Legislators to fix.

SENATOR ROBERSON:

It is our responsibility as State Legislators because the problems within NRS 288 need to be fundamentally reformed. The numbers within [Exhibit E](#) show the savings which could be realized by reform.

SENATOR HORSFORD:

I have seen some of these statistics before and I know State workers do not have collective bargaining, so the numbers are not as out of whack against the private sector. The teachers of Nevada are below the national average. The fixing of school districts, municipalities, etc., is fixed at the negotiating table. Are there specific examples of abuse in the arbitration process?

SENATOR ROBERSON:

Yes, the Clark County Fire Department. There are problems with our local union organizations in Clark County. The Clark County Fire Department lost in arbitration during the last collective bargaining session. This was rare for the County to win in arbitration. It is usually a one-sided game where the taxpayer normally loses.

SENATOR HORSFORD:

Are there statistics of how the rulings differ from one side to the other?

SENATOR ROBERSON:

I do not have that data, but I would like to get it and continue these discussions.

SENATOR SETTELMAYER:

During the Seventy-fifth Session, certain county officials wanted to testify on collective bargaining issues; however, they were told by union organizations

they would be in breach of their contract to talk with us. Many times unions use arbitration as a threat, knowing they fare well in the process.

SENATOR ROBERSON:

I have heard similar stories. I want everyone to realize I know there is a difference between State employees without collective bargaining rights and local government employees.

STEVE HILL (Las Vegas Chamber of Commerce):

We have studied and discussed this topic for several years. We have separated State workers, local government officials and teachers by job classifications. Changes to collective bargaining agreements are controversial but important. Senate Bill 343 will hold local government officials completely responsible for ensuing provisions and contracts. The ability to change the current situation is limited by the current structure. Direct accountability to deal with the economic situation is important for these officials. Our studies have repeatedly shown Nevada ranks fifty-first in the Country and the District of Columbia on public employees, per capita. We are often faced with the decision of asking for concessions from local government employees or laying people off. Having so few employees to begin with, laying off additional employees is not our best option. The bill will help local officials navigate, with flexibility, these tough economic times.

SENATOR HORSFORD:

Can we walk through the provisions we are eliminating? Will the bill prohibit information-sharing for the employee negotiation process?

SENATOR ROBERSON:

No. In NRS 288, most local government employees have fact-finding that may or may not be binding. If the involved parties elect nonbinding fact-finding, and an agreement cannot be reached, they then go to binding arbitration. In S.B. 343, we seek to eliminate the binding nature of fact-finding and arbitration. The original version of the bill was amended to treat all public employees the same. If the parties cannot come to an agreement, the elected officials will make the final decision.

SENATOR HORSFORD:

On page 3, section 2, subsection 5, it reads "... the parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings

and recommendations on all or any specified issues final and binding"

The fact that it says "may" means that it is permissive in the contract negotiations. Statutes indicate, only in the cases where both parties are in agreement that you have fact-finding?

SENATOR ROBERSON:
Yes.

SENATOR HORSFORD:
We have not mandated parties must do fact-finding. Our language under NRS 288.200 reads they may do fact-finding as a part of negotiations.

SENATOR ROBERSON:
I do not have a problem with fact-finding. I want fact-finding, but I do not want the results to be binding. I want elected officials to be accountable for these decisions.

SENATOR HORSFORD:
Is the language on page 4, section 2, subsections 8 and 9 creating new provisions?

SENATOR ROBERSON:
That is new language to provide for the local governing board of the local government employer to make a decision. If the parties cannot come to an agreement on the issue, it ultimately goes to the governing board. The governing board can then elect to accept the last offer provided by management. Those terms would continue for the ensuing 12 months.

CADENCE MATIJEVICH (Legislative Relations Program Manager, Office of the City Manager, City of Reno):

We do have a proposed amendment ([Exhibit F](#)) relating to section 2, subsection 8. On page 4, line 17 of subsection 8 of the amendment, we strike the word "economic" and on line 18 we add the words "that have a financial impact on such employer." We want to eliminate any confusion of which elements of a contract would be considered an economic provision. In section 2, subsection 9 on page 4 of the amendment, we want to clarify the time frame for the agreement imposed by the governing body to be in effect. The language reads "effective only for the succeeding 12 months from the date

of the meeting referenced in subsection 8, or the end of the succeeding fiscal year, whichever is greater."

SENATOR HORSFORD:

How does your amendment apply to all terms of working conditions within a workplace? It seems to be overly broad, allowing potential workplace safety issues, which could be part of negotiations, to be exempt.

MS. MATIJEVICH:

We are not looking to exempt any provisions of mandatory bargaining. We were looking to clarify provisions that would have a financial impact in the contract, the elements imposed by the local governing body. If the elements you spoke to do not have a financial impact, they would not be imposed by the governing body.

SENATOR HORSFORD:

The amendment does not specify a negative financial impact. The financial impact could be positive and negotiation rights could be removed the way this amendment is written.

MS. MATIJEVICH:

We will need to refine that language.

SENATOR HORSFORD:

Senator Roberson, your bill states "... the governing body of the local government employer may impose the economic provisions of the most recent offer... ." What does that mean? Is the intent to be negative economic impact?

SENATOR ROBERSON:

The language was drafted by LCB staff. I believe local governments should make the decision on all aspects of collective bargaining contracts. The local government employer will have the financial obligation to the process.

CHAIR PARKS:

Section 2, subsection 8 may cause a local government employer to consider having this to fall back on, which might impede bargaining in good faith.

MARTIN BASSICK (Service Employees International Union Local 1107):

We are opposed to S.B. 343 because it will sabotage the good faith bargaining process. We have had great success because the current process makes it fair to both sides. The third party system works to bring an equitable solution. If the ground rules are changed to allow one side an advantage over the other, there would be no incentive for the side with advantage to work toward an equitable solution.

SENATOR SETTELMAYER:

Could a local judge, who is accountable to the local public, be a viable arbitrator? I have always been displeased with arbitrators who come from out of the area and do not have local interests in mind.

MR. BASSICK:

Our fact-finding arbitrators are a part of, I think, the State Bar of Nevada.

SENATOR SETTELMAYER:

Would you object to a local judge being a binding arbitrator?

MR. BASSICK:

The process is not broken. I would object to changes made to the present bargaining process.

DANNY THOMPSON (Nevada State AFL-CIO):

We are talking about the Dodge Act of 1969. In exchange for the right to strike, employees were given a mechanism to solve a contract dispute with binding arbitration. Without binding arbitration, many issues over the last 42 years would be unsolved. The proposed amendment would leave solutions to local government officials who would always adopt their side of a bargaining process in the end. That is the reason for binding arbitration. All of the local unions I represent have made efforts to give back in these tough economic times, but collective bargaining is not the reason we are in these difficult economic times.

MR. MCALLISTER:

The binding arbitration with last best offer amendment was added to the original law in 1977. The Legislature limited the first binding arbitration process to firefighters. The process was done for two years and then evaluated for continuance of the process. This is not a new law and not a broken law if the

process is done properly. If S.B. 343 is implemented, we will not have collective bargaining anymore, we will have collective begging.

In a negotiation process, it is management and the employee group which come to an agreement. The agreement is put before elected officials for a vote for final approval. A city council or county commission has final say over the agreement. The proposed amendment by the City of Reno, if enacted, will effectively do away with collective bargaining.

SENATOR CEGAVSKE:

Is the information brought forward in the press about the Clark County firefighters false?

MR. MCALLISTER:

All of the information may not be false, but an arbitrary number of 210 people was used stating abuse of sick leave. What is the definition of abuse with regard to sick leave?

SENATOR CEGAVSKE:

Are you refuting the comments made in the press regarding Clark County firefighters?

MR. MCALLISTER:

There was a small segment of firefighters who were abusing the system. We do not condone that behavior, and they need to be punished.

DETECTIVE JOTZ:

If S.B. 343 passes, neither side would have an incentive to be reasonable in contract negotiations. Of the six groups I represent, only one has been to arbitration, and we lost. In our organizations, supervisors have collective bargaining, but management does not. We negotiate with management. Our contracts have automatic wage reopeners, allowing us back to the table to make concessions in economic hard times, which we have done.

According to the Las Vegas Chamber of Commerce's *Business Voice* publication, the government wage in Nevada is directly related to the fact that Nevada has the lowest number of public employees per capita of any state. If salaries are analyzed on per capita basis, Nevada workers fall well below the national average. The publication's data is from 2008-2009. Nevada's workers

have accepted significant wage and benefit cuts since then. The entire system should not be changed, and we therefore oppose S.B. 343.

MR. DREHER:

We oppose S.B. 343. I have negotiated contracts for 27 years all over the State and have been witness to many "last best offer" arbitrations won by management 97 percent of the time. We are talking about contract/interest arbitration trying to get a master agreement or a successor to a master agreement. There are four groups which get to go to last best offer: teachers, police officers, firefighters and classified school employees. The rest of State employees have regular fact-finding, which is either advisory or binding if an impasse is reached. In most cases, when the fact-finding area is reached, the employee party will opt for the advisory plan.

Under NRS 288 there are sections to make a regular employee go to fact-finding. Then, a three-member panel is decided by the commissioners of the Local Government Employee-Management Relations Board (EMRB). There have only been a few people in the State to go through this process, and management has prevailed every time. When the EMRB makes its decision, it comes back to a city council, county commissioners or a board of supervisors who make the final decision. The system has been in place for over 40 years. Collective bargaining works in the State of Nevada.

GREG ESPOSITO (Business Representative, Plumbers, Pipefitters and HVACR Technicians Union Local 525):

We are opposed to S.B. 343. We have binding arbitration in our contract. It works well, keeping labor harmony between employees and management.

I will read a statement from Clark County Commissioner Steve Sisolak. "I have spoken with Senator Roberson about collective bargaining. I am not a sponsor of or collaborator in a bill. I am now and always have been in favor of the right to collective bargaining."

MR. CARRY:

Interest arbitrations in Nevada seldom occur. Arbitrations that do occur are usually over grievance issues of how an employee is being treated. The Washoe County Sheriff's Office, both supervisory and the Washoe County Sheriff's Deputies Association, went to contract/interest arbitration a few years back, and we did lose. Subsequent to that ruling, we have gone back to give

concessions and pay rate reductions from PERS increases. The Washoe County Sheriff's Office has been proceeding year to year with our contracts since 2005. This option is available to all local governments and makes them accountable for the contract approvals.

RAY BACON (Nevada Manufacturers Association):

In the private sector, the negotiator for the union has to answer to shareholders. The private sector has to show long-term liabilities. In the public sector, the shareholders of the operation are the voters. Without sunshine in our negotiations, the voters and shareholders do not get a voice in what takes place. This creates a perceived imbalance in the negotiations.

I think some of the things Senator Roberson wants to do are steps in the right direction. In our current situation, we have an unsustainable long-term debt both statewide and federal, but the government will not go bankrupt. The accounting rules for government do not show the ill-defined, long-term liabilities.

SENATOR HORSFORD:

You mentioned there is no sunshine in the collective bargaining contracting process. In 2009, there were reforms to NRS 288 that in part improved the process to require public hearings based on the contract process. In 2011, many of those reforms will begin, so the public you referred to can be engaged and informed and learn the process. Prior to 2009, Nevada had zero transparency. With the enactment of those reforms, we are now in the median of states regarding transparency.

MR. BACON:

The earlier discussion of how did we get in this mess led me to point out the lack of a sunshine for the last 30 years as a contributing factor, as well as the lack of governments looking forward to long-term liabilities in accounting practices.

SENATOR SETTELMAYER:

Has the Open Meeting Law ever been discussed for the collective bargaining process?

MR. BACON:

That would be a good option.

MS. HANSEN:

The provision in this bill that allows elected officials to make the final decision will make them accountable to the people. The cost of government needs to be brought under control with new legislative tools for it to happen. We need more equality between salaries in the public and private sector.

RANDI THOMPSON (State Director, National Federation of Independent Business):
I am hearing that counties and cities must accept more responsibility for their services, yet they cannot negotiate salaries with their staff. The communities must be able to negotiate their largest expenditure, which is employee salaries.

SENATOR CEGAVSKE:

The process of government needs to show respect for those who testify and bring forward bills and amendments. I would like to have testimony in the future stating the outcomes of arbitration from the teachers' association.

CHAIR PARKS:

We will close the hearing on S.B. 343 and open the hearing on Senate Joint Resolution (S.J.R.) 10.

SENATE JOINT RESOLUTION 10: Proposes to amend the Nevada Constitution to allow voucher schools. (BDR C-1017)

SENATOR MICHAEL ROBERSON (Clark County Senatorial District No. 5):
I have prepared testimony ([Exhibit G](#)).

SENATOR CEGAVSKE:

In section 10, subsection 2 of Article 11 in the Nevada Constitution, the payment would go to the parent or the guardian?

SENATOR ROBERSON:

It would not go directly to the school.

SENATOR CEGAVSKE:

It would go to the person—guardian or parent of the child.

SENATOR ROBERSON:

This Legislature could determine how it wants the school choice program to work. We want to amend the Blaine Amendment for the Nevada Constitution to

allow the school voucher program and allow parents to send their children to private schools, whether sectarian schools or not. It does not establish a voucher program.

SENATOR CEGAVSKE:
How many states have done this?

SENATOR ROBERSON:
There are 37 states with a Blaine Amendment. Several states have enacted school choice, but federal law does not prohibit school vouchers or other forms of school choice.

SENATOR CEGAVSKE:
The removal of the Blaine Amendment will improve children's performance in school and improve their education.

DALE ERQUIAGA (Senior Advisor, Governor's Office):
The Governor supports this bill as well as school choice and vouchers. There are 18 voucher programs in 12 states as of last year.

SENATOR HORSFORD:
When was the Blaine Amendment enacted into the U.S. Constitution?

SENATOR ROBERSON:
This amendment is over 100 years old. It was not enacted into the U.S. Constitution, but several states enacted similar provisions.

CHAIR PARKS:
I will take additional testimony from Las Vegas.

BRAXTON PACATTE:
I have prepared testimony ([Exhibit H](#)).

KAREN NIELSEN:
I have prepared testimony ([Exhibit I](#)).

JANINE HANSEN (President, Nevada Eagle Forum):
We have a long history of supporting school choice and support the opportunity for Nevada to vote on this issue. It allows help for low-income and

at-risk children. The National Education Association (NEA) has opposed school choice and vouchers; however, a former NEA president extolled the virtues of America's largest voucher program—the Servicemen's Readjustment Act of 1944, the GI Bill of Rights. The GI bill turned out to be the wisest investment the United States has ever made. Through the GI bill, students had the choice of going to any school they wanted, even if it was a school that happened to be under the direction of a particular secular religion. We support this resolution allowing the people to have the opportunity to vote.

LYNN CHAPMAN (State Vice President, Nevada Families):

Despite higher spending on education, only 35 percent of American high school students are proficient on national reading tests and 23 percent on math. School choice is important to families, and as a home school consultant, I advised many families on how to get started with home schooling. We are in favor of S.J.R. 10 because vouchers would permit parents to make choices for their children.

FRANK SCHNORBUS (Chair, Nevada Home School Network):

We want to go on record in support of S.J.R. 10 because it supports the rights of parents to provide the best education for their children.

PATRICK R. GIBBONS:

I have provided written testimony ([Exhibit J](#)). Removing the barrier for allowing vouchers in the State has many positive impacts as you will see in my testimony.

TONY DANE:

I support S.J.R. 10 because it creates the opportunity to have a fair voucher program. I have been involved in vouchers for many years, and the reason they fail is because they do not treat every private school equally.

JIM BLOCKEY:

I hope the legislation is designed to improve public schools because most of our kids will be in the public school system. The main difference between private and public schools is the students.

STEVEN DANE:

I am in the fourth grade. I was tested at fifth grade science and sixth grade math. By public school standards I am considered advanced, but in private school I am average student. Please vote in favor of S.J.R. 10.

CHRISTINE BURNS:

The biggest question is will you allow the people to have a voice with their vote. I would ask for your support so that we may have more choices as parents.

CAROL STEWART:

I have prepared testimony ([Exhibit K](#)).

JILLIAN STEWART:

I go to Lake Mead Christian Academy, and I would like people to vote for this voucher bill because when people hear how little money private schools are asking for, they might choose my school. More money might come and the school will collect more money to support our education and learning about God's world.

JOSEPH STEWART:

I would like to talk about the bullying issue because in our public schools in Nevada, bullying is the No. 1 cause of teen suicide. Public schools are not safe because of bullying, and private schools are more proactive.

CRAIG M. STEVENS (Director of Government Relations, Nevada State Education Association):

The Nevada State Education Association opposes S.J.R. 10. Tax money for public schools should stay with the public, which has direct oversight on how it is used. Private schools can and shall have the right to exist, but they are private for a reason: so government regulations can be kept out of the classroom. Nevada has school choice, technical education schools, magnet schools, charter schools and regular public schools. They are all public schools run by public officials and are accountable to the taxpayer.

SENATOR SETTELMAYER:

What are you objecting to in the bill?

MR. STEVENS:

Allowing public money going to sectarian schools would be a voucher program.

SENATOR DENIS:

We have just heard testimony for the last 30 minutes and none of it addressed the bill. I do not want to have the discussion with everyone opposed and not addressing the bill.

SENATOR CEGAVSKE:

In looking at the bill, it is the removal of the Blaine Amendment that would allow for a voucher system to come forward.

MR. STEVENS:

I stand by my comments that by allowing money to go to sectarian purposes, you are putting public dollars into a private religious institution.

SENATOR CEGAVSKE:

You do not want to answer my question. Either you like the Blaine Amendment or you do not.

MR. STEVENS:

We like the existing law.

DR. MERRILL:

I have prepared testimony ([Exhibit L](#)).

MR. COLEMAN:

We do not support the bill. We do not support removing the amendment because we believe it would lead to vouchers. Our opposition to vouchers is because of the unanswered question that needs to be addressed before we would change our position. The public school system is designed to take everyone, regardless of skin color, religion or ethnic background. If a student leaves private school and returns to public school, how does the money follow? Public money subsidizes public education. If public money follows a student into the private school, will the same public school expectations—state mandates, federal mandates, local expectations, public expectations—prevail? Our concerns are the unanswered questions.

CHAIR PARKS:

Proponents claim vouchers do not drain dollars away from public schools, is that what you believe?

MR. COLEMAN:

Our concerns are not about whether the money goes to a Christian school or a private school, but because there are unanswered questions.

DR. MERRILL:

I have prepared testimony ([Exhibit M](#)).

MR. STEVENS:

If a voucher system is put forward, we do have students who are in the private system. Would those be eligible for vouchers, increasing the number of students in the State, therefore lowering the basic per pupil cost?

ALLEN LICHTENSTEIN (American Civil Liberties Union of Nevada):

I have prepared testimony ([Exhibit N](#)) and a comment for the record. This is not about the Blaine Amendment. This was a provision enacted in 1880, and there was one case in 1882, *State of Nevada v. Hallock*, 16 Nev. 373 (1882), 1882 WL 3785 (Nev. 1882). It was unfortunate the term bigoted was brought up by people who oppose public money for sectarian schools—they are not bigoted.

SENATOR ROBERSON:

U.S. Supreme Court Justice Stephen Breyer urged the Court to repeal the Blaine Amendment saying “this doctrine born of bigotry should be buried now.”

LONNIE SHIELDS (Assistant Executive Director, Nevada Association of School Administrators):

We oppose removal of the Blaine Amendment or any amendment that would lead to vouchers.

MR. DREHER:

I would like to present my wife’s concerns on S.J.R. 10. My wife is a retired Washoe County school principal and wants the following comments entered into the record. The taxpayers have voted for and given approval to leaders to set the standards for education. If vouchers are given, the receiving school should be held to the same standards as nonvoucher schools. Some of the standards are acceptance of special needs schools with related special programming, class

size standards in the primary grades, transportation provisions for students living outside the safe walking zones, the same certification requirements for personnel who work with at-risk school population, and testing and accountability requirements. If taxpayer money is given to a school and it does not follow the voter-approved standards, the possibility of lawsuits could happen. My wife and I do not support S.J.R. 10.

JOYCE HALDEMAN (Associate Superintendent, Clark County School District):
The previous speakers have made my points. My trustees reviewed the legislative platform and all are opposed to vouchers in any form.

MARY PIERCZYNSKI (Nevada Association of School Superintendents):
All the points have been made and we are also opposed. Our concerns are accountability and the unanswered questions.

SENATOR ROBERSON:
We have a lot of arguments against vouchers, but this is not a voucher bill, it repeals the Blaine Amendment. After two sessions of passage in the Legislature, the voters of Nevada will have the opportunity to voice their opinions. There is evidence that school choice works, so let the people of Nevada decide.

CHAIR PARKS:
Mr. Lichtenstein commented that there are other provisions in Article 11 of the Nevada Constitution. Have you looked at the need of repealing those provisions?

SENATOR ROBERSON:
I will work with him.

CHAIR PARKS:
We will close the hearing on S.J.R. 10 and open the hearing on S.J.R. 7.

SENATE JOINT RESOLUTION 7: Proposes to amend the Nevada Constitution to limit the total amount of property taxes that may be levied on real property. (BDR C-17)

SENATOR DON GUSTAVSON (Washoe County Senatorial District No. 2):
I have prepared testimony ([Exhibit O](#)).

MR. DANE:

I have been working on drives to help property tax amendments and there are many homeowners who are losing and struggling to keep their properties. They do not need the burden of taxes higher than what their properties are worth. I would ask for your support of S.J.R. 7.

TOM MORRIS, A.U.D.:

My motivation for being involved in this process is because of the unfairness of our property tax assessment system. We are in need of fair taxation on property. This bill will remedy the unfairness of our assessment system. I am in full support of this legislation.

JANINE HANSEN (President, Nevada Eagle Forum):

I think it is imperative to recognize people are being taxed out of their homes. Section 7, subsection 6, paragraph (a), states "... attained the age of 62 years may replace his or her principal residence with another of comparable value" This is a good provision that recognizes when people get older, changes sometimes need to be made as circumstances change. We pay more in taxes in federal, State and local than we pay for housing, food, education, health care and entertainment. We need to get taxes under control and support S.J.R. 7.

MS. CHAPMAN:

I support S.J.R. 7. In section 7, subsection 6, paragraph (b) says "... the construction or enhancement is necessary to protect the safety of the occupants or improve accessibility to persons with disabilities." This provision is important to family members who have disabilities.

MS. BURNS:

By allowing this vote go forward and passing the resolution, the will of the people will be heard.

LIANE LEE (Legislative Officer, Government and Community Affairs, City of Las Vegas):

The City of Las Vegas opposes S.J.R. 7 that would result in a 12.9 percent revenue decrease or a minimum of \$10 million annually to the City of Las Vegas. The financial impact to the city would be devastating.

MIKE CATHCART (Senior Financial Analyst, City of Henderson):

We are opposed to S.J.R. 7. It would be a reduction of revenue to the City of Henderson of approximately \$1 million per year. Our property tax projection shows we are trending at 2006 levels, so the property tax revenue is being responsive to the assessed value drops in Clark County.

CONSTANCE J. BROOKS (Senior Management Analyst, Office of the County Manager, Clark County):

We are opposed to S.J.R. 7 for the reasons that have already been stated, but in addition to the loss of revenue are the unintended consequences related to the treasurer's department and the reprogramming of software as well as notifications to residents under the provisions of this bill.

VAL SHARP:

The problem with this legislation is it is the wrong vehicle with the wrong application. I think it should be handled through legislation and not through a constitutional amendment.

MS. HALDEMAN:

The impact to the Clark County School District would be about \$7 million a year. It would impact both in the collection of operating property taxes and the bond-related property taxes as well. We are opposed to this bill.

CAROLE VILARDO (President, Nevada Taxpayers Association):

We are in opposition to S.J.R. 7. The unintended consequences are what could occur on any tax bill. It is impossible to predict what will happen in five or six years, and changing the Constitution makes it difficult to repair if there are unintended consequences. In section 7, subsection 1 says "This limit does not apply to taxes ad valorem levied to pay the interest and principal of any bonded indebtedness incurred before the effective date of this section or approved thereafter by two-thirds of the votes" If a bond is approved and it does not receive the two-thirds vote, is the bond still approved, but would not be outside the cap?

We have voters who have approved property tax operating overrides and pay-as-you-go options, and this does not exempt them. Subsection 3 talks about the transfer of ownership interest. It would be the same as transferring stock, and the State does not have a mechanism to calculate these stock transfers when the ownership has changed more than 50 percent. The problem

is no title is being recorded as if it were an individual property being sold. Subsection 6, paragraph (a) says an owner "... who has attained the age of 62 years may replace his or her principal residence with another of comparable value ..." is considered part of Proposition 13 from California; however, it was an add-on to Proposition 13, which has a provision that it must be approved by the county.

Subsection 6, paragraph (b) has a provision which says "... is necessary to protect the safety of the occupants" At what level do you protect the safety of the occupants? The definition needs to be more clear, but you do not want to expand the definition in the Constitution. In subsection 9, paragraph (a), the phrase "cash value" would be more understandable to the citizen if it said "market value." How do we layer this on top of the abatement? We publish a booklet called *Understanding Nevada's Property Tax System*, which in the beginning was 5 pages and is now 25 pages because we have to explain all of the variations done by the Legislature. We have a complicated tax system and putting this in the Constitution will eliminate the abatement—or do you want it to stay in? This mechanism in the Constitution requires the assessors and the treasurers to have a bifurcated valuation system. This deals with real property, not personal property. The personal property would have to be continued to be valued the way we do currently. This bill adds more confusion to the system. There is a provision in statute that says for a severe economic hardship, we can adjust the property taxes for seniors.

SENATOR SETTELMAYER:

Is the bifurcation concept within our Constitution or in *Nevada Revised Statutes*?

MS. VILARDO:

It is in the Constitution, Article 10. When we removed the inventory provision, which was a five-year phase-out approved by the voters, a provision in the removal of the inventory tax said "The Legislature may exempt any other personal property," and so personal property can be treated separately by the Legislature.

SENATOR HORSFORD:

Are you referring to the senior citizen property tax rebate?

MS. VILARDO:

No, the senior rebate is another issue. The Constitution allows economic hardships to be addressed by the Legislature.

CHAIR PARKS:

In the mid- to late 1970s, the state of California had one of the top five school programs in the Country. Today, it is close to the bottom. It has been attributed to California's Proposition 13—could you comment?

MS. VILARDO:

With the restriction on property taxes, the local governments are forced into using fees to the extent that they exceed the revenue from property taxes.

SENATOR CEGAVSKE:

This legislation is because of what happened to property taxes for Lake Tahoe and Washoe County. If this is not an avenue, is there an avenue to address what is going on currently?

MS. VILARDO:

Josh Wilson can better explain what happened in the courts.

JOSHUA G. WILSON (Washoe County Assessor):

I have been dealing with this issue for the past five years, and what led to challenges not being filed in the past three assessment years is open communication. I have worked with the Nevada Tax Commission and the Department of Taxation to adopt regulations that were the subject of the *Board of Equalization, State ex rel. v. Bakst*, 122 Nev. 1403, 148 P.3d 717 (2006). The Nevada Supreme Court ruled the Tax Commission failed to update the general and uniform regulations governing the assessment of property. There has been significant work done on the regulatory process, and changes were adopted by the Nevada Tax Commission and the Legislative Commission in 2010.

That Court ruling the current taxable value system unconstitutional is incorrect; it was simply that the regulations were not updated and therefore the assessments were unconstitutional. The current system of the 3 percent and 8 percent tax cap provide the level of predictability of year-to-year increases that was lacking in 2003. If the tax cap had been in place, these issues would

Senate Committee on Legislative Operations and Elections
April 12, 2011
Page 30

not have been as large as they became. The disability access and improvements to property are already in statute, NRS 361. We are neutral on S.J.R. 7.

DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities):
We are opposed to S.J.R. 7. This would put the tax methodology into the Constitution and the problem would be the unintended consequences. If the legislation becomes a problem, it would take five years to correct, so working statutorily would allow changes to happen more quickly.

JEFF FONTAINE (Executive Director, Nevada Association of Counties):
We are in opposition to the S.J.R. 7. We believe this bill would reduce revenue to counties, which is their largest source of income.

SENATOR GUSTAVSON:

I am asking the Committee to let this go to the vote of the people. If there is a better plan, we would love to hear about it.

CHAIR PARKS:

The meeting is adjourned at 7:53 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 98	C	Senator Joseph (Joe) P. Hardy	Conceptual Amendment to Senate Bill 98
S.B. 98	D	Ronald P. Dreher	Proposed amendment
S.B. 343	E	Senator Michael Roberson	Prepared testimony
S.B. 343	F	Cadence Matijevich	Proposed Amendment by the City of Reno to SB 343
S.J.R. 10	G	Senator Michael Roberson	Prepared testimony
S.J.R. 10	H	Braxton Pacatte	Prepared Testimony
S.J.R. 10	I	Karen Nielsen	Prepared testimony
S.J.R. 10	J	Patrick R. Gibbons	Prepared testimony
S.J.R. 10	K	Carol Stewart	Prepared testimony
S.J.R. 10	L	Dotty Merrill	Prepared testimony
S.J.R. 10	M	Dotty Merrill	The Trouble with Vouchers
S.J.R. 10	N	Allen Lichtenstein	Prepared testimony
S.J.R. 7	O	Senator Don Gustavson	Prepared testimony