

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Eighth Session  
February 23, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 1:32 p.m. on Monday, February 23, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Randy Kirner, Chair  
Assemblywoman Victoria Seaman, Vice Chair  
Assemblyman Paul Anderson  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblywoman Olivia Diaz  
Assemblyman John Ellison  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblywoman Dina Neal  
Assemblyman Erven T. Nelson  
Assemblyman James Ohrenschall  
Assemblyman P.K. O'Neill  
Assemblyman Stephen H. Silberkraus

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Assemblywoman Robin L. Titus, Assembly District No. 38  
Senator Moises (Mo) Denis, Senate District No. 2

**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Matt Mundy, Committee Counsel  
Jennifer Russell, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Victor Joecks, Executive Vice President, Nevada Policy Research Institute  
Janine Hansen, representing Nevada Families Association  
Lynn Chapman, State Vice President, Nevada Eagle Forum  
John Wagner, State Chairman, Independent American Party  
Bruce K. Snyder, Commissioner, Local Government Employee-  
Management Relations Board, Department of Business and Industry  
Chris Collins, Executive Director, Las Vegas Police Protective Association  
Metro, Inc.  
Ernie Adler, representing International Brotherhood of Electrical Workers  
Local 1245  
Jack Mallory, representing Southern Nevada Building and Construction  
Trades Council, and International Union of Painters and Allied  
Trades District Council 15  
Danny Thompson, Secretary-Treasurer, Nevada State AFL-CIO  
John Faulis, Chairman, Las Vegas Police Managers and Supervisors  
Association  
Vikki Courtney, President, Clark County Education Association, and  
representing Nevada State Education Association  
Stan Olsen, representing Nevada Association of Public Safety Officers  
Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041,  
American Federation of State, County, and Municipal Employees  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research  
Association of Nevada, and representing Combined Law  
Enforcement Associations of Nevada, Washoe School Principals'  
Association, and Washoe County Public Attorneys' Association  
Carla Fells, Executive Director, Washoe County Employees Association  
Rusty McAllister, President, Professional Fire Fighters of Nevada  
Patrick Sanderson, Member, and representing Laborers' International  
Union of North America Local 872

Stephen Augspurger, representing Clark County Association of School Administrators and Professional-Technical Employees  
Richard Daly, Business Manager, Laborers' International Union of North America Local 169  
Misty Grimmer, representing State Contractors' Board  
Margi A. Grein, Executive Officer, State Contractors' Board  
David Brown, Legal Counsel, State Contractors' Board

**Chairman Kirner:**

[Roll was called and housekeeping items were reviewed.] We will start the hearing on Assembly Bill 109 and invite the presenter to step forward. Welcome, Assemblywoman Titus.

**Assembly Bill 109: Requires an employee organization to prepare an annual report concerning the dues, expenditures, compensation and other finances of the employee organization. (BDR 23-929)**

**Assemblywoman Robin L. Titus, Assembly District No. 38:**

The aim of Assembly Bill 109 is to increase the accountability and transparency of Nevada's public-sector unions to the members they represent [Read from prepared testimony ([Exhibit C](#)).] It does this by requiring an employee organization recognized by a local government in Nevada, pursuant to the Local Government Employee-Management Relations Act, to file an annual report containing an accounting of all dues assessed on members as well as the organization's expenditures and officer compensation, along with other pertinent information. Each such employee organization would be required to make the report available to any member of the organization or to the Legislative Commission upon request. The strict purpose of this bill is to make dues-paying union members aware of how their money is being spent in pursuit of collectively held goals.

The type of financial reporting that this bill would require is by no means uncommon nor does it impose any undue burden upon employee organizations. In fact, every single private-sector union in America must file a financial report containing this exact information with the U.S. Department of Labor each year.

In 1959, Congress enacted the Landrum-Griffin Act, otherwise known as the Labor-Management Reporting and Disclosure Act (LMRDA), which contained a bill of rights for union members. The Act was prompted by concern that some union officials were using compulsory dues assessed on rank-and-file members to reward themselves with outlandish compensation schemes. It was believed that the Landrum-Griffin Act would increase accountability of union leaders to

their own membership by allowing members to receive financial reporting upon request detailing the annual revenues and expenditures of their union.

By all accounts, the Landrum-Griffin Act has successfully achieved its aims, and private-sector unions today are more accountable to their own membership than was the case more than 50 years ago. Unlike Nevada's proud trade, craft, and industrial unions, public-sector employee unions are not subject to the requirements of the Landrum-Griffin Act or the National Labor Relations Act.

There is no federal law that authorizes or governs public-sector unions for state and local governments. These organizations are governed entirely at the state level and as such, it is the responsibility of state lawmakers to create the legal framework within which these organizations operate.

Nevada lawmakers have never included within this legal framework the same financial reporting requirements that allow members of the Culinary Union and other private-sector unions to monitor the activities of their representatives. This act would accomplish precisely that and place Nevada's public-sector union members on an equal footing with their private-sector counterparts.

Assembly Bill 109 is as much about equity as it is about accountability. True advocates of organized labor can see that these reporting requirements will offer not only transparency, but help foster the sustainability of Nevada's public-sector unions by mitigating the concerns of union members and critics alike, thereby fostering a more loyal membership. These requirements have improved the function of unions in the private sector for more than 50 years.

I have accepted a friendly amendment ([Exhibit D](#)) from Bruce Snyder, Commissioner of the Local Government Employee-Management Relations Board (EMRB). It is proposed that section 1, subsection 2 of the bill be amended to read, "Upon completion of the report, the employee organization shall make the report available for inspection upon request by any member of the employee organization who paid dues to the employee organization during the immediately preceding calendar year," with the following added language; "and shall file a copy of the report with the Local Government Employee-Management Relations Board."

I urge you to support this legislation. I believe Bruce Snyder will be in Las Vegas to testify.

**Chairman Kirner:**

Are there any questions?

**Assemblywoman Kirkpatrick:**

Do members not already have the ability to ask for that information? They have the ability through the leadership that they have to represent them. If I belong to a group and they do not give me the information that I request, I will join a different group or change leadership.

**Assemblywoman Titus:**

I brought this bill forward because I was approached by several teachers who were concerned about where their dues were going and they could not get the information they wanted.

**Assemblyman Ellison:**

When this report is done, who does the audit? Where does the information go after that?

**Assemblywoman Titus:**

The Legislative Auditor would conduct the audit and report the findings to the Legislative Commission. The Legislative Auditor's report would be stored with the Employee-Management Relations Board.

**Assemblywoman Neal:**

You said the public policy purpose was that there were some teachers who requested information and could not get it. I wanted to get more information on that, such as what were the reasons? Why was there a denial?

**Assemblywoman Titus:**

I do not have the details to answer that question.

**Assemblywoman Neal:**

Are the teachers here?

**Assemblywoman Titus:**

No, they are not.

**Assemblywoman Carlton:**

I am familiar with a Form LM-2 Labor Organization Annual Report, being a proud union member for a number of years. I have always been able to get the information I needed. I know that the LM-2s are labor intensive and it can take up to 88 hours per response. If it takes two weeks of work to deal with this—and these are public-sector unions, so this money is negotiated—has anyone looked into the fiscal impact this would have on the unions? These are taxpayer-funded employees that are being represented. Who would bear the burden of the costs of these reports? I am assuming it would be negotiated

with the county. Would the county have to pay for these reports? Or would the state have to pay if the state ever got collective bargaining? Was that discussed before you brought the bill forward?

**Assemblywoman Titus:**

We talked to Legal about this. There is no effect on local government. They have to prepare these reports anyway to record their finances. Bruce Snyder from the Employee-Management Relations Board already collects this data. We asked him if it would cost him anything if he had the capacity to store the data. It was his feeling that it would be part of the process and should not cost any additional funds. There is no fiscal note on this bill.

**Assemblywoman Carlton:**

How many times have we been told there is no fiscal note, and then we find out through the interim that the agency needs money to help accomplish the mission that we just gave them? I have concerns when I see numbers such as 500 hours per response on an LM-2 in the private sector. I am concerned with how that would equate over to the public sector.

**Chairman Kirner:**

We will move to those who support the bill.

**Victor Joecks, Executive Vice President, Nevada Policy Research Institute:**

We strongly support A.B. 109 to provide the same level of accountability for public-sector unions as members of private-sector unions already enjoy. The reason the federal government requires private-sector unions to supply similar information on the aforementioned LM-2 reports is because of the special privileges the government grants these organizations through the collective bargaining process. For example, it was revealed three years ago that the former president of the Clark County Education Association had claimed to work three jobs for the union and union-related organizations simultaneously and had drawn a salary of over \$600,000. This information was made available on the union's Form 990, Return of Organization Exempt from Income Tax, reports, but it was two years after the person had left office. There was nothing the union members could do about it. This type of report will allow union members to see how their money is being spent.

**Janine Hansen, representing Nevada Families Association:**

We agree with the testimony that has just been given. We feel this is important for financial disclosure, transparency, and accountability. It is reasonable that this information be made available not only to the members but also to the Legislature.

**Lynn Chapman, State Vice President, Nevada Eagle Forum:**

We support this bill. My husband belonged to the union at one time and he would have appreciated this information.

**John Wagner, State Chairman, Independent American Party:**

We support this bill, and I am a former union member as well.

**Chairman Kirner:**

Are there any questions from the Committee? [There were none.] Are there others testifying in support?

**Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry:**

I am here as neutral. I can answer your questions about the proposed amendment that Dr. Titus discussed.

**Assemblywoman Kirkpatrick:**

How will the information be protected and how will you know if the person requesting the information is a member of the union? I am having a hard time believing members cannot get their information. They have the ability to vote out the person who is supposed to be leading them. How will you protect it if you end up with all of the information? How will you disperse the information? Will there be costs associated with requests?

**Bruce Snyder:**

Each fall we ask every union to provide us with other information, such as contact information and information on the number of their members. When we send those letters out requesting information, we would anticipate sending out a notice that they would need to file a financial report in January. We allow that information to be sent to us as an email attachment, and we put it on our computer system. That is where it would be stored as securely as anything else that we have. Since it is already scanned, if anyone wanted that information, we would email the information out to them. My thought was for it to be a clearinghouse so if someone wanted to research finances on a number of organizations, they would not need to contact numerous organizations but could call one location and put in a public records request.

**Assemblywoman Kirkpatrick:**

That is my concern. Not everyone should have access to information unless they belong to the organization. You implied that people who are doing research could ask for the information, but that information is meant only for the members. Even with an open meeting, I have concerns on how that would

work. What other states are doing this? I thought I have seen this model legislation somewhere.

**Bruce Snyder:**

I am not aware of other states requiring this. Once the data comes to our office, it would be public information under the Public Records Act, *Nevada Revised Statutes* (NRS) Chapter 239. Therefore, we would be required to give access to anyone who asks for that information regardless of union membership. That might be something to take into account.

**Assemblywoman Diaz:**

How many of these requests are you getting from public employees who currently do not have access to this information? What employees are asking and what is the nature of their inquiries?

**Bruce Snyder:**

I have been the Commissioner for 15 months, and during that time I do not recall receiving any requests for this type of information. This might be because it is not collected right now.

**Assemblyman O'Neill:**

In section 1, subsection 1, it says, "Each employee organization recognized by a local government employer in this State..." The definition of local to me is municipalities. Are county organizations exempt?

**Matt Mundy, Committee Counsel:**

*Nevada Revised Statutes* 288.060 provides for the definition of "local government employer" as "any political subdivision of this State or any public or quasi-public corporation organized under the laws of this State and includes, without limitation, counties, cities, unincorporated towns, school districts, charter schools, hospital districts, irrigation districts and other special districts."

**Chairman Kirner:**

Are there any others testifying as neutral on this bill? [There were none.] Those who are opposed may step to the table.

**Chris Collins, Executive Director, Las Vegas Police Protective Association Metro, Inc.:**

This bill raised some concerns for us. We provide our membership a complete financial report every quarter at an open quarterly meeting. We provide the ability for any member at any time to review the complete financial history of our association.



**Chairman Kirner:**

Why are you testifying against this bill?

**Chris Collins:**

I will get to that. I agree with Assemblywoman Kirkpatrick's statement. I represent 4,000 law enforcement officers. If they have a question, they come and ask it. If they do not get a satisfactory answer, they have the ability to recall me in an election or not to vote for me. I have been reelected twice.

We are sound fiduciaries of our membership's money. We are not in the public domain. Our information should not be subject to the Freedom of Information Act. I disagree with the testimony from the EMRB. I get a notice from the EMRB once a year. I provide them the number of members we have, a copy of our bylaws, and a copy of our contract. We are not mandated to share any financial information with the EMRB. I have asked the four attorneys on staff at the Las Vegas Police Protective Association Metro, Inc. (PPA) if they would look at A.B. 109 and determine if there were legal ramifications to the bill. I have a memo authored by David Roger, General Counsel of the PPA, that I will read into the record:

Assembly Bill 109 will amend NRS Chapter 288 to require employee organizations to file annual reports detailing the association's private financial affairs. The report, which will be a public record, includes "the dues, expenditures, compensation and other finances of the employee organization."

Article 1, Section 20 of the *Nevada Constitution* guarantees citizens the right to privacy. While the state may exercise police powers, the authority to encroach upon citizens' privacy rights is limited, as in the case of *Goldblatt v. Town of Hempstead*, 369 U.S. 590, 594, 82 S.Ct. 987, 990 (1962), and *Lawton v. Steele*, 152 U.S. 133, 137, 14 S.Ct. 499, 501 (1894). The Nevada Supreme Court, in *State v. Glusman*, 98 Nev. 412, 423, 651 P.2d 639, 646 (1982), explained:

It is unquestionably true that there are limitations on the police power of the state. Not only must the ends and means of the legislative enactment of the power be reasonable, but the objective of its exercise must be so manifestly in the public interest as to strongly justify any intrusion on the basic rights of individuals.

In its decision, the court struck down a gaming statute that required nongaming applicants to pay for a suitability investigation as "an unreasonable intrusion on the private rights of appellants and others similarly situated."

Without question, our association and members have a constitutionally guaranteed right to privacy. The members pay their dues to the association and they control expenditures. According to our bylaws, members may examine the financial records at any time. The association meetings are private and only open to members. The PPA functions like any private affiliation of members.

The Legislature enacted NRS Chapter 288 to govern relations between public employers and employees. The Local Government Employee-Management Relations Board does not have jurisdiction, or any reason, to audit the financial affairs of employers or employees. There is no compelling reason for the public to know about an employee association's financial affairs. Likewise, there is no legitimate basis for the state to peer into the association's revenues and expenditures. Because the public does not have a right to know how our members spend their dues, there is no basis for the Legislature to require the association to open its financial records.

Assembly Bill 109 is an unconstitutional infringement of our association and members' right to privacy. The proposed legislation is an unlawful exercise of the state's powers.

**Ernie Adler, representing International Brotherhood of Electrical Workers Local 1245:**

The problem for the International Brotherhood of Electrical Workers (IBEW) Local 1245 is that they represent both public and private employees. They represent the electrical workers for NV Energy extending from northern Nevada to southern Nevada. They also represent Pacific Gas and Electric Company in California and Idaho as well. They have a number of filings with the U.S. Department of Labor. This bill would put an undue hardship on the union in that they would have to figure out how to split out expenses for the public employees, as opposed to the private employees, as well as split out expenses involving senior executives of the union in California and Nevada and attribute those costs just to the Nevada public employees. This would be a monumental task. All of this information is readily available. I do not see the need for this bill in terms of a large union representing both the private and public sector.

**Chairman Kirner:**

So on your federal filing, do you include all employees, both public and private, for the entire organization?

**Ernie Adler:**

Yes.

**Chairman Kirner:**

For multiple states? You do not break it out by states, correct?

**Ernie Adler:**

I do not think it is broken out by state.

**Jack Mallory, representing Southern Nevada Building and Construction Trades Council:**

I have been signing LM-2s for the last 13 years. I have some intimate knowledge of the time, costs, and what is involved in putting those reports together. It costs our organization approximately \$30,000 to file those reports on an annual basis. That does not necessarily relate to what it might cost a public employee organization. Amongst the Southern Nevada Building and Construction Trades Council, there are a few organizations that are situated similarly to IBEW 1245 which represent public and private employees, and are governed by the Labor-Management Reporting and Disclosures Act and the National Labor Relations Act, which both preempt state law. It would be our opinion based on that alone that the state has no jurisdiction over those organizations.

We would not be opposed to this legislation if it were actually trying to achieve what Assemblywoman Titus brought up, which was simply that there were workers who came to her and complained that they asked for financial information and could not get it. If this bill was mandating that employee organizations provide members with financial information upon request, then I think we would support that concept. We believe in that transparency internally. It is an internal issue. It is not an issue for the general public.

**Danny Thompson, Secretary-Treasurer, Nevada State AFL-CIO:**

I have been here for 35 years. I have never seen anything like this that came through without a fiscal note on it. This is not free. There should be a fiscal note on this bill. This will cost money. You are talking about volumes of information that someone is going to have to compile, someone is going to have to look into, someone is going to have to catalog, and then someone is going to have to generate reports. I represent 120 unions statewide, both public and private. Many of them are public-private unions. We are among the most democratic organizations in this state. All of our officers are elected. We have monthly meetings where we commit to financials that are audited and given to our members. Our members can get anything that they want. They vote on the things we do. I can see why the EMRB is not getting requests for information. I question the need for this bill. I question unequivocally that it does not have a fiscal note. We are opposed to this bill and urge you to vote no.

**Assemblywoman Fiore:**

What is the problem with transparency?

**Jack Mallory:**

We have no problem with transparency as long as it is internal.

**Chris Collins:**

We have no problem with transparency with our membership. We have quarterly meetings. They have complete access to the budget at that time. They are welcome to come to our office, with no appointment, at any time, and review all of our financial records. We present a budget at a general membership meeting in December that outlines the expenditures for the coming year. We could not be any more transparent with our financial records than we are. There is nothing they could ask for that they would not receive.

**Assemblywoman Seaman:**

You say this is cost-prohibitive, but how much more of a burden is this over the IRS reports that you are currently required to file?

**Chris Collins:**

The only reports we are required to file with the IRS are our tax returns.

**Chairman Kirner:**

I think she was referring to the other reports that you have to file federally.

**Chris Collins:**

Because we are a public-sector union, we do not file the reports.

**Jack Mallory:**

The financial reports that are included with the LM-2 report are not detailed financial reports that include a line-item expenditure report, which is what is being proposed in this bill.

**Assemblyman Hansen:**

You mentioned that people in your organization have complete access.

**Chris Collins:**

That is correct.

**Assemblyman Hansen:**

Then Mr. Thompson's point about having a huge fiscal note attached to this would not apply because you are already doing this internally, is that correct?

**Chris Collins:**

It is similar. We have had to produce other reports. I do not know what this bill would entail. I think there would be some fiscal impact in sending those reports to the EMRB. However, I do not know what that would be.

**Assemblyman Hansen:**

You testified that you are already providing the items that this bill requires. Now you are backpedaling, saying there may be items in the bill that you are not familiar with, that you may not be providing. It is either one or the other. It cannot be both.

**Chris Collins:**

I am not backpedaling at all. We do provide all of the financial information that our membership wants. They have free and open access to our entire financial records.

**Assemblyman Hansen:**

So the fiscal costs should be minimal. Thank you.

**Danny Thompson:**

I was not talking about costs to our union. I was talking about costs to the state, or whoever is going to compile this data. You are talking about every expenditure; a lot of information multiplied by all of the different groups that would be impacted by this.

**Assemblyman Hansen:**

You mentioned earlier that you are the most democratic organization in the state. I noticed that the AFL-CIO has been supportive of amnesty for illegals. Have you voted on that in your organization? All of the union members I have talked to were shocked by that.

**Danny Thompson:**

I do not think that a comprehensive immigration bill that would reform a broken system could be deemed as amnesty. There is a problem there that is impacting the work we do and the work you do in your business. We would like the problem fixed once and for all rather than slugging along like we are now. That is what we are talking about when we talk about comprehensive immigration reform.

**Assemblyman Hansen:**

That is probably a question for another time.

**Chairman Kirner:**

I would like to keep the conversation to A.B. 109.

**Assemblyman Ohrenschall:**

In section 1, subsection 2, it says, "Upon completion of the report, the employee organization shall make the report available for inspection upon request by any member of the employee organization who paid dues to the employee organization during the immediately preceding calendar year." Could there be unintended consequences with this section? Say you had someone who paid dues for a month or two in the preceding year, and then was kicked out of the union for malfeasance. If this bill passes as is, in this form, could that provide a path for that person who was terminated from the union for cause a way around the normal legal discovery path, assuming there is litigation involved? Could there be unintended consequences from that language?

**Jack Mallory:**

There are a number of questions to be asked about this bill. First and foremost, who would be responsible for enforcing the provisions? I assume it would be the EMRB. It would be assumed that an organization would have the right to refuse to provide this information, which would then be appealable. That is speculation. It is a better question for your counsel.

**Ernie Adler:**

The amendment files all of these reports to the EMRB, which makes them all public record. Anyone would have access to those records, especially if they want to use them for litigation. If this is adopted, it would be a problem.

In terms of putting together these reports, it is not just costs but time as well. In the case of IBEW 1245, where you have management in charge of both public and private entities, it would be difficult to break out those costs, but it would also take a great deal of staff time to put together a report for the state and for the federal government.

**Chairman Kirner:**

Mr. Thompson, if these reports had to be filed with the EMRB, would that be the location where you are saying there would be the fiscal note?

**Danny Thompson:**

If you are talking about every expenditure, there is a lot of information. Somebody, somewhere is going to have to compile this, whether it be with the EMRB or the Legislative Auditor and the Legislative Commission.

**Chairman Kirner:**

My interpretation of the bill is that the employee organization would be responsible for compiling the data, and it would go to the Employee-Management Relations Board, which means that the government has a role. When you talk about a fiscal note, is it limited to the Employee Management Relations Board?

**Danny Thompson:**

There would be a lot of costs on both sides. I have one union that represents all of the workers in the City of Henderson, the City of North Las Vegas, the Las Vegas-Clark County Library District, the City of Mesquite, and they represent half a dozen private-sector unions. For them to break out those expenditures it is going to be an astronomical cost to us. But I am talking about whoever in the state is going to receive this data. If it is the EMRB, the Legislative Commission, the Legislative Auditor—someone is going to have to take all of this information and do something with it. I assure you, there will be a cost to do that.

**Assemblyman Ellison:**

You said you wanted full transparency. Do collective bargaining units not audit and watch cities, counties, and municipalities? You audit their budgets fully, do you not? You want full transparency; does that not go both ways?

**Chris Collins:**

We do audit the city, county, and police department budgets from time to time. We audit those books in contract years to review the financial status of those public entities. The PPA is a private entity with private money. There are no taxpayer dollars involved in the PPA's finances. We are accountable to our membership. I do support full transparency to the membership because it is their money. That is the only group that should have access to the financial records of the PPA.

**Assemblywoman Kirkpatrick:**

I think it is unfortunate that the crux of the bill is due to the teachers not being able to get financial information, yet the teachers are not here today. It seems they would want to come and explain their position. There is a value to being a member of something where you maintain your information. Correct me if I am wrong, but do your bylaws not state what the next procedure is if you cannot get the information that you want? We have a membership within our caucus. We pay dues. That information is public, as it is with the Assembly Republican Caucus. We have within our bylaws—and we vote on our bylaws—what it takes to be a member and a procedure to follow if we cannot get information we want. You can change the leadership if you do not like the way things are

going. Do your bylaws not give the employee that type of security so they can go to the next step?

**Danny Thompson:**

That is right. All of our bylaws and constitutions provide that the members can get anything they want. If they are not happy, they can come to a meeting and raise their concerns to the general membership. They have elected officers and elected executive boards that are accountable to them and are elected by them. We are private organizations with private money. I do not see the need for this bill. I have never heard of problems where a person could not get financial information. The financials are presented at every meeting and are approved by the membership.

**Assemblyman Paul Anderson:**

I have heard that this information is already collected and available to the union members and probably in a similar fashion as the bill outlines, am I correct? I think everyone spoke to that.

**Ernie Adler:**

All of this information is collected, but it may not be in the same format as what is contained in this bill. That is one of the problems. Information regarding officer salaries and those things are readily available, but some of the line items may not be available in the structure this is representing.

**Assemblyman Paul Anderson:**

That is not really a cost. You do a line-item change in your report and it is done. If you use any accounting system, it adds another line item or adds a level of detail. If you were to report that to your members internally and somebody were to ask for that, it would be available to them internally. Is that accurate?

**Ernie Adler:**

It would be hard to split out public employee versus private employee costs.

**Assemblyman Paul Anderson:**

If I am a member of your union and I have a question about how my union dues are spent, you would not have any level of detail? You would just give me a broad scope of what the entire union dues were used for?



**Ernie Adler:**

If you work for a water district which is a public employer and you try to split out your costs for union management on the top end, it would be difficult to split out what portion of your dues was attributable to the public employee union.

**Assemblyman Paul Anderson:**

It seems as if it would be straightforward: here is my revenue stream from this group, here is my revenue stream from that group, and keep track of it that way.

**Ernie Adler:**

You could keep track of it, but some of these are common costs for the entire union, and it would be hard to break it down into individual units.

**Assemblyman Paul Anderson:**

If I am a union member, what information do I have access to? If I have concerns about how my union dues are being spent on management, political contributions, nonprofits, or anything like that, is that information available to me as a union member?

**Ernie Adler:**

It is available if you lump it together with both public and private parts of the union.

**Assemblyman Paul Anderson:**

Is your union unique in that manner?

**Danny Thompson:**

There are numerous unions that represent both private and public employees. If you asked me to break out every expenditure, and I try to calculate the light bill at the office, I would have to calculate the portions based on the membership. We do not do that. It is all there. We can say we paid \$100 to NV Energy for the light bill. I do not say we paid \$100, and \$80 was from the private group and \$20 was from the public group.

**Assemblyman Paul Anderson:**

I can see the shared cost argument. But if I am a member of the City of Las Vegas' union or the Las Vegas Metropolitan Police Department's union, certainly there is some direct revenue for dues that come in and direct costs. I do not think this bill is asking about shared costs. It is asking for a line item, which would be electricity.

**Danny Thompson:**

Line item includes electricity. It includes everything. Having sat on the money committee, line item is one by one. That is how I interpret it.

**Assemblyman Paul Anderson:**

That is my point. If you are already collecting line items, you can do a report on line items. You do that for every profit and loss statement you generate in any detail.

**Danny Thompson:**

We do not break it out, though. If you are in one of these hybrid organizations, of which there are many, you do not break that out.

**Assemblyman Paul Anderson:**

I do not know how you measure the success of one union over the other if you do not break it out and know where your costs are.

**Danny Thompson:**

We know where the costs are, but we do not break out the costs between public and private employees. They just present the costs.

**Assemblyman Paul Anderson:**

I am defining success as representing your members in a fiscally responsible manner.

**Jack Mallory:**

I have a different perspective. I work for a district council that has seven different local unions in three states. We have a local union in Arizona, three local unions in Colorado, and three local unions in Nevada. When we compile all of our financial reports, we do a complete financial report for the entire district council. Can we break it down individually by local union? Absolutely. But each of these local unions also has shared costs: shared costs of representation, utilities costs, facilities costs. There are a number of different things. If they were itemized individual by individual, on a pro rata basis by member, it would be cost-prohibitive to maintain those types of records. If you came to my office as a member of my organization and wanted to know how every thin red cent was spent, I could show it to you. But the paper would be taller than I am. It is cost-prohibitive to retain those types of records on a consistent basis. We have those records, we can provide those records, but when we do our reporting for the LM-2, it is a compilation. The only things that are itemized in that report are expenditures of \$5,000 or greater. It is a completely different report. I do not have one to show you so you could see the difference between that and what is being asked for in this bill. You are

asking for an itemized report which would be breaking it down to the penny and making that a public record. That is very different than the transparency that is required in the case of the LM-2 reports.

**Assemblyman Paul Anderson:**

If I am a member of your union and I see a report and I do not like how some of the fees are being expended, I can vote against you if that is my option, but I do not have the option of going to a different union. There are not multiple options for me. I have to live with the way things are happening or go to my grassroots efforts and try to change management. Is that how that works?

**Chris Collins:**

No, that is not true. As a member of the Metropolitan Police Department, you have a variety of choices. As a rank-and-file member, you can join the Police Protective Association or the Fraternal Order of Police. There is also a group called the National Association of Public Safety Officers (NAPSO) that you can join for individual membership, and they attempt to provide the same services we do. There are other avenues to explore.

**Assemblyman Paul Anderson:**

So all three of those bargaining units bargain with the city or the municipalities?

**Chris Collins:**

No. We bargain and contract for the rank-and-file members: corrections officers and police officers of the Las Vegas Metropolitan Police Department. However, through the Duty of Fair Representation of the National Labor Relations Board, even a nonmember can come to the PPA and demand that we provide them assistance with grievances. The statute allows us to bill that nonmember for our time. They also have that avenue of going to other organizations to seek assistance.

**Assemblyman O'Neill:**

Are your records kept electronically, or do you keep everything on a spreadsheet?

**Chris Collins:**

At the PPA office, our records are kept on paper. We have a certified public accountant who works for us and produces that paperwork. I do not know how they are kept in his office.

**Assemblyman O'Neill:**

I would suggest that you look toward an electronic method to save time and paper. Mr. Adler, you have both public and private employees in over three states. What is the percentage of government employees that you have?

**Ernie Adler:**

I am not sure of percentages, but it is the smaller part, maybe 10 percent.

**Assemblyman O'Neill:**

If this bill was passed, would it be feasible to take your reports and take 10 percent as the pricing of those employees?

**Ernie Adler:**

I am not sure that would work because there are different services offered to both entities. I would have to ask the financial people if that would be possible.

**Chairman Kirner:**

We will now hear testimony from Las Vegas.

**John Faulis, Chairman, Las Vegas Metropolitan Police Managers and Supervisors Association:**

I represent over 400 police captains, lieutenants, and sergeants of the Las Vegas Metropolitan Police Department. I echo Mr. Collins' testimony referencing transparency of our association. Our financial records are audited by a certified public accountant on a monthly basis. The records are kept in a QuickBooks program. We report our financials to our membership on a quarterly basis. It is also required per our bylaws that we make our financial statements, including every expenditure, available to our members upon request. Despite my urging over the last five years as chairman, I have not had a single member of our association request these records. We do not have any members of our association here today, and the people referenced as those who initiated the crafting of this bill are not here either.

I have two concerns. The first has been addressed, and that is the costs, both to our state and to our members, for providing additional reporting. While we have our information stored electronically, my concern is how the reports would have to look, and what the requirements would be. The back and forth discussions with the EMRB as to whether or not our reports would meet the requirements of this bill is a concern. I am also concerned about bogging down an already strained EMRB system. As we stand right now, it can be up to six months to a year for an employee to have a hearing with this group. I feel that although they do a good job, they are very strained now. Putting additional burdens on this group would be a disservice to the employees of Nevada who

would use the EMRB as a vehicle for dispute resolution. I urge you to vote no on the bill.

**Vikki Courtney, President, Clark County Education Association, and representing the Nevada State Education Association:**

I represent 11,000 members and I am an affiliate with the Nevada State Education Association, which represents 24,000 members. The Nevada State Education Association strongly opposes A.B. 109. We agree with many of the things stated before this. As the president of the Clark County Education Association, I make \$70,000 a year. I sit at the top of the teacher salary schedule and have been a teacher for 35 years. I do not know why it was stated the way it was earlier, but I know that the president of the Nevada State Education Association does not make that kind of money; our members would not allow that to happen.

We give all of our members the opportunity to look at our books and see what is happening. We compile reports monthly. Members decide on the budget once a year at the state and local level. The details are given to them, and they have plenty of opportunity to view them and be part of the decision-making process.

**Stan Olsen, representing Nevada Association of Public Safety Officers:**

We are affiliated with the Communications Workers of America and also the Nevada State AFL-CIO. We have 1,400 members including state, local, and municipal officers, correctional officers, sheriff's deputies, and parole and probation officers, among others. We represent 20 separate public safety associations throughout Nevada including rural areas. I would like to clarify something that Mr. Collins said. We do supply representation to members. We have several former PPA members who are part of our organization.

We also stand opposed to this bill. We have a concern about the fiscal note. If the state mandates a specific format, there will be a fiscal note on the state and the local side simply because we will have to develop that format and the state will have to develop a format they can absorb within their system. If the state has to develop the format or program, there will also be a fiscal note. Currently, NAPS O does financial reports with Quicken. Anyone can come in at any time and look at the records and the books. If any members of our associate groups in Nevada have a problem, we step in and mandate that they have access. It is almost like legislation in search of a problem because of one entity that is not delivering information. We stand opposed.

**Assemblywoman Bustamante Adams:**

Ms. Courtney, the opening statement said it was the teachers who had a problem getting information. What is the process to request it?

**Vikki Courtney:**

They can come in any time and request the information. We are happy to sit down and go over it with them and answer any questions they have.

**Assemblywoman Neal:**

Ms. Courtney, have there been any incidents in the past couple of years with teachers who have come in, asked, and were denied?

**Vikki Courtney:**

No, there have not been.

**Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County, and Municipal Employees:**

I am here on behalf of the American Federation of State, County, and Municipal Employees (AFSCME) retiree chapter as well as the active employees. I would like to read a brief statement from AFSCME.org. Our organization has a members' bill of rights. I want to focus on two sections of it.

First, section 6 of the bill of rights, about reviewing of financial records, says, "Members shall have the right to a full and clear accounting of all union funds at all levels. Such accounting shall include, but not be limited to, periodic reports to the membership by the appropriate fiscal officers and periodic audits by officers elected for that purpose or by independent auditors not otherwise connected with the union." We have talked about how unions handle their internal conflicts over financial information. Our local chapters here, Sierra Range in Carson City and Washoe Chapter in Reno, review financial reports at every monthly meeting. The chapters have their own subreports.

On a more serious note, section 8 in the AFSCME members' bill of rights addresses due process as follows: "Charges against a member or officer shall be specific and shall be only on grounds provided in the International Constitution. Accused members or officers shall have the right to a fair trial with strict adherence to due process. The accused shall be considered innocent until proven guilty." I have heard that this does not happen very often, but if there is an instance of financial misfeasance, it is more than getting voted out of office. Charges can be brought within the internal structure of the union under its constitution and bylaws. In addition, civil litigation is possible.

I would like to focus on two things that have not been talked about. First, we have our legal department in Washington, D.C. reviewing this proposed legislation, because our concern at first was that there was a serious danger of a First Amendment chilling effect on protected union activity by this bill going into the internal affairs of the union. Right now we are focusing on financial information, but the larger constitutional issue is that this could be seen by our membership as an attack on their privacy rights expanded in a greater sense that their First Amendment rights to organize and be part of a union are in danger.

Finally, in researching this bill and looking at all labor statutes that are going to be before our Legislature this session, I am going to have to go to the sources that give me concern. The American Legislative Exchange Council (ALEC) has on its website multiple areas of model legislation, including the Financial Accountability for Public Employee Unions Act. Whatever your philosophy may be on the American Legislative Exchange Council, our position, as a policy matter, is that this is not a source such as the Pew Research Center, the Brookings Institution, or the University of Nevada, Las Vegas. There are plenty of sources within our state. This is something outside of our state. We would urge that any legislation going through this session be for Nevadans and by Nevadans. As an attorney, if I was proposing legislation, I would look at model legislation from the American Bar Association. But the ALEC is controversial; it is tied to political interests, and we do not feel it is an appropriate source on which to be patterning proposed legislation.

**Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, and representing Combined Law Enforcement Associations of Nevada, Washoe School Principals' Association, and Washoe County Public Attorneys' Association:**

We stand in opposition to A.B. 109. I wanted to add a couple of points that have not been mentioned. I thank the bill sponsor for bringing it forward. My question is why? I have heard Tenth Amendment things all the time from Washington, D.C. and Nevada, and that is what this seems like. We want the state to do what the federal government is doing so we can ignore the Tenth Amendment and bring that into question and do what they do in Washington, D.C.

I have to stress that we are private; our associations are voluntary. For the past 31 years I have represented a number of associations in this state. I can remember only one time in those 31 years that I have been asked to expose what our dues were and who we were paying. It was readily done in an association meeting. We have never had that problem before.

The other issue I bring up is the issue of lobbyists. You can look at all the associations listed in the Legislature's web page. How many of them are being asked to do what we are doing? We have the Nevada Press Association. We have the Nevada Sheriffs' and Chiefs' Association. We have the Nevada District Judges Association. I am a member of Veterans of Foreign Wars (VFW), the Disabled American Veterans, the American Legion, the Elks Club, the International Police Association, and the Reno Police Protective Association.

As far as being transparent, you ask for something and you get it. We have always done that. I run a state organization now that has over 36 organizations in the state. We readily tell people what the costs are whenever they want to know. I cannot understand why we need a legislative audit to say something through the EMRB. I have the greatest respect for the EMRB; they have a great purpose. We have legislation already under *Nevada Revised Statutes* 288.270 that provides for unfair labor practices and prohibited practices. It is a great tool, but it is not a place to put the association dues money.

**Chairman Kirner:**

Unfortunately, our videoconference system is not connecting with Las Vegas. If there are those in Las Vegas who have written testimony on Assembly Bill 133, which we will be hearing soon, please pass them to the secretary and we will include them in the minutes.

**Carla Fells, Executive Director, Washoe County Employees Association:**

We are in opposition to the bill. One thing that I have not heard today is that there is a difference between us and the national organizations such as the AFL-CIO and the Service Employees International Union (SEIU). We are a local organization. Our board members are elected. They are employees of Washoe County and they make the decision for Washoe County employees. We have only two paid employees: myself and a clerical person in the office. We do not have any access to national money or deep pockets that would cause any concern for lobbying.

Because we are a local association of employees, the transparency that I would be against is opening up our finances to the AFL-CIO, SEIU, and my co-organizations, because we have just gone through an employee merger with a national organization, and I would not want them to know how much my employees pay or how much money we have in our coffers. In addition, we do not want our elected officials to know how much money we have. We would be concerned about them making us wait for arbitrations or extending disciplinary issues based on knowing how much money we have to put toward those expenses. The transparency that I have is more from that perspective instead of to the public. Our bylaws say exactly what everyone else has



testified to. We have never had a problem with our members not finding out what was on our books or what we pay for anything.

**Rusty McAllister, President, Professional Fire Fighters of Nevada:**

We are in opposition to A.B. 109. I want to bring forth my personal experience. For 12 years I was the treasurer of Las Vegas' International Association of Firefighters Local 1285, which has about \$2 million in assets. We are subject to annual audits from an outside accounting firm, Layton Layton & Tobler LLP in Las Vegas. Through that firm, we make our quarterly tax payments to the Internal Revenue Service (IRS). As Assemblyman O'Neill stated, we use QuickBooks accounting software and send reports to our accounting firm every three months. They compile an annual tax report to the IRS which is included with the financial report that is sent to our parent organization in Washington, D.C. We use QuickBooks to keep track of our records. Every month I was required to print out an accounting of all the money that came out and all of the money that was spent—every expense we had to be accounted for every month in two meetings, one for the executive board and one for the membership. All expenses in our organization are approved by majority rule, by a vote of the membership at our meetings. Salaries of the officers are in our constitutional bylaws. It is a fixed amount that is specifically in our bylaws as a percentage of a certain pay of a firefighter. It is in there and anyone who wants to see it knows it. The dues structure is established as a percentage of pay, and all of our members know exactly what the dues amount is before they voluntarily sign the card to join our union. I had one guiding principle as the treasurer for 12 years: fear. If you screw up, if you do something wrong, you go to prison. I do not want to go there.

**Chairman Kirner:**

Are there questions from the Committee? [There were none.] If you have something new, please share it with us.

**Patrick Sanderson, Member, and representing Laborers' International Union of North America Local 872**

I have been a member of the union since 1963. I have paid my dues every month, and I am not in leadership. I am a dues-paying member. I joined the union because it gave me a better shot at getting a better wage, although at a later time we wound up with pension, health, and welfare, which we had to vote on. Every single thing that happens in a union meeting comes out of our international constitution; then we have our local rules. We have to follow to a "T" exactly what is said and what is done. I have gone to the union hall and demanded to see financial information. Each time I have been given that information, I have discussed it, and people have given me the answers I needed. I had the opportunity to fight for what I wanted if I was not happy

with the information I was given. If I had more members on my side than they had on theirs, we could change things. Over the years, many business managers and secretary-treasurers were voted out of office because we did not appreciate the work they were doing for us.

For somebody to come in and tell us that we need to give all of this information to every resident of Nevada is disgusting. If every resident of Nevada wanted to pay union dues, we would be happy to give them this information. It is not fair because no small business, no one else, has to do this. This session, they want to jump on the unions and make them do this. Our membership monitors our leadership; we take care of our own. If something is not right, we do the best we can to change it. We have changed it many times.

I am speaking as a union member. I am not the head of the AFL-CIO or the business manager of a local organization or the secretary-treasurer, but I have had those people in my wrath and I have yelled at them many times. I have been able to get every answer I needed or they were gone. If you are talking about illegal people, there are illegal people all over Nevada, whether they are judges, lawyers, legislators, or politicians. We find out that they have stolen money. Does that mean that we have to have more answers from everyone? No, you just have to keep a better eye on them. You do not have to take my dues money, which I hope my managers are checking on, and try to destroy what comes from us. If you want to pay dues, we would be more than happy to take you as a member.

**Stephen Augspurger, representing Clark County Association of School Administrators and Professional-Technical Employees:**

We represent approximately 1,300-plus administrators. We complete an annual process for budget development. It is published. It is presented to our membership at our annual meeting. We have an outside accountant who does the record keeping and reconciliation on a monthly basis, and we report that at our monthly officers meeting. I agree with the testimony that has been presented, and we stand in opposition to the bill.

**Richard Daly, Business Manager, Laborers' International Union of North America Local 169:**

I wanted to follow up on one thing that has not been brought up. Virtually every organization that deals with any level of state, city, or county government is asked to give financial information. If I am negotiating with the city on a development agreement, they want to see my financial information. If I am a contractor submitting to the State Contractors' Board, they want to see my financial information. If I am a bidder on a construction manager at risk (CMAR)

project, they want to see my financial information. In every instance, that information is confidential.

Financial information is confidential by statute every time it is submitted to a local or state government agency. This policy would be a major change or breach of the confidentiality that everybody else in the state enjoys at every level of government. I think most of you, in both parties, regardless of your position, would find it outrageous and offensive if a city or municipality was going to an employee leasing organization to hire their workers, and suddenly somebody says they want to see the financial information for Manpower or Labor Ready or whoever it might be. Most people would find that offensive. Why are we asking for these types of things? You have heard the testimony that the information is available to the membership. The information can be obtained. For the record, Patrick Sanderson is a member of my local union, so if he wants the information, he gets it. The change in the policy of the state, that financial information given to the government is no longer confidential, cuts both ways. Go ahead and make everybody's financial information nonconfidential if that is what you want to do. I think it is a major breach or change in the policy of the state and should be considered before you go there.

When you talk about what a city or county has to make available on their information, that is available to every taxpayer. It is the same with financial information being available to every member of the union. Why we would have a remedy, which is overly burdensome and overreaching by the state, to a problem that does not exist, I cannot fathom. I think you would find it offensive if this was applied in any other fashion except to labor organizations.

**Chairman Kirner:**

Thank you for your testimony. [A letter ([Exhibit E](#)) from Ruben Murillo Jr., President of the Nevada State Education Association, was submitted in opposition to A.B. 109.]

I will invite the bill sponsor back up. Assemblywoman Titus, would you like to make closing comments?

**Assemblywoman Titus:**

I was appreciative of all the folks who came to testify, because what makes this country so great is that everybody can listen to testimony. I learned a lot. I learned that if these unions are already doing what has been required of the private unions all these years, it should be a nonissue for them now to make it policy that the public unions are officially required to submit financial records. It sounds as if some of the public unions are already doing it for their members, but they are not required to do it. I give them kudos for offering this

information. However, if a change in leadership occurs, the next group may not be willing to share financial information with their members. I appreciate equality between the public and private sectors, and I appreciate you considering this bill.

**Chairman Kirner:**

I will now close the hearing on Assembly Bill 109 and open the hearing on Assembly Bill 133.

**Assembly Bill 133: Prohibits a licensed contractor from knowingly employing an unauthorized alien. (BDR 54-517)**

**Assemblyman Ira Hansen, Assembly District No. 32:**

I represent Assembly District No. 32, which is made up of seven counties, including Esmeralda, Humboldt, Lander, Mineral, Nye, Pershing, and Washoe. I am here to present Assembly Bill 133, which prohibits a licensed contractor from knowingly employing an unauthorized alien. The purpose of this bill is to ensure all contractors operate on a level playing field and are not utilizing workers who will be paid below-market wages due to their undocumented status. Federal law already prohibits employers from employing unauthorized aliens; however, it also precludes states from taking civil or criminal action against employers for employing unauthorized workers. Several states, including Arizona, have enacted laws to impose sanctions on licensed businesses for violating provisions relating to the employment of unauthorized workers. In 2011, the U.S. Supreme Court upheld Arizona's law, which requires employers to use the E-Verify system through the U.S. Department of Homeland Security and Social Security Administration to confirm an employee's right to work in the state. A violation of the Arizona law is punishable by suspension or revocation of the employer's business license.

I would like to walk the Committee through the substantive sections of the bill. Section 1, subsection 1, prohibits a licensee under Chapter 624 of *Nevada Revised Statutes* (NRS) from knowingly employing an unauthorized alien. For purposes of this bill, the term "unauthorized alien" utilizes the definition provided in federal statute. Subsection 2 requires the State Contractors' Board to investigate each complaint submitted alleging a violation of subsection 1, except a complaint which the Board determines is based solely on race, color, or national origin. The purpose of this section is to ensure the complainant has some sort of proof that the employee is unauthorized in order for the Board to investigate the matter.

Section 1, subsection 3, provides that the Board must verify the authorization status of an employee involved in a complaint, not by making a determination

independently, but rather by obtaining the status from the U.S. Citizenship and Immigration Services of the Department of Homeland Security. Subsection 4 requires the Board to provide notice, hold a disciplinary hearing, and, if the Board determines the licensee has violated subsection 1, impose discipline. The Board shall (a) order the licensee to terminate the employment of each unauthorized alien employed by the licensee and (b) place the licensee on a three-year probation, during which time the licensee must file quarterly reports with the Board concerning each new employee of the licensee.

Section 1, subsection 5, requires the Board to revoke, after notice and hearing, the license of any licensee found to be in violation of a probation order or commits a second violation during the three-year probationary period. Subsection 6 provides licensees with a rebuttable presumption that an undocumented worker was not knowingly hired if the licensee can show that it verified the employee's eligibility to work using the E-Verify system or obtain proof of citizenship as required by federal law. Subsection 7 defines the term "employ" to include all persons receiving compensation from the employer either directly or indirectly through contracting.

However, that bill as presented will not pass. I met with the State Contractors' Board, and they have proposed a friendly amendment ([Exhibit F](#)), which I will accept in exchange for their support on the amended bill. The reason we did that is the State Contractors' Board does not have the training or the expertise to go after people's federal immigration status. It is outside of their scope. Instead of having them do all of the things that I would prefer them to do in my original bill, what they would essentially do after a federal attorney's ruling against a licensed contractor in Nevada, is file a complaint against the contractor for violating the federal immigration statutes.

Unless the federal government becomes aggressive about enforcing our borders and protecting American workers from unauthorized competition from people who do not belong in the country, not much is going to change. I have seen statistics that show up to 30 percent of the entire workforce in Nevada are undocumented aliens. They are not supposed to be in the workforce. Some folks came by my office and talked about minimum wage. They wanted to increase the minimum wage up to \$15 an hour. The minimum standard they determined was \$22 an hour for a man, a woman, and a child to live on. My sympathy in all of these discussions goes to the workforce of Nevada, especially two groups that are forgotten in these discussions: the native workers in this state and the legal immigrants whose wages are constantly undermined by having an unlimited supply of labor, made up of people who are not even supposed to be in the country.

If you really want to see an increase in the minimum wage in Nevada for the legal immigrants and blue-collar workers and the average high school graduates, then you have to limit the supply of labor. As long as there is an unlimited supply of labor pouring into Nevada, you are never going to see an increase in wages.

I will give you an example of where this applies. In February 1986, I received my state contractor's license. That was 29 years ago this month. A couple of years earlier, in 1984, the average wage for a private-sector journeyman-tradesman in Nevada was \$14 per hour. At that same time, the minimum wage was \$2.75. If we round that out to \$3 per hour, 5 times that would be \$15 per hour, which is about what a journeyman in the private sector was receiving in Nevada. Today, if you were to take the current minimum wage of about \$8 per hour and multiply it by 5, the average wage would be almost \$40 per hour in comparable buying power. Imagine if the average person in Nevada in the construction industry was making \$40 per hour.

We are going to discuss the prevailing wage issue. Prevailing wage was not much of an issue back then because the private sector and the union people made almost the same wage. What changed over that period of time? The number one change was that the unions, by having that minimum wage standard, were protected from an unlimited supply of competition that the private sector—the residential contractors, the high school guys who went into the construction industry like I did—were then subjected to. So today, if you were to go to a residential housing tract in Nevada and look at how much the average worker is getting paid, it is almost exactly what I was getting paid more than 30 years ago.

How do you solve that problem? It is up to the federal government to enforce the border. I do not blame anyone who tries to make a better life for themselves and their families. If you are making \$1.50 per hour and someone offers you \$9 per hour to work in a casino in Nevada, that is a fantastic boost in your income. Our focus should be on the people who do it legally and the people who are already here who are suffering because there is a dramatic drop in wages.

Franklin Roosevelt once talked about the forgotten man. In this discussion over something as simple as saying, "You have to hire people who are legally in the country," the forgotten man in that discussion is the average Nevadan. This represents the majority of people in the state who do not go to college, who used to go into the clubs and make what we would call today a middle-class living, or they would go into construction, and they were able to provide reasonably well for their family. In today's dollars, that would be

\$50,000 to \$75,000 in income. That is what people like myself made coming out of high school.

Remember the days when people could go from high school to the clubs and make a decent living? What changed? There were some economic factors, but the number one thing was the unlimited increase in the supply of cheap labor. I am looking out today for the forgotten person in Nevada, the guy that does not have a bunch of lobbyists, does not belong to a union, and who wants to provide for his family. You will find that the contractors, people like myself who insist on employing only people legally in the country, have to pay a higher wage than someone who can use people who do not belong in the country and who are happy to work for cash under the table. I have to bid jobs against those same people, and that gives them a tremendous competitive advantage. Ultimately, you see the constant downward slide in the average wage in Nevada.

We also see this change reflected in the amount of tax revenue we receive for the state. As we pay less and less to our workforce, there is less available for them to pay back into the tax pool. Not only do they pay less, but they extract more because they still have children in the schools; they have programs that everyone else helps subsidize. That means the people who are making a higher wage have to pay a disproportionate share because we have allowed our standard of living in the state and our average wage to decline proportionally.

That is a broader picture, but the one thing I would like to see is, if a licensed contractor knowingly employs someone who does not belong in the state, he should be punished for it. Unfortunately, we cannot enforce that on the state level. We have to rely on the federal government, and I do not think anyone would deny that the federal government does an incredibly miserable job in enforcing any kind of border security, and there is no protection whatsoever for the average American worker anymore in that respect.

While this bill may be symbolic, it is symbolic in the sense that someone needs to start talking about the needs of the legal workers and the legal immigrants in the state who are seeing their standard of living maintained basically at minimum wage for indefinite periods of time, remaining at entry-level pay positions because the minute they want higher pay, there is an unlimited supply of people who would gladly take that job.

**Assemblywoman Bustamante Adams:**

What is your current vetting process when hiring?

**Assemblyman Hansen:**

There is not a required vetting process in Nevada. Assemblyman O'Neill has a bill, Assembly Bill 172, which will require E-Verify on public works only. Several states have E-Verify for all contractors, which I would like to see as it would protect the legal worker and the legal immigrant worker from unfair competition. Right now, as far as I know, there are no standards required for any contractor.

**Assemblywoman Bustamante Adams:**

The amendment does not put the onus on the Contractors' Board, correct?

**Assemblyman Hansen:**

No, it would be on the U.S. Attorney General to go after a contractor who knowingly hires illegal workers. I do not know if, in our lifetime, we will ever see a case because they are not enforcing that kind of thing at all. We can have dramatic changes as we have seen politically. We have a new attorney general in our state now, Adam Laxalt, who is aggressively going after things that no one would have expected. I would love to see that on a federal level. If this is in place, and there is a contractor who is knowingly using people who are not supposed to be in the workforce on a federal or state project and has the opportunity to use the E-Verify system and fails to do so or deliberately ignores it and is caught, then the State Contractors' Board would be authorized to go after his license. That is what the amendment does.

**Assemblyman Ellison:**

With the Office of the Attorney General and the amount of work that has to be done there, do you think that if someone called the Contractors' Board and said there is a licensed contractor in Las Vegas building a motel, would they show up and investigate the licenses?

**Assemblyman Hansen:**

No, because federal law precludes states from taking civil or criminal action against employers for employing unauthorized workers. In other words, if Attorney General Laxalt attempted to do that and went after me for knowingly and intentionally hiring people and paying them substandard wages, he could not do a thing about it. It would have to be a federally enforced law.

**Assemblyman Ellison:**

Why do we pick and choose what laws we feel should be investigated?



**Assemblyman Hansen:**

As you know, there are a lot of politics behind all of this. Ironically, I was in agreement with President Obama when he was running for office and he talked about the need to restore blue-collar, manufacturing, middle-class jobs to America. That is what we are talking about here. Just as we have seen with free trade, all of those jobs taken overseas, we have done very similar things to our blue-collar workforce. Now we are subjected to what we used to call unfair, cheap labor competition from third world countries. That is somewhat what we are facing here today. I agree with President Obama; however, I wish he would implement a policy like we used to have in the United States. We used to protect our manufacturing base. We limited the amount of immigration in the country and saw an explosion in two things: the manufacturing and industrialization of our country, and the American middle class. When we limited immigration, starting back in 1924, we saw an explosion in the pay scale for average blue-collar people.

I would like to say, in defense of some of the union people here, that child labor laws, minimum wage laws, 40-hour work weeks, overtime pay, mechanic's lien laws—those were all part of the American labor movement. The prevailing wage provision was introduced by U.S. Senator James Davis and Representative Robert Bacon who were both Republicans, and signed into law in 1931 by President Herbert Hoover. I bring that up to show that there was a time in America when people were not ashamed to protect our country. The "arsenal of democracy" in World War II emerged because of almost a century of trade policies we used to openly protect American manufacturing from unfair foreign competition. We did the same thing on the labor side. We limited the supply of immigrants coming into our country, and at the same time there was exploding demand for labor in our country. That is where the American middle class comes from. That explains the decline in the American middle class and the stagnation in wages for over 30 years—no change except downward—and Nevada is worse than the others, because of the incredible number of illegals we have in our job market.

The bill is symbolic at this point, but we should start standing up for the American worker and the legal immigrant because those are the ones who are losing out in the long run on this wage issue. I would love to see the Nevada that I used to know, where we had money for our schools, and we did not have to have all of these subsidies for people who are getting paid minimum wage in some of our main industries.

**Assemblywoman Diaz:**

Is E-Verify still a part of this bill?

**Assemblyman Hansen:**

It is not directly part of this bill. If we pass Assemblyman O'Neill's bill, we will have that. I do not know the status of the requirements for E-Verify on federal projects. A lot of the construction workers who are still middle class in Nevada are union people who work primarily on highway projects, which are federally funded. There may be an E-Verify requirement there. I am not sure, but I would love to see that applied to private and public sector employment.

**Assemblywoman Diaz:**

Do you know how accurate the E-Verify system is? Do you know how many databases are used?

**Assemblyman Hansen:**

I have been doing some homework, and it is pretty accurate and getting better. I remember an Assemblywoman once said, "Do not let the perfect stand in the way of the good." If E-Verify is not perfect and if there are some flaws in it, it is still better than what we have now.

**Lynn Chapman, State Vice President, Nevada Eagle Forum:**

I would like to say on the record that there has been a betrayal of the American workers. According to *Computerworld*, on February 4, 2015, Southern California Edison announced it was cutting the jobs of 500 American information technology workers. At the same time, the company was hiring approximately 500 foreign workers who were H-1B nonimmigrant guest workers. They did have visas, but when we have 11 million science, technology, engineering, and mathematics (STEM) workers with degrees who do not have jobs in their fields, something is wrong. There has been job creation, but what we are getting are retail sales clerks and waitperson types of jobs. They are low-wage and part-time. That is where a lot of the illegals are in competition with Americans. There are currently 8.7 million people unemployed and 9.28 million people who are not in the labor force. They are dropping out and not officially being counted.

Our American workers are struggling. We have a large unemployment rate, and our young people have a huge unemployment rate. Young black men are the ones who have the biggest problem. The number of young men who are unemployed is astronomical, and that is a shame. There is not a shortage of American workers; there is shortage of really good jobs. When there are good jobs coming up, they are given to non-Americans. We do have a problem. We should do something about it, and this bill would be a good start.

**John Wagner, Chairman, Independent American Party:**

I am waiting to see what Assemblyman O'Neill's bill looks like. I support this bill. It is a step in the right direction. My daughter lives in the Bay Area. She used to work for a roofing company and was in charge of human resources. One day, one of their workers was stopped for a traffic violation. They found out he did not have a driver's license and was not in the country legally. That was brought to my daughter's attention. She was in the position where she should know these things, so she announced that the company was going through their records and verifying who was legal and who was not. On the following Monday, their workforce was down to almost zero. She was flabbergasted by this result.

I have nothing against legal residents. My grandchildren's father came from India, and he is a legal resident. He took citizenship because of that. A lot of the illegal immigrants are taking the lower-paying jobs. Those are the jobs we used to start with when we were kids working part-time and in the summer. When we graduated, some of us went to college and some did not. As a result, these workers are priced out of the wage market because companies can hire other people under the table and not worry about paying benefits. This is what I have against it. It would be good if we could get rid of the people who are not here legally.

**Chairman Kirner:**

Are there any others who would like to testify in favor of A.B. 133? [There was no one.] Is there anyone who would like to testify neutrally, meaning you do not take a position for or against the bill?

**Misty Grimmer, representing State Contractors' Board:**

As Assemblyman Hansen mentioned, we proposed an amendment to this bill which he has accepted. We are here to present the amendment. [Referred to proposed amendment ([Exhibit F](#)) and explanation of proposed amendment ([Exhibit G](#)).]

**Margi A. Grein, Executive Officer, State Contractors' Board:**

The Board's position on this bill is neutral with amendments. Prior to today's meeting, we addressed some of the Board's issues with the language and provided Assemblyman Hansen with a proposed amendment that would address our concerns.

The primary concern of the Board is the bill's intent to create a new area of policy to make determinations and complaints alleging the employment of unauthorized aliens, which has not previously been within the jurisdiction of *Nevada Revised Statutes* Chapter 624. Additionally, the definition of "employ"

as currently written in the original bill could have the unintended consequence of penalizing the contractor for not verifying the employment status of every person employed by the subcontractor he or she hires for a project. The Board believes and concurs that all contractors should abide by the state and federal labor laws; however, our current staff and operations do not maintain the expertise needed to appropriately investigate and determine these types of cases.

While the Board submitted a fiscal note indicating a cost of approximately \$180,000 annually for additional enforcement efforts, such as investigative costs and hearing costs, we are currently unable to forecast what the impact may truly be, as this would be a completely new area of jurisdiction for the Board. It is unknown at this time as well what the caseload of additional complaints would be or if we would need to hire additional personnel with the appropriate expertise to investigate these cases. Therefore, we do not know if our estimated costs are too high or too low. However, our amendment would help to alleviate many of the fiscal concerns.

Beyond the fiscal impact, the Board wants to ensure that we do not detract from our primary objective, which is public protection. If it is the Legislature's decision to pass Assembly Bill 133, we would appreciate being involved with ongoing discussions to best ensure the bill's objectives are achievable in a manner that is operationally sound for the State Contractors' Board. I would like to turn it over to our legal counsel, David Brown, who will explain the proposed amendment.

**David Brown, Legal Counsel, State Contractors' Board:**

I will walk through the proposed amendment [([Exhibit F](#)) and ([Exhibit G](#))]. The change to section 1 is to delete that section in its entirety, rather than create a new subsection. The Board felt a more workable solution was to integrate the general concept into the existing statutory scheme. *Nevada Revised Statutes* 624.3011 relates to disregard of plans, specifications, laws, or regulations and includes, as cause for discipline, failure to comply with Nevada labor laws. We felt that was an appropriate provision in which to include in the amendment. We have inserted NRS 624.3011, subsection 1, paragraph (c), which makes cause for discipline the issuance of a final decision or order coming from the Attorney General of the United States. This provides that the Board is not in the investigation portion of immigration issues, but we will discipline if there is a determination through the proper agency that there has been a violation. We think this preserves the intent of Assemblyman Hansen's original bill.

The change to section 2 deals with authorization of criminal investigators. In my opinion, it is not necessary as proposed in the original bill. Since we would integrate the violation under the existing NRS 624.3011, the compliance investigators would be authorized to proceed with processing the complaint and the investigation as it moves forward.

The change to section 4 relates to NRS 624.300. That is the provision that provides the Board authority to discipline. We have included a portion of the original section 1 in subsection 6. That would maintain that if a licensee is found to have violated NRS 624.3011, the Board would order the licensee to terminate the employment. Practically speaking, that would probably have happened through the Attorney General investigation. It also provides for the probationary period to be not less than two years and requires quarterly reporting. At the same time, our amendment would provide that the mandatory minimum probation does not limit the board in any instance from penalizing the violator through suspension or revocation. If it is a serious and egregious offense, if they have an entire work crew of unauthorized individuals and have exposed them to dangerous conditions, there may be circumstances where the Board feels that revocation of the license would be appropriate. The Board seeks to maintain that discretion.

Section 5 reverts back to its original form because utilizing NRS 624.3011 automatically kicks in the normal investigation procedure. Those are the changes that we propose.

**Chairman Kirner:**

A fiscal note has been added. I have that number as \$178,500 per year. Is that correct?

**David Brown:**

That is correct. That was worked out for the original A.B. 133.

**Chairman Kirner:**

Without your amendment?

**David Brown:**

That is correct.

**Chairman Kirner:**

So with the amendment, my guess is that there is more regulation, more management involvement, and that number may go up. Is that what I am hearing?

**Margi Grein:**

We are unable to determine what that cost would be. We do not know how many complaints we would have. We roughly figured a conservative estimate of 170 complaints per year; however, that was before our amendment. It could be substantially less or it could be substantially higher. We have no way of tracking that at this time.

**Chairman Kirner:**

You do not have a sense for that one way or the other?

**Margi Grein:**

No, we do not.

**Assemblyman Nelson:**

I think you answered my question. I had a question on the fiscal note. Did you say that with the change it would be worse with the amendment? It seems to me that under the amendment the fiscal note would go down, right?

**Margi Grein:**

We have not looked at that in any detail. Yes, I would assume it would go down based on the amendment we proposed.

**Chairman Kirner:**

But it would not go away.

**Margi Grein:**

That is correct.

**Assemblyman Nelson:**

Does the Board currently have a policy on this issue? If something comes to your attention and there is no question there is a violation of federal law, is your position now that it is not our problem?

**David Brown:**

We are dealt the hand from the Legislature. There is this section in our statutes, NRS 624.301, which states that the contractor can be disciplined for violating state laws. There is not a section that states that for a federal law. There are some jurisdictional issues on that. For instance, NRS 624.3011 is an exemption portion. It carves out certain exemptions from the Board. That includes things like the handyman or an owner-builder, but it also includes federal projects. We have no jurisdiction on federal projects. The Legislature has not, heretofore, identified specific federal legislation, the violation of which would constitute cause for discipline. This would be a first.

**Chairman Kirner:**

Assemblyman Nelson, our legal counsel has a couple of words that might be helpful to you.

**Matt Mundy, Committee Counsel:**

I wanted to point out that the Nevada Tax Commission as of 2007 has similar authority to issue administrative fines against any person who hires or employs an unauthorized alien. In fact, the language in the amendment tracks it verbatim. But that applies only to any person who has a business license in the state including contractors. That is NRS 360.796.

**David Brown:**

That was referenced in the original bill, and we took a look at that statute. It appeared to be good precedence, so we adopted it for our amendment.

**Assemblyman Ohrenschall:**

Mr. Brown, the bill sponsor mentioned his feeling that there are a lot of contractors who are employing undocumented aliens. I do not know how long you have been counsel for the Board, but what has been your experience? Are you aware of many prosecutions at the federal level of Nevada contractors who are employing undocumented workers? Have you pursued other remedies that our counsel just mentioned?

**David Brown:**

No, we have not had statutory authority to do that heretofore, so that has not been something that the Board has done. Ms. Grein testified that the statutory mandate for the Board and the enabling statute is the health, safety, and welfare of the public. That is our primary concern. Our activities have not focused on the issue you mentioned. Because it is not in the statute, we have not pursued what we call an industry-regulation violation which does not relate to a direct injury to members of the general public.

**Assemblyman Ohrenschall:**

The Board does not keep track of a contractor who is pursued by the federal authorities for employing undocumented aliens?

**David Brown:**

There is not mechanism by which any of that information is communicated. We do not have it statutorily, and there would have to be something coming from the federal government that authorizes that. For instance, in the statute of the former U.S. Department of Immigration and Naturalization (INS) regarding immigration, there is a section which mandates that the immigration agency must respond to state agencies making inquiries. Because this bill has come

forward, that is the first time I have noted that. That is in a federal statute. We have not had cause to. We have been looking after our other responsibilities.

**Assemblyman Ellison:**

Regarding NRS 360.796, that is a statute that is already on the books and it says that if you hire unauthorized workers, it is a violation of the law. Could you clarify that?

**Matt Mundy:**

Yes, that statute applies broadly to anyone who has a business license and hires someone who is an illegal alien. It is the Nevada Tax Commission that has the authority to adopt regulations to issue an administrative fine against a licensee. I looked at the regulations, and I am not sure that they have adopted the regulations yet, but that went into effect in 2007.

**Assemblyman Ellison:**

That throws a kink in the slinky. This is a nation of laws that we abide by, and the Contractors' Board is one of them that has to abide by the law. I am confused because, if I am a contractor and I hire a subcontractor, I am in violation of the law. I could lose my license. There are so many reasons that I could be in violation, but if I violate the state and federal law, there is nothing that gets done. What laws are we going to enforce? That is my problem. I help people get their immigration papers all the time because they have done everything right. We are picking and choosing what laws we want to uphold. We have all these laws on the books from the State Contractors' Board, yet we are violating state and federal laws. Maybe you can address that, Mr. Brown.

**David Brown:**

I have to ask first who "we" are in terms of "we are picking and choosing," and if that is pointing a finger at the Contractors' Board. I can tell you that the Contractors' Board does its best to prosecute violations that arise under the statute. If it is the Committee that is picking and choosing, I do not have a lot to say from this side of the table.

**Assemblyman O'Neill:**

On your amendment, you struck all of section 1, including subsection 6, which deals with E-Verify. If I were to talk to Assemblyman Hansen about bringing back the usage of E-Verify, does the Contractors' Board have an issue with using E-Verify, or is it just that it was included in the section that you struck?



**Margi Grein:**

It was the Board's opinion that we wanted to have an issuance of a final decision and entry of an order by the Attorney General of the United States and not that we would go in and investigate the E-Verify. The Board's position was that we would not do the investigation portion, but we could take action against the licensee after the final order was issued. We do not have a position on E-Verify.

**Assemblyman O'Neill:**

If the contractor was required to use E-Verify, would you have a problem with that?

**Margi Grein:**

I do not believe we have a position on that.

**Chairman Kirner:**

I would like to thank the Contractors' Board for testifying. This portion of the testimony is neutral, so please be brief.

**Jack Mallory, representing International Union of Painters and Allied Trades  
District Council 15:**

We are neutral on the bill. Assemblyman Hansen raises the specter of an interesting issue—the issue of compliance with law and prosecution. There is an area that he brought up in his testimony that is not being explored in this bill but should be discussed further by this Committee, and that is the issue of competition and how individual low-road contractors utilize the services of undocumented individuals as independent contractors, or through payment by cash, in order to gain an unfair advantage. There is an area of law where this is policeable. The U.S. Department of Labor does not care about immigration status when it pursues compliance with federal wage and hour law. Nevada does not care about immigration status when it pursues the compliance with state wage and hour law. The problem is, with state law, in order to trigger a complaint with the Office of the Labor Commissioner, which is charged with policing wage and hour law in Nevada, it takes a complaint away from a worker. The likelihood of an undocumented worker coming forward and complaining about not being paid overtime, minimum wage, or, in some cases, not being paid at all, is slim to none. The fact is that this group of workers may be here illegally, they may not have proper documentation for working in the United States, but they are here and they are working whether we like it or not. They are not going to pursue compliance with the law because coming out of the shadows means that they are going to expose themselves to other legal action.

There is a way that this can be addressed, and that is through this body adopting some sort of a policy of very limited and restricted third-party private right of action in the area of wage and hour compliance where an employers association or labor management fund could, on behalf of an employer or employee, pursue a complaint with the Labor Commissioner's Office. When there is a complaint and it has been found to be a violation by the Labor Commissioner's Office, and the citation is issued for the violation, it is my understanding that the Labor Commissioner then notifies the State Contractors' Board, which then takes action against the licensee.

**Chairman Kirner:**

Again, testimony now is neutral, neither for nor against.

**Patrick Sanderson, Member, and representing Laborers' International Union of North America Local 872**

Sometimes bills wind up causing way more havoc than a person might realize due to the need to enforce them. I moved to Alaska in 1975 and went to work on the pipeline. Right after I got there, they passed a residency card requirement whereby only residents of Alaska could work on the pipeline. That meant that you had to have utility bills in your name, or an Alaska driver's license. Right after that law passed in their Legislature, people started selling documentation. You could buy a driver's license, fake utility bills, or anything you needed for \$25 on up.

**Chairman Kirner:**

Are you testifying against this bill?

**Patrick Sanderson:**

This is neutral. What I am telling you is, if you follow through on this, it will be next to impossible to enforce it in a good or bad way. I am all for residents of Nevada. I was born and raised here. I worked all of my life here, except for the years I spent in Alaska when it got slow in construction here. You wind up with the same printing presses, with everything that you need. Whether you go to the federal government or the state government, there is fake documentation out there and it is easy to get. You just have to pay the money to get it. Think before you leap. I wish everyone the best luck in the world on this. I do not know how to do this right. Almost every way has been tried and failed, but if you can come up with a good way, I am all for it. I do not understand how the Contractors' Board or the state and the federal government are going to enforce this. Then you go to court and there will be lawsuits in the middle. It is going to cost a tremendous amount of money. I think the intention of this bill is good; it puts Nevada residents to work, and Americans to work. But how can you do it properly? It is next to impossible. That is my neutral comment.

**Chairman Kirner:**

I will now ask those opposed to this bill to come forward.

**Senator Moises (Mo) Denis, Senate District No. 2:**

I am here representing Nevada's Hispanic Legislative Caucus. The discussion on the amendment may change our position. I am only prepared to speak against the existing bill. I want to put some things on the record.

**Chairman Kirner:**

The bill sponsor has agreed to the amendment, so please figure that into your testimony.

**Senator Denis:**

I can try. The amendment basically changes the whole thing. In section 1, subsection 6 the bill talks about E-Verify. One of the concerns we have is that E-Verify is made up of 20 different databases. If it comes back negative, you do not know which database is wrong and you have to figure that out. If it gets denied, you have eight days to go to the appropriate agency to file an appeal. You have to be an immigration expert to file an appeal. If you are being tagged incorrectly, which we have seen happen, then again you have to be an immigration expert. That is an issue. It creates a conflicting dynamic between the contractors and the workers. The contractor is going to be quick to fire an employee instead of trying to clear up the issue because there is so much involved.

In section 1, subsection 6, the bill talks about a rebuttable presumption. Basically you are saying they are guilty, and you have to prove innocence, as opposed to assuming that the contractor is innocent and having to prove that he did not do all the things he is accused of. That subsection talks about whether the licensee used the E-Verify program and complied "in good faith with the requirements of 8 U.S.C. § 1324a(b)." A better way would be to presume the contractor is innocent and then you have to prove that he is not.

It also negatively impacts the community because contractors are going to be afraid to hire. Anyone can file a complaint with the Contractors' Board. Somebody can say, "It looks like there are a bunch of Mexicans working here. One of them must be illegal, so we should file a complaint." That is the concern because it could be other communities, not just the Hispanic community. People could just assume that and file a complaint. The Contractors' Board then has to do something about it.

As was mentioned earlier, it could be expensive to implement the bill in its original format. We know that there are issues that need to be resolved.

Immigration reform is really the solution. We need to continue to put pressure on the federal government to fix that.

I have some colleagues in Utah who created the Utah Compact. They acknowledged that they need workers in Utah. They are trying to find a way to be able to use the immigrants for work. So while there has been talk here that there are too many workers, Utah proved in their case that they are turning down new businesses because they do not have the workers there.

This bill would also encourage frivolous complaints and I think the burden should be on the investigator, not on the contractor, to prove whether a complaint is right or wrong. They have ways to do that when they hire employees, such as presenting social security numbers and documentation. There are issues there, but those can be resolved.

Those are the issues I wanted to address on the original bill. Based on what I heard from the amendment, most of these issues would be taken out of the bill. Basically, the Board needs the federal government to determine if there is a violation, and it comes back to the state if that is going on. The Contractors' Board would address it. To an extent, that is how it is currently done anyway.

**Chairman Kirner:**

[A letter ([Exhibit H](#)) from Astrid Silva was submitted in opposition to A.B. 133.]

Assemblyman Hansen, would you like to make some closing comments?

**Assemblyman Hansen:**

Regarding whether the Contractors' Board does this in the first place, they do it all the time already. I have a press release from the State Contractors' Board from February 20, 2015, and it says, "Former 'most wanted' unlicensed contractor charged with felony; eight others busted in February sting." The Contractors' Board enforces cases like this all the time. Their ability to do it and do it properly is no problem.

As for attracting employment, they mentioned in Utah they are having trouble getting workers. The best way to attract employees is on the wage scale. If I run a job ad tomorrow and offered \$9 an hour for plumbers, I would get zero hits. If I offered \$100 an hour, I would get a thousand hits. Somewhere there is a middle ground. The higher that number goes, the greater the likelihood that you will be able to attract quality employees into the state.

The fiscal note issue is a red herring, because once you have the amendment in the bill, it is all done on the federal level. People would have to be prosecuted

first by the federal Attorney General. The likelihood of Nevada having to spend any money or time on that is zero.

In terms of the E-Verify question, E-Verify is done at the time of hiring. If you had E-Verify, you would not all of a sudden have to fire people. You use E-Verify at the time you are going to employ workers, not after they have been employed. The reality is that this is a federal issue. Until we get significant control of our borders again, and limit the amount of immigration so that we can lower the 8 percent unemployment rate in Nevada, my bill is just symbolic. I think it is necessary to do it, if for no other reason than to show to the rank and file people in this state—who are frustrated with their wages being stagnant or going down, having two jobs to make the same amount they used to make from a single job, and the overall malaise we find in our state—that they deserve a symbolic pat on the back and that we do care about them. That is something the Nevada Legislature should give serious consideration to. I urge you, with the amendment, to support Assembly Bill 133.

**Chairman Kirner:**

I will close the hearing on A.B. 133 and open up the meeting for public comment. [There was none.] This meeting is adjourned [at 4:03 p.m.].

RESPECTFULLY SUBMITTED:

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Jennifer A. Russell  
Committee Secretary

APPROVED BY:

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Assemblyman Randy Kirner, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** February 23, 2015

**Time of Meeting:** 1:32 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 109	C	Assemblywoman Robin Titus	Testimony in support
A.B. 109	D	Bruce Snyder, State of Nevada, Employee-Management Relations Board	Proposed amendment
A.B. 109	E	Ruben Murillo Jr., Nevada State Education Association	Letter in opposition
A.B. 133	F	Nevada State Contractors' Board	Proposed amendment
A.B. 133	G	Margi Grein, Nevada State Contractors' Board	Explanation of proposed amendment
A.B. 133	H	Astrid Silva, Progressive Leadership Alliance of Nevada, Nevada Immigrant Coalition and Dream Big Las Vegas	Testimony in opposition