

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

**Seventy-Eighth Session
March 25, 2015**

The Committee on Commerce and Labor was called to order by Vice Chair Victoria Seaman at 1:33 p.m. on Wednesday, March 25, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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. 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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Randy Kirner, Chairman
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:

None

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Matt Mundy, Committee Counsel
Leslie Danihel, Committee Manager
Connie Jo Smith, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Thom Reilly, Director, Morrison Institute for Public Policy, Arizona State University
Dan Schinhofen, Commissioner, Board of Commissioners, Nye County
Ande Engleman, Private Citizen, Carson City, Nevada
Victor Joecks, Executive Vice President, Nevada Policy Research Institute
Carolyn Goodman, Mayor, City of Las Vegas
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada
Steve W. Driscoll, City Manager, City of Sparks
Gerald Antinoro, Sheriff, Storey County
John Wagner, State Chairman, Independent American Party of Nevada
Gerry Collins, Vice President, Nevada Alliance of Retired Public Safety Officers
John Faulis, Chairman and Chief Executive Officer, Police Managers and Supervisors Association, Las Vegas Metropolitan Police Department
Timothy Ampulski, Member, Service Employees International Union
Tom Collins, Commissioner, Board of Commissioners, Clark County
Martin C. Bassick, President, Local 1107, Service Employees International Union
Jeffrey H. Keefe, Private Citizen, West Orange, New Jersey
Ruben R. Murillo, Jr., President, Nevada State Education Association
Steve Sisolak, Private Citizen, Las Vegas, Nevada
Chris Giunchigliani, Private Citizen, Las Vegas, Nevada
Ruben Garcia, Private Citizen, Las Vegas, Nevada
Rusty McAllister, President, Professional Fire Fighters of Nevada
Jeffrey Church, Private Citizen, Reno, Nevada
Christina Conti Rodriguez, Private Citizen, Reno, Nevada

Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees
Stan Olsen, representing Nevada Association of Public Safety Officers
Carla Fells, Executive Director, Washoe County Employees Association
Tracey Thomas, Private Citizen, Sparks, Nevada
Teresa Twitchell, Private Citizen, Sparks, Nevada
Uriah Wise, Private Citizen, Carson City, Nevada
Loralei L. Barr, Board Member, Carson City Employees Association
Chris Ferrari, representing Consumer Health Care Products Association
Liz MacMenamin, Vice President of Government Affairs, Retail Association of Nevada

Vice Chair Seaman:

[Roll was taken, a quorum was present, and protocol was explained.]
Assembly Bill 295 will not be considered today.

Assembly Bill 295: Revises provisions relating to the provision of certain health care services (BDR 54-698)

We will begin the hearing on Assembly Bill 182.

Assembly Bill 182: Revises provisions relating to collective bargaining by local government employers. (BDR 23-646)

Assemblyman Randy Kirner, Assembly District No. 26:

Since this bill was first introduced, I have received, and I suspect many of you have as well, a barrage of emails from public employees decrying the bill. I have received numerous calls at my district office, which is in my home, with some being unsavory.

The AFL-CIO has launched a television campaign. Much of this is driven by folks who are trying to spread fear about the consequences of this bill. This bill should be argued not on hyperbole but on policy. What it says and what it does not say is important. This is not a union Armageddon, as is being advertised. Rather this bill acknowledges that public unions play an important role, as do the people in the unions who police our streets, respond to our fires, teach our kids, and who administer the many responsibilities of general government. At the same time, it seeks to achieve a balance, or better said, to restore a balance with the right-to-work laws and the powers of public unions. I believe this balance has been muted, and I believe that from time to time, we should be looking at bills related to *Nevada Revised Statutes* (NRS) Chapter 288.

I have spoken with individuals on both sides of this discussion and agree that no bill is perfect. I am confident of two things: this bill will be processed, and I am equally confident that there will be amendments to the bill. I have already been in discussions with many of the affected associations and think we will find a middle ground on many of these provisions. To that end I remain open, but intimidation is not the best method for give-and-take discussion. I think the discussion has to focus on what the best policy is for Nevada and our citizens, as well as the unions and the taxpayer. Given the time constraints, I would like to summarize the bill. Rather than going through it page by page, I will talk about some components.

The first component is union dues. Nevada is a right-to-work state. Automatic payroll deductions from government payrolls ensure unions have a guaranteed stream of revenue to fund political and bargaining activities that are often hostile to the interests of those governments and the taxpayer. Essentially, what I am trying to say is that the union has goals and objectives, and the government has goals and objectives. Oftentimes, they are not exactly the same.

Union members should have a direct relationship with their unions or associations, and they should be willing to write a check to them. If not, they should be willing to authorize deductions from their checking account. It is not the job of the government to collect dues.

The second element is doing union business on government time. Once again, the government should not be in the business of sponsoring a union, with their adversarial relationships described earlier, and associated activities any more than they should be funding any other assorted activities. It is the obligation of the union to fund their own workers in the field. This is an enormous cost to the taxpayers, and I do not have those specific numbers here, but I have heard the numbers, and they are quite large.

Teachers should be teaching, police officers should be policing, and firefighters should be fighting fires. In fact, testimony on Assembly Bill 109 of this session reinforced this concept as every union that came forward talked about how they were independent and like a private corporation.

The next component is management and administrators in bargaining units. In terms of who is covered by bargaining units, regarding management and administrators' unions, how is it in the public interest for those who supervise the daily activities of subordinates to be brothers in the association or the unions? This has to be separated. In fact, it is separated in the private sector.

The fourth factor is reduction in force and layoff rule changes. Recent economic factors have caused reductions in force or layoffs and brought into question—even with a court case in Reno—rules as to how elimination of services or reduction of services, budgetary allocations of expenses or loss of revenue impact layoffs. This bill addresses these circumstances. Moreover, this bill also addresses circumstances such as conducting a layoff using simple seniority, especially among specialized skill sets or without regard to performance.

The next component is the evergreen clause—one of the big factors of this bill. For those who do not know of the evergreen clause, it is an extension of an agreement beyond the end of the collective bargaining agreement, or CBA, until a successor agreement becomes effective. This provision that I put into the bill freezes wages and salaries until such time as a new agreement is reached. Effectively, this encourages bargaining in good faith on both sides.

The fifth component is binding fact-finding and notice of final offers. This is about transparency. This section puts the decision in the hands of elected officials on behalf of people as to whether binding or fact-finding is a suitable means to settle disputes on proposed terms of a new CBA. For the benefit of the taxpayers, public notice of final offers are made mandatory in this bill.

The next element is ending fund balance protection. Cities and counties often have an ending fund balance like a reserve for cash-flow purposes. This provision clearly spells out that the ending fund balances are not subject to collective bargaining to resolve issues of financial ability to pay.

Lastly is arbitrations. Arbitration is often used to resolve impasses in collective bargaining. All too often arbitrators come from out of state, have no skin in the game, are unfamiliar with related local issues, know little about competitive wages, and their decisions are final and binding—and often not in the taxpayers' interest. They get to go home and are not stuck with the reduced services or higher taxes caused by their decisions.

Both parties may agree as part of the CBA that arbitration should be pursued under certain circumstances. Keep in mind that elected bodies exist to oversee the government funded by taxpayers and approve budgets that reflect service priorities.

That is a summary of the proposed sections of the bill, which completes my presentation.

Vice Chair Seaman:

Is there anyone in Las Vegas who would like to testify in support of Assembly Bill 182?

Thom Reilly, Director, Morrison Institute for Public Policy, Arizona State University:

I am the former county manager in Clark County, Nevada. Over the last couple of decades, local government salaries and benefits have been trending in an alarming way. Nevada consistently ranks at the top of the nation in the salaries and benefits we award and give to local government employees. However, on the flip end, we have some of the lowest number of employees per 1,000 residents, so trending has been to pay workers more but have fewer of those workers available to serve the public.

The way I read this bill, A.B. 182 is an important dialogue with some positive components. I think it begins to address some of the balances that are needed. For example, in sections 2 and 3, the definition of who is subject to collective bargaining is an important one. I think it is important for local governments.

In section 5, when local governments have to have a reduction in force or lay off individuals, to be saddled with this issue of seniority, which is an outdated personnel tool, and not be able to respond to those individuals who can best serve the public or best serve the needs of the public is a restriction that hampers local governments.

Section 6 covers the evergreen clause which is, until a successor agreement is reached, there should not be any increases. The way I read it, there can be no increases until there is a successor agreement.

Section 8 is something I have talked about for years: we have a lack of transparency when talking about adopting wages and benefits. Any information we can share with the public is very important. It was not that many years ago that Clark County firefighters negotiated with Clark County to prohibit the posting of the collective bargaining agreement on the Web. The issue of transparency is important, and the public should be informed as to where both sides are in the collective bargaining experience.

The last component, and I speak in support of section 13, increases and protects a greater share of local government revenues that are subject to collective bargaining.

I will end with the issue of deductions from the paycheck. We are a right-to-work state. People choose to be part of a union, and the mechanism

to deduct dues from the wages falls with the employer. That is one provision I see as unnecessary in addressing some of the issues about collective bargaining at the local government level. I think since the employer deducts that, it does not help save local governments any money, and people have a right to choose if they want to be a part of collective bargaining.

Vice Chair Seaman:

Is there anyone else in Las Vegas in support of A.B. 182?

Dan Schinhofen, Commissioner, Board of Commissioners, Nye County:

For those of us in the smaller, rural counties, any opportunity to open collective bargaining and help make sense of it is appreciated. In our county, we have five unions. Four of them have fewer than ten members, two of them have fewer than five members—because they do not fit anywhere in the structure of the bill. I will be brief and I hope to speak more on Assembly Bill 190 of this session, but we are in support of anything that will help us get a handle on these issues.

Ande Engleman, Private Citizen, Carson City, Nevada:

I used to manage the Nevada Press Association. I support this bill and, in particular, section 8, subsection 5, paragraphs (a) and (b) that discuss publishing "the final offers" on the Internet. As a citizen and as a press person, the final offers mean nothing unless you know the opening offers that were made. You cannot tell how far someone has come or what has been negotiated if you do not know how it started. Recently in Carson City, when there was a public hearing on the final negotiations, very little information was given. It was not until we had an audit that we discovered all of our city employees who retire will be given lifetime health care, for themselves and their spouses, which is an additional liability to the self-funded city of about \$8 million. Other than that, I support the bill.

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

We strongly support A.B. 182. The first comment I would like to make is on dues deductions. Unions are private organizations, as we were told in the hearing on Assembly Bill 109 of this session. There is no reason for government to use public resources to collect membership dues. This is especially important for current union members who wish to leave their union and who do not know they can. In the last three years, the Nevada Policy Research Institute (NPRI) has helped over 2,000 union members leave or not join the Nevada State Education Association. Many of those individuals told me they did not realize they had a choice when it came to union membership, even though Nevada is a right-to-work state. Having to write a check instead of having dues deducted from your paycheck will help to ensure that workers who

do not want to be part of the union understand that union membership is optional, and they have the freedom to join or not join.

The second comment concerns union leave time. A *Reno-Gazette Journal* investigation found union leave time costs local governments over \$4.6 million per year in southern Nevada.

I am sure you saw the fiscal note on this bill. Unlike most fiscal notes, this fiscal note shows that A.B. 182 would save taxpayers money. The savings to the Las Vegas Metropolitan Police Department would be \$4.7 million in the next biennium.

Finally, concerning removing the evergreen clauses and stopping mandatory binding arbitration, this will allow local representatives of the public to have a chance to rein in out-of-control compensation for the public employees. I want to give you specific examples from North Las Vegas where many of us are familiar with the money troubles that the city has had over the last couple of years. While the recession hurt the city's tax collections, the biggest problem was that employee salaries kept going up. A police sergeant who made \$226,000 in 2012, made \$247,000 in 2014. This was not because of an increase in overtime pay. His base pay increased from \$99,000 to \$105,000, and his benefits rose from \$75,000 to \$87,000. The median household income in Nevada is around \$50,000. This gentleman now receives \$87,000 just in benefits.

A fire captain had his total compensation grow from \$220,000 to \$245,000, again with a similar expanded base pay from \$98,000 to \$104,000. Overall, from 2012 to 2013, North Las Vegas's 500 highest paid employees had their average compensation increase by \$5,000. From 2013 to 2014, it grew by 10 percent, and those 500 employees now make an average of over \$200,000 in total compensation.

Vice Chair Seaman:

Before we continue, I believe Mayor Goodman is in Las Vegas and wishes to testify.

Carolyn G. Goodman, Mayor, Las Vegas, Nevada:

I believe you have a letter from my office and from the mayor of Henderson and management speaking to issues of this bill ([Exhibit C](#)). I think your instruction from the beginning was you are either for the bill, neutral, or against, or if you have issues with the bill, you are against.

Assemblyman Kirner, Honorable Committee, and our illustrious Chair, as mayors of the two largest cities, Mayor Hafen and I witnessed the stark impact of the devastating recession on working men and women in southern Nevada these past years. As we enter a period of recovery, we share in the desire for a robust growth and return to economic stability.

During the recession, just to keep us alive, our workforce and our public service personnel kept boots on the ground, keeping our communities together, despite having to tighten their belts and take cuts and time off, if they were lucky enough not to be laid off. Sadly, many in our workforce have had to leave homes, face foreclosure, or had to move to other states to find work just to keep food on the table for their children and their families. When you see these men and women, one at a time, as individuals, they have faces and needs; they have parents, children, and they just want to support their families and not ask for handouts. But they want to feel worthy, to have self respect, to earn, work, and stay in Nevada. From my experience as mayor, I support collective bargaining for it preserves the right of working men and women to have a higher quality of life.

Vice Chair Seaman:

Mayor Goodman, are you in support or opposition to this bill? We are in the support phase.

Mayor Carolyn Goodman:

You called me to the table. You had said initially, and maybe I misunderstood, that either you are for, neutral, or against, or if you have issues with the bill, you are against. I thought you had depleted those who testified in favor, and then you called me by name.

Vice Chair Seaman:

Yes, I was given a note that you needed to testify and that you were in support. Are you in opposition to the bill?

Mayor Carolyn Goodman:

Based on your instruction, I am not in support. During the recession, unions came forward to make concessions in the best interest of public safety and continued to support and provide all our public services. I believe when union labor is used it provides expertise in the resultant, sought-after end product. I am in favor of prevailing wages. I am in favor of project labor agreements that ensure a fine quality of work, and that was the intent of my comments. That was the basic intent of the letter submitted to you. I do not pretend to be a labor lawyer, but these are my reasons why I cannot support A.B. 182, and specific to your instruction, that if you had comments to make on the bill, you

are not in support of A.B. 182. I am always in favor of discussion and continuing dialogue, for this is how I have always done business. This is my own personal opinion, and I am opposed to A.B. 182.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:

The lessons we have learned today and over the last decade have shown us the need to have serious policy discussions about how we do things in this state. The economic problems of the last several years have forced an examination of how we run our state and local governments. We need to have these conversations, and we need to be open about those discussions. We have taken steps forward, and the Metro Chamber is appreciative of that, and that is why we support A.B. 182, because it allows us to have those conversations. This bill is part of a larger conversation about collective bargaining and finding the right balance and identifying methods that work for all interested parties. We view these reforms as a long-standing priority for our organization. We know that changes need to occur, and the lessons we have learned have positioned us to have the dialogue this session. The degree of those changes should be discussed and what is good public policy. For example, it is difficult to adequately talk about changes without looking and discussing reform to the rules governing public employees and collective bargaining.

Nevada Revised Statutes (NRS) Chapter 288 requires binding arbitration, shifting decision making and budget control from elected officials to an arbitrator who is often outside Nevada making those decisions. We need to have a conversation about binding arbitration. The current method has been a long-standing concern for the Metro Chamber. We are engaged in local government, and we believe there needs to be changes to this policy. In addition, evergreen clauses in nearly all negotiated collective bargaining agreements need to be prohibited. We believe evergreen clauses do not encourage dialogue between the local jurisdiction, and labor groups hinder the ability to have timely pragmatic negotiations. Reform will not be easy, the discussions will not be easy, but we need to have them because they are necessary in order for Nevada to take full advantage of its possibilities for a vibrant future.

Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:

We have heard what this bill is, but let us clarify what it is not. It is not an elimination of collective bargaining. It is not a pay decrease. It is not a benefit decrease. It is not an attack on our public servants. It is a way to ensure that the vast majority of Nevada taxpayers are getting the best services in the most efficient manner. You have heard about the evergreen clause, which is vitally

important. The evergreen clause is a disincentive for the bargaining groups to come to the table if they get to stay under current contract after it ends. Nonelected arbitrators are making decisions that cost millions of dollars and take up a majority of a local government's budget. Democratically elected local government officials should be making those decisions.

Paid union time does not get rid of folks doing union business. It just says that the union needs to pay them for that business. Taxpayers should pay our employees for doing their jobs for taxpayers. The unions should pay the folks when they are doing union jobs—that is it.

I think many people look past dues deductions. I would compare this to The Chamber when it contacts a business and convinces the business to join our organization. After joining, we bill the business and receive the money for that business. The way unions work would be like if the Chamber approached the Cities of Reno or Sparks, had their business license department bill our membership fees, and the City would then forward us the money. The unions can bill their own members and have them send in their dues just like a chamber or other trade organization.

When we talk about management in these discussions, you will hear about bargaining against management. Management is us: you, me, and your friends and neighbors. In a public employee, collective bargaining process, management are all taxpayers in the community. We are all in this together. Our democratically elected local government officials should have the final say on these issues.

Steve W. Driscoll, City Manager, City of Sparks:

I am here in support of A.B. 182. We see the proposals that are in this bill as a good conversation starter to improving the bargaining processes between the local governments and various bargaining units. There are some questions we will watch as the bill goes through the process. Rather than go through the bill item by item, I will focus on a few points.

On the negotiation side, we certainly need to pay the union members when they are at the table. That is part of what is defined by NRS Chapter 288. The preparatory time, however, is not. Not paying for that would be reasonable.

Solidifying the definition for supervisory employees, there are two sections addressed by this bill which are very important. At this point, management is doing its work, which is almost 100 percent of what they do, yet management

is more concerned about what the union is going to do because they are part of that function.

Also, one of the sections is in regard to not allowing salaried employees, police and fire, only salaried employees, to be exempt. That is a problem because in NRS Chapter 288, wages are being negotiated. All employees in police and fire can rise to deputy chiefs, if you will, eliminating layers of management. It would be good to focus on the job responsibility and not the wage or the money that is being earned today.

Providing information is very important. Something our city has done for more than a decade, and we thought it was part of the defined process, is present a strikeout version of the old agreement that has been agreed to by both parties, which is part of the record and dealt with in the approval process. We also show, side by side, the written agreement as it will read after the changes. Further, a matrix is provided indicating all fiscal effects for every change of the contract's duration. That is something that has been done in local government for a long period of time. If it is the intent of the language in this bill to continue that practice, we wholeheartedly support that.

The next issue I would like to address is the reduction of resources within the last several years. When local governments lose money and have to reduce resources to reach a balanced budget, that is done based on services. Services are produced by people—that is all we do. When the seniority system is used to take the last person hired, first person fired procedure, that does not maintain skill sets that are necessary for the jobs that remain. It does not eliminate the skill sets for the jobs that have been discarded or eliminated through the process that the elected officials take forward. To have a layoff process that is directly related to services or reductions would be very helpful.

In addition, proposed language talks about loss of revenues or loss of money. It would be nice to have that better defined. There are many things that represent revenues, such as grant funding and tax collections that change, especially during the recession. To tighten that and give us some specific examples would be very helpful and would not leave that open for interpretation by arbitrators.

The last thing I want to discuss is the ending fund balance. Moving the ending fund balance protection up to two months of cash reserve, taking that out of the *Nevada Administrative Code* and placing it in NRS Chapter 288 protects it. There has been confusion about whether or not that is there. Most jurisdictions need more than 8.3 percent to maintain their cash flow. Our jurisdiction needs to average 12.5 percent per month. There are months when we need to be

over 16 percent in order to make timely payments. We see the end-of-year payments for medical expenses, payroll, and end-of-year contracts that run through different funds. That 16.6 percent is good management of the fiscal process in having that much cash available.

Gerald Antinoro, Sheriff, Storey County:

I am in support of A.B. 182. I believe, as Assemblyman Kirner offered in his presentation of the bill, this is an attempt to regain some semblance of balance. My organization is very small. There are only a few deputies on duty at any given time, but if one of them is off doing union business, I am unable to provide service to my community to the level that it should be provided. At the same time, my community is paying for those individuals to not be there providing service—something is wrong with that.

We need more transparency and more clarity for the public. My constituents want to know what is going on. They have huge question marks as to why the county commissioners have agreed to some contract that is reaching into their pockets and pulling out more dollars. I happen to agree with that, and that is why I am in favor of this bill.

John Wagner, State Chairman, Independent American Party of Nevada:

We are always for maximum freedom, freedom for the individual in particular. He or she should have the choice whether dues are taken out automatically from a paycheck or the union member pays the amount individually. Years ago, I belonged to a union where members paid personally. The company did not withdraw the union dues, which worked well, and the union received its dues every month. Being involved in the local scene, I like to know exactly how the budgets have been arranged. I think all in all this is a very good bill.

Vice Chair Seaman:

Is there anyone else in support of A.B. 182? [There was no one.] Is there anyone opposed?

Gerry Collins, Vice President, Nevada Alliance of Retired Public Safety Officers:

I am retired from the City of Henderson where I served as a police officer for over 25 years. During my years in Henderson, I served as vice president of the Henderson Police Officers' Association (HPOA) and sat on two labor contract negotiating boards involving the City of Henderson. We were instrumental in coming to decisions that saved the City of Henderson millions of dollars throughout the economic downturn. We stand against A.B. 182, and I am here to say that the system works as it is written in NRS. The following bullet points highlight some of the more progressive negotiations we have entered into with the City of Henderson in recent and past contracts.

- In 1984, longevity was removed from the Henderson police officers' contract. When the supervisors' union was formed, no longevity was received, nor has longevity been paid to Henderson employees hired after 1984, creating a substantial savings of millions of dollars for the City.
- In 1995, the HPOA entered into an agreement with the City to reduce sick leave payout upon retirement from 1,600 hours to 900 hours for new hires. This was significant because Henderson was under 100 officers at that time. We are now well over 400 officers, which has created a substantial savings of millions of dollars toward the unfunded liability for the City of Henderson.
- In 2009, the HPOA entered into an agreement with the City for a one-year contract and agreed to no Cost of Living Adjustment (COLA) increase and to reduce paid holidays from 13 to 12.
- In 2010, during renegotiations and because of the economic downturn, the HPOA suggested an extension of the 2009 contract for three years with no increases to any financial element contained in the contract.
- Also in 2010, the City of Henderson attempted to help fund the proposed Henderson Space and Science Center with money from the rainy day fund, approximately \$25 million. The HPOA and other associations with the City of Henderson played a vital part in stopping this venture, and the City was able to use these funds to help bridge budget deficits for the next five years. This would not have happened if the HPOA was not able to negotiate on a level playing field with the City.
- In 2012, the HPOA and other City unions were approached by the City of Henderson and agreed to return 2 percent of wages to assist the City in balancing the budget.
- In 2013, the HPOA and the City entered into negotiations and once again reached an agreement that allowed for no increase in the COLA.

These negotiations were done through bargaining in good faith. It should be noted that in my history with the City of Henderson, negotiations on financial issues never went to impasse and never went before an arbitrator. The contracts were always approved by the council, and our contracts have always been available to the public. If you are saying that the changes listed in A.B. 182 will save the taxpayers money, I present to you the City of Henderson. In my 25-plus year history, I have seen Henderson grow from a small town of 58,000 people to a city just shy of 300,000 people—the

second largest city in Nevada. In that time, the City of Henderson became one of the safest and best places to live in the United States. As a reminder, the City has not had a tax increase since 1987. This was done through the ability to negotiate under the existing laws of the NRS. Members of public safety and service employees who are your constituents urge you to vote no on A.B. 182.

John Faulis, Chairman and Chief Executive Officer, Police Managers and Supervisors Association, Las Vegas Metropolitan Police Department:

I represent over 400 police supervisors at the Las Vegas Metropolitan Police Department (LVMPD). We are opposed to A.B. 182 for the following reasons. Regarding dues deductions, this is neither a cumbersome process nor a costly one for the Las Vegas Metropolitan Police Department. I would argue that this is no different from any and all other payroll deductions that our department handles. One deduction our department facilitates for our members could easily be done by the unions, and this references the 457 or deferred compensation plan. As a result of our members' dues deduction, there is a net profit to the LVMPD in excess of \$1 million per year just for this plan. I think the tradeoff for having this plan with the department and all other benefits that our department receives from the associations is a more than worthy compromise for a menial task of dues deduction. Nevertheless, if this is still an issue, our association is more than willing to reimburse the department for the reasonable expense of a few mouse clicks by one of their employees.

The next issue is paid leave. I would like to inform the Committee that the paid positions in the Las Vegas Metropolitan Police Department were negotiated over time and over several contracts. These were negotiated in lieu of increases to salary and benefits to our members. The argument that this is a waste of taxpayer money is invalid, because these monies were distributed into one bucket versus another. There is a huge financial value far exceeding the cost of these positions in the fact that our association prevents, on a daily basis, numerous lawsuits and problems against the agency. We resolve the lion's share of these disputes between the employer and employees without the cost of litigation or the cost of having unrest among our employees.

A good portion of a labor representative's day is spent on nonunion business through participation in numerous committees, mandatory training, administration of our health insurance plan, and employee benefit trust, just to name a few. I believe these positions more than pay for themselves, in addition to the fact that again, these were negotiated in lieu of a cost of living adjustment and benefit increases over the years.

Concerning supervisory employees, a group that I represent, other than this being a continued attempt to eliminate unions, I have not heard an argument

from any politician as to why this is problematic other than there is a misconception that we are somehow controlling the dollars coming in to our agency coffers and then bargaining for these same dollars. This could not be further from the truth, as we have absolutely no control or influence in this area.

I would like the Committee to know what the public is getting from our association, in addition to avoiding costly litigation in achieving labor peace. In 2010, the Las Vegas Police Managers and Supervisors Association formed a charitable foundation with one simple goal. We are attempting to improve the quality of life for our members and the community they serve. We do not, on a daily basis, hold press conferences or beat our drum, but the time has come to let you know what else we do. On an annual basis, this foundation donates in excess of \$15,000 to local charities, and this amount has increased every year: Candlelighters Childhood Cancer Foundation, Ronald McDonald House, Miracle League of Las Vegas, youth sports teams, college scholarships, school supplies for children in Las Vegas, Thanksgiving dinners to our struggling citizens, gifts at Christmas for the children at Child Haven, encouraging the career advancement of women in policing, and we administer the charitable foundation for the LVMPD, another savings to taxpayers. We are more than willing to compromise and work toward a common goal that is good for the citizens of Nevada, but what we are not good with is the deliberate war on public safety unions. Unions continue to task the men and women with protecting and serving this great state, and I again urge you to oppose this bill.

Timothy Ampulski, Member, Service Employees International Union:

I work for Clark County parks operations, real property management. I have some issues with the idea that if I can have my payroll taken out and placed into my bank account with a direct deposit, why can I not do that same thing with my union dues? There are several Service Employees International Union members here representing our union organization. I know I am not receiving pay for this. I have taken my own time off. Anytime I am involved in any union organization, it is because I have either taken vacation time or sick time. This is my own time.

What is the target of A.B. 182? Mr. Joecks, who testified in support of this bill, stated that the median salary is \$50,000. I am making \$33,000 a year. I am happy to do it. I am happy to provide the service for the county. I love working in the parks. I want to continue doing this for the rest of my life, if possible. However, if your target is someone like myself who is making \$16.50 an hour, you picked the wrong target.

Tom Collins, Commissioner, Board of Commissioners, Clark County:

Collective bargaining is a valuable tool for local government, and it is very important in Clark County. This tool allows us to be consistent with policies, practices, hiring, firing, and providing a safe workplace. A safe workplace and tools to work with are essential in a complex community. We have 39 departments in Clark County, from the Department of Public Safety to jails, to parks, to a Level 1 Trauma Center Hospital, an international airport, and the number one convention and trade show and tourist destination in America for 20 years. Collective bargaining meetings are where management can learn what is going on in the workplace. It is where the rules are made to handle grievances, complaints, policies to treat employees fairly, and avoid injuries and lawsuits. Please look at the folks who keep the lights on, the streets safe, and more importantly, our children and families safe, from child care and adoptions to juvenile corrections and the courts. The infrastructure for a good and healthy community is benefited by collective bargaining.

You should have that information in your office in the letter submitted, but I am unable to present it to the Committee because of delays in the mail and transport. In addition, I would like to say that I have been involved in negotiations a few times and have been on a lot of picket lines. I think there should not be a single person here supporting this bill who has not been involved in collective bargaining, who has not sat at a table to work things out. Many folks from this association and that one, why do they belong to the association? If a person owns a convenience store and comes to a committee hearing by himself, unless he knows one of you, he will likely be told, Thank you very much. Next speaker, versus an organization that is large. That is my opinion. It takes associations and business organizations, whether it is a farm bureau, or a special industry that comes here representing a lot of folks. Right to work for less—the risk.

Referencing the evergreen clause, I have never seen a contract that was not extended while negotiations are still going on. For instance, the deadline is July 1, and the contract expires on a particular date. In the construction industry, we established a 24-hour extension so that we could keep the parties at the table. Sometimes local government will agree to continue until an agreement is reached. What if it is decided not to do that? Whatever result is being discussed, any result is frozen. If there is no new contract, the old contract is continued. It is fixed, whatever it is. It is set that way. That is it. If it is the day before the contract expired, and you were just making \$20 an hour, the day after a person is still making \$20 an hour—same sick days, same holidays, et cetera.

I think it is interesting that some folks have been testifying this session at several committees, not just this Committee, but also Government Affairs and others. These folks want to weaken laws protecting the middle-class working communities, especially public employees, because regional justice centers were built that went over cost and were years late. With baseball stadiums in the north, you built a huge facility and you can only use it a few hours a day? What about city halls and unneeded sewer plants? Those mistakes that were made, are you going to put that on the backs of your employees?

Martin C. Bassick, President, Local 1107, Service Employees International Union:

I am here representing 17,000 middle-class employees in Nevada. We are opposed to A.B. 182. In the interest of saving time, I want to introduce Professor Jeffrey H. Keefe from Rutgers University School of Management and Labor Relations. He is a widely recognized expert on public employees and compensation.

Jeffrey H. Keefe, Private Citizen, West Orange, New Jersey:

I am here as an expert, and not as a representative of Rutgers University or the School of Management and Labor Relations. I am here because I have done analysis on public employee compensation and have published over 80 articles and peer-reviewed research. I was asked by the Service Employees International Union (SEIU) to take a look at Nevada and to look at whether public sector employees are over- or undercompensated ([Exhibit D](#)). I have a fairly standard methodology which has been used consistently by economists for the last 40 years. That is to compare public sector wages with private sector wages. Most of these studies find that local and state workers are underpaid, their wages are lower than private sector workers ([Exhibit E](#)). What people have failed to do is to adequately account for benefits. The benefits of Nevada public employees are better than their private sector counterparts, on average—particularly their health insurance and pension benefits.

When total compensation is put together, including wages and other benefits, and then controlled for their demographic characteristics, what we would call their human capital in economics, that is an employee's productive abilities. When I ran a standard total compensation equation, augmented by a variety of demographic contributions, I found that, on average, a local government employee is undercompensated in the range of 5 to 6 percent under the current law. What I used to do this compensation is the American Community Survey, which is now the Annual Census Survey of the United States. It gave me 18,000 observations in Nevada, and I was able to markup that data for a benefit cost by something that the U.S. Department of Labor collects from employers—the employer costs of employee compensation. That gave me the

cost of what private employers are providing their employees, and it ranges as I think most of you would understand. Smaller employers provide fewer benefits to their workers. When we get to large employers employing 500 or more employees, they start to look more and more like government in terms of how much compensation and benefits they provide their employees.

The other thing that stands out about the public sector in Nevada is that it has a much higher proportion of college-educated labor: 49 percent of the local government employees in Nevada have a bachelor's degree or higher. In the private sector that is considerably less, and I believe the number is 26 percent. You can see there are substantially more educated people in the public sector. What labor economists know, and what you as parents probably know, you want your children to get an education because it pays. Education yields higher earnings over the lifetime, and we have been following this for 60 years in data analysis. Education is the greatest productive characteristic, followed by experience. There are other specialized skills, but what we see in the state is that we have more professional employees in local government. We have more college-educated labor in local government. We have many more individuals who have productive capacities that if they worked in the private sector, frankly, they would earn more. Part of the benefit structure is the retention strategy. Defined benefit pension plans is an employer retention strategy. You benefit from this as an employer.

The bottom line is my analysis tells me that public employees under the current law in local government earn 5 to 6 percent less. I am an expert on collective bargaining, and I will be glad to answer any questions people may have. I have studied this as well. Public employees do not have the right to collective bargaining in the traditional sense that it was argued in the field because they do not have the right to strike.

Ruben R. Murillo, Jr., President, Nevada State Education Association:

I am here representing over 24,000 members and 35,000 education employees in Nevada, and we are opposed to A.B. 182. The Nevada State Education Association (NSEA) requests the Committee exempt teachers and education support professionals from the provisions in A.B. 182. There is an amendment that was too late to post, but we will give it to the secretary so she can include it in the minutes. The amendment states in section 15, employee organizations representing school district employees as defined by Chapter 391 of NRS are exempt from the provisions of this act, and all amendments to statutes subsumed under this act shall remain in effect for such employee organizations pursuant to Chapter 288 of NRS.

The elimination of payroll deduction for the collection of dues would starve our association of the necessary resources to work collaboratively with business groups, with school districts, and with parents. A significant portion of our resource dues are spent on supporting our members in their practice. Specifically, we have been running professional development programs that provide meaningful programs that address the challenges in today's classrooms. We run these programs in collaboration with school districts. Taking away our funding would adversely affect our ability to help educators to be the best they can be in improving student performance. Last year alone, more than 2,500 teachers completed our professional development programs in order to support their practice.

The dues dollars help fund excursions to Montgomery County, Maryland, and to other areas where best practices are in evidence, and to bring those back for implementation in Nevada. We also fund our workers in the field from the voluntary dues dollars. The NSEA and its local affiliates are not afraid of accountability—we welcome it. We have embraced a new program that supports teachers to be the best they can be with our peer assistance and review program. It demands nothing but the best from them in their performance as educators. The collaboration is occurring statewide from Carson City to Reno to Las Vegas. In Clark County, the peer assistance review professional development programs, the teacher mentoring programs, and the national board of certified teachers all have an investment from our association and from the school district. In Washoe County, they work together on Teacher Incentive Fund grants in support of learning objectives and also national board teachers to improve our craft.

When Race to the Top was one of the ways our county could get funding and money, that was a top-rated grant, which was submitted and approved—that was only because of the collaboration between teachers in the school district.

The reason for the amendment language as an exemption is because we are not the problem. We are collaborators and solution finders, not the problem as A.B. 182 clearly says we are.

In terms of the ending fund balance, there is no public story line for collective bargaining between teachers and school districts creating a fiscal emergency or disrupted education in our classrooms. Please look at the school districts' historical budget experience and see the policy adopted by school boards to maintain a minimum ending fund balance. This bill doubles what is in place, and there is no financial reason or justification for that.

In conclusion, we support the funding for education as the Governor has outlined that allows for us to collaborate with our business partners, school districts, and our communities. We also support accountability not only on how that money is spent, but that we have the best qualified teachers in every classroom. Collective bargaining is a process in which we develop collaborative relationships with school districts to accomplish those objectives. Therefore, we ask that school districts, educators, and support staff be exempt from this provision.

Vice Chair Seaman:

Before we take testimony from Las Vegas, I would ask Professor Keefe if he could leave his written testimony with the secretary for the record. I suggest if others have written testimony, please submit it.

Steve Sisolak, Private Citizen, Las Vegas, Nevada:

I currently serve as a Commissioner from District A and have been elected as the Chair of the Clark County Commission. I am here speaking as an individual as it relates to A.B. 182. I rise in opposition to this bill as it is written. I spoke four years ago to the Legislature when Senator Michael Roberson initially brought forward a bill related to collective bargaining. I asked my staff to distribute a flier we sent to you that was put out stating the position I have taken on some issues. While I wish SEIU would have chosen a better picture of me to put on the flier, nonetheless, I defend their right to do that. No one in elected office has more issues or has had more difficulties as it relates to some of these things. Several years ago, when I raised the issue of sick leave abuse, I was a victim and suffered from numerous death threats. At the same time, public safety personnel and the Las Vegas Metropolitan Police Department provided additional security, and we worked through that.

About 99.9 percent of our public employees do an absolutely incredible job. We get more than our money's worth from those individuals. Parts of A.B. 182 I think are acceptable and I can support; for example, section 4, subsection 3, paragraph (b), the reduction of services. I support that. The county and the cities need the flexibility in order to reduce workforce if we have a budget shortfall or a shifting in areas of relative importance. I am not in support of section 5, subsection 1, where we can lay off people without using seniority and issues that have been negotiated over a period of time. As the previous speaker brought up, much of this bill addresses issues that have been negotiated in numerous contracts. If there is a fault with some of the issues as it relates to these contracts and collective bargaining as it exists, I think some of us need to look in the mirror. These contracts were negotiated through numerous county commissions, city councils, and legislatures over a period of decades. What we are dealing with and, unfortunately, you have to deal with

today, is the result of some of that inattentiveness that we dealt with along the way.

I think it is important that, as part of A.B. 182, we need to make public the transparency. The opening offer and the final offers are extremely important. People need to know what those are so that their members and our citizens have a chance to know what they are. I think it is also reasonable to increase the budget surplus or budget reserves which are left at the end and that cannot be figured into the ability to pay, and to expand the group when we get into the ability to pay. Where the public has a problem is when we use a small universe of comparative salaries in order to analyze whether the ability to pay exists.

I will wrap up with two brief comments. The extreme views that exist in our society today are pushing the country and our county in a way that we do not need to go. The public deserves better than this. I appreciate the position you are in, but I think we need to have reasonableness and compromise prevail in this situation. I was given a piece of advice when I first entered public service more than a decade ago: Because you have the power and the votes to pass something does not mean that you should.

Chris Giunchigliani, Private Citizen, Las Vegas, Nevada:

I am a Clark County Commissioner, District E, here as an individual. We did not have time to take this up as a full board, so we are trying to put our individual positions on the record without a position from the county, per se.

I am a public school teacher—a 24-year veteran public servant. I believe I am a public servant, especially when I serve in politics. I have been president of the local teachers' association, as well as the state teachers' union, and have been at the bargaining table many, many times. I have walked many picket lines, but with this bill, when I heard the introduction to it, I made some notes to myself. All collective bargaining is intended to do is make me an equal partner at the table across from management. It does not guarantee anything, but it forces people to sit down and work through the process—that is the beauty of it. If you look at the history of collective bargaining, the private sector had collective bargaining, I think it was the Wagner Act in 1935 and the Taft-Hartley Act. Public employee unions did not get the right to collectively bargain until the 1970s, except in Nevada. Carl Dodge, a conservative Republican senator from Fallon, Nevada, wrote the Dodge Act, which created collective bargaining in Nevada. I think he would be turning over in his grave if he saw this legislation and the attack on public employees. I understand that we have a right-to-work law. The dues in section 1 do not violate that act. I think you have heard from two individuals on either side that it is not part of the problem. The arbitrator has to rule on the ability to pay. Personally, I do

not think you need to double the number at the end. If you want to fence it off a little bit better, then that is something that should be discussed but again, collective bargaining should be treated as equal partners at the table.

Our brothers and sisters in the private sector have the right to strike. Teachers, police, fire, and other public unions gave up that right to strike in order to do it through arbitration. People need to know the history of how we got to where we are. People felt because of the public service we were doing, we were better off and again, it was added by the Legislature, to let us arbitrate rather than have the risk of public strikes.

I found an issue brief from the American Constitution Society for Law and Policy website. I would like to read a few things. "Perhaps the most striking political development in 2011 is the widespread and aggressive assault on public sector collective bargaining rights. While the most highly publicized and most significant changes have taken place in Wisconsin and Ohio, moves are afoot in a number of states." And now we see it in Nevada. This gentleman wrote a brief and argues that attacks are deeply misguided. They serve no purpose, in my opinion, beyond a political, partisan attempt. It does not address budget deficits.

Obviously, people do not know the history as to how A.B. 182 came about. What this bill will take away in section 1, dues deduction, totally creates death by a thousand knives. It affects section 5. Seniority is in the chambers of commerce. It is in every business on Wall Street, and it is alive in the Legislature. Seniority is not a problem.

In addition, if you want more public exposure, section 8 makes good sense—that is fine. We have never had a single constituent that I remember coming to a meeting on our presentations on the budget effect on any collective bargaining agreement. I think Commissioner Sisolak is absolutely correct. We need to look in the mirror. Politicians signed off on those collective bargainings and are now blaming the employees. To come up with a piece of legislation that guts collective bargaining is inappropriate. It is a problem in search of a solution in the long run. To me, this is an attack on the middle class. It is an attack on unions. It is death to collective bargaining by a thousand cuts, whether someone wants to believe that or not. It is an attempt to weaken people's voices. We deserve the right, and I say "we" because I am still a public school teacher—that is still my career and my passion. Do not forget that with collective bargaining, you cannot separate our work jobs from our public jobs. My working conditions are my students' learning conditions, and those are controlled and negotiated by collective bargaining, such as class size. There is not a problem. You have not heard

elected officials come forward and say, "Please fix this." I would strongly urge that just because you can does not mean you should.

Ruben Garcia, Private Citizen, Las Vegas, Nevada:

I am a professor of labor law at the William S. Boyd School of Law, University of Nevada, Las Vegas, and am here on my own behalf. I have taught law for 13 years, the last four of those in Nevada. I am here to speak to some of the history and context of this legislation. I think we have heard some of the background from the people who have already spoken, so I will not go into that further. As you have heard, the collective bargaining system, as I see it, works fine. The real question is, do you want to pass this legislation as written, which would be the next closest thing to repeal, and would make the system so onerous that no one would want to engage in it? I think it is important to draw on some history as well, as the commissioner said earlier. Public employees did not have the right to collective bargaining until very recently, but that right has existed in federal law since 1935. There are various reasons for that, but there was a need for collective bargaining in the public sector. Violent strikes occurred, such as in Boston, together with corruption and public sector employees who were not compensated adequately, so there was a lot of turnover. What collective bargaining has done in all the states in which it exists, 47 of the 50 states, is to provide a bit of labor peace, and also some of the benefits that the employer gets from collective bargaining.

I think the history is important both in Nevada and also nationally. I think this bill, while it may have the best of intentions, has several misconceptions that are fueling a lot of interest. One you have heard about—dues deduction. There is misinformation in much of the country about dues and right-to-work states, and the idea that dues are being used for politics. That is not possible under the law.

The other concern is that this is a partisan issue or that Democrats are opposed to it and Republicans are in support of it. It goes to the polarization in society today, but it is important to remember that public sector employees come in all political stripes. They are Republicans and Democrats, and it is not a partisan issue.

I think you have heard that binding arbitration is a substitute for the right to strike that the private sector enjoys but the public sector employees do not. In these three ways, I think the bill is flawed.

I am still speaking to the impetus for this bill, which is also based on several misconceptions about transparency in collective bargaining. Public sector bargaining is some of the most transparent that exists. In public entities, there

is a lot of regulation on what information must be provided. You also hear of a false division between the taxpayers and public sector employees. Public sector employees are also taxpayers who have an interest in responsible government and responsible budgeting.

Finally, you have heard of the need to restore balance. Collective bargaining is the process to try and achieve balance. If things are working properly and everyone does his or her work, it is not a problem, nor is it a problem to be solved. This bill will not make collective bargaining work better in Nevada or necessarily save the money that it intends to. I think A.B. 182 will only make things more difficult and probably more expensive for the taxpayer.

Rusty McAllister, President, Professional Fire Fighters of Nevada:

I was asked to speak on behalf of several public sector unions as a means of going through some of the sections in the bill. In my research, I came across a couple of quotes I thought were interesting, especially with the heated debate. The first one is striking: "We must close union offices, confiscate their money, and put their leaders in prison. We must reduce worker salaries and take away their right to strike." (attributed to Adolf Hitler, 1933.)

Another quote that counteracts the above says, "Where free unions and collective bargaining are forbidden, freedom is lost." --President Ronald Reagan, September 1980.

I would like to go through a couple of sections in this bill. The dues portion has been well covered. The only cost we found for the employer would be entering the new employee data. I do not think you will find one union that is not willing to talk and to pay for the cost of that data entry, if it takes one hour or two hours, to enter those names. We are not hiring a lot of people where it will take a lot of time to do that data entry.

Deductions are currently made on behalf of multiple nonprofit and for-profit companies by employers that appear on the payroll stubs of employees, whether it is AFLAC, Mass Mutual, ICMA, life insurance, health insurance, United Way, there are dues deductions being taken out of the employee's paycheck on a regular basis.

Section 1, subsection 2, paid leave for employee organizations. Currently the federal government provides paid time off for their employee organizations. The organizations are required by federal law, as we are in Nevada, to represent nonmembers. The federal government did not feel it was fair for dues-paying members to pay for that representation and, therefore, in a bipartisan manner, the federal government voted to pay for employee organizations' leave time.

The bill also states that no public money can be spent on behalf of employer organizations for providing services or duties. Yet, on a regular basis, state and local governments in Nevada provide public dollars to private organizations throughout Nevada, whether it be Tesla Motors, Apple, or any number of companies throughout Nevada that receive either tax abatements, STAR bonds, free land, paid-for infrastructure or multiple other subsidies—they are supported with public money, some of it in actual dollars and some of it in the form of not having to pay taxes or fees which, ultimately, are public dollars. Paid time off saves money or can save money, whether it be through solving problems proactively to avoid litigation or resolving safety issues in the workplace to avoid costly worker injuries and establishing money-saving policies. Paid release time has a history of saving dollars for taxpayers in many ways.

Section 2, subsection 1, defining supervisory employees who are unable to bargain. This issue was discussed at length in the 2011 Legislative Session. Legislation was passed during that session addressing the definition of supervisors. After that, a local government entity filed a complaint with the Employee-Management Relations Board (EMRB), which heard the case. The EMRB ruled that the statute was clear and unambiguous. Assemblyman Pete Goicoechea, now Senator Goicoechea, in his floor statement said that the language was clear in defining what is a supervisor. It said that employees who do not have the ability to hire, fire, layoff, transfer, promote, suspend, recall, assign, reward, or discipline an employee are not considered supervisors under current statute. For employees who supervise, those duties have to occupy a significant portion of the employee's day. The language was determined at that time to be a clear definition of a supervisor.

Section 7, subsection 3, further defines the definition of supervisor. One of the questions we had, and I will use an example of firefighters, there is a new definition of firefighter in subsection 5, paragraph (c) of section 7. There is already a definition of firefighter in the statute, but this creates a new definition of firefighter, which says only for "fire prevention or suppression...whose principal duty is to control and extinguish fires." Those employees who are under our bargaining units now, we have a similar interest and, therefore, we should be able to bargain for them. Does this preclude that?

With regard to layoffs by seniority, that brings up a question regarding discrimination. If I am an employer who has to save money, who am I going to lay off? The young person who is new in the position? Or the old person, me, who has 30 years? I cost more, in the long run, and I am the one who is going. If the business is looking to save money, they will get rid of me, and that is discriminatory.

With evergreen clauses, under current statute, we do not receive a raise until the contract is settled. As written, a concern we have in the bill is the elimination of step increases that have been in the contract and were negotiated many years ago. Overwhelmingly, it is not the employee groups who delay negotiations. Day in and day out, employers are unable to meet, they cannot set up meetings, and that delays the process. There have been times when agreements have been reached at the negotiation table, taken to the voting body, which voted against the agreement, and then they had to go back to the table. That delay is not our fault.

Section 8 brings a new step to the bargaining process. I have heard previous testimony about transparency, and we are also for transparency. We have offered amendments to make things more transparent in other bills in this session. The new language says if you reach impasse after negotiations, you have to post those documents online—the final offers—and then schedule a public hearing, which must be done before mediation, before fact finding, or arbitration, and that slows down the process with the evergreen clauses.

Vice Chair Seaman:

If anyone has not been able to testify in opposition in Las Vegas or in Carson City and you have written testimony, please submit that information to the Committee secretary. Are there those who are neutral on A.B. 182?

Jeffrey Church, Private Citizen, Reno, Nevada:

I am a retired police sergeant for the City of Reno. I am opposed to the provisions on union dues and layoffs because that could target whistleblowers. I am in favor of not using taxpayer money to pay for my police and fire personnel while they are on union time. I want to challenge a previous statement made that there is not a problem. As a taxpayer, I requested to attend the Reno police arbitration. I received a cease and desist email from the union attorney. I have that available if anyone would like to see it. It is rather challenging when you get a letter from an attorney telling you to mind your own business. I promote compromise, and I support many aspects of this bill. I run a website, <Renopublicsafety.org>, and I invite you to look at that.

I also want to bring two things to your attention. In Reno, we have many contracts that are 21 months past due. The city has asked for concessions. They are not getting them. Obviously, it is favorable to the unions to drag those out. I want to put on the record that the Reno police received a 1.3 percent pay raise and are now the highest paid police agency, not only in Nevada, but in the nation, based on total compensation for career employees. I challenge anybody to dispute that. I have offered that information to the city council, and no one has been able to dispute that claim. I will repeat,

Reno police are the highest paid and compensated career officers in the entire United States and the entire world. I challenge anyone to show that I am wrong.

As a retired police sergeant, I receive lifetime, unfunded, uncapped, untouchable health care. I get Tricare from the military, I receive VA benefits, and I still get the City of Reno lifetime health care, which I do not really need, and the taxpayer pays for it. People who were in elementary school the day I retired are now saddled with that. Hopefully, I will live awhile longer. The people who had not been born yet when that passed are going to be paying for my lifetime health care.

Vice Chair Seaman:

We are trying to get another room in Las Vegas because we realized we have not heard from any employees at this time, and we would like to do that. We will return to hearing any opposition from those in Carson City, and then hope we are able to secure a room in Las Vegas so we can hear from some employees.

Christina Conti Rodriguez, Private Citizen, Reno, Nevada:

I am a proud public servant. As you listen to testimony today relating to A.B. 182, I wanted to testify on my own time and share my story with you.

In March 2009, my world changed from stable to scarily unpredictable and fiscally daunting. At the time, I was a Program Coordinator at the District Attorney's Office in Washoe County managing the Victim Witness Assistance Center, and representing our office on several committees and on behalf of victims' rights. I had spent the morning at the Legislature testifying against a bill that would negatively impact victims of crime in our state.

Returning to the office that afternoon, I was called to the District Attorney's office certain that he wanted to debrief my morning testimony. I could not have been more wrong, as I was given my layoff notice effective June 30, 2009. During the meeting, my work was praised, as was my work ethic. It was stated that individuals below me were not as well rounded as I, but I made more money. I was told that my layoff was a financial decision. At the conclusion of the discussion, it was recommended that I call the union to see if I had any bump-back rights. After processing the news, I called my union representative to begin the grievance process.

I felt very fortunate to have the support of the union while I fought for my job. Since I had just received notice of my layoff, I was not financially positioned to retain an attorney. Through the union, I was provided with a paid

representative and an attorney to assist during the process. This was all available to me because of the dues I pay throughout the year. My decision to have a small amount deducted monthly from my check saved my family money and me the stress and anxiety of finding someone who would understand my situation and help me fight.

My grievance went to binding arbitration pursuant to our union contract. This required a mediator to hear information from all parties before making a decision. The mediator's decision is binding with no appeal process available. I did not win; Washoe County won. To be clear, I lost my job. The position immediately under me was an unclassified, untested political appointment covered by the NRS. The arbitrator ruled that based on NRS and management rights, I had no ability to bump the position, even though I had substantially more seniority, and I had tested for my position.

I sit here as a continued proud public servant in a different discipline. I currently hold a position within the county that I am extremely proud of, and I try my best to continue to make a difference in our community. But I also sit here as an example of arbitration allowed through our collective bargaining that did not go in favor of the employee but the employer. Being able to handle the grievance within the county system and not through the justice system, as negotiated in our contract, is also an example of cost savings to the county and to the employees.

The process does not immediately and always go in favor of the employee. It is just that—a process—and it needs to be preserved. I work as a public servant, as generations of family members before me, to help make my community a better place to live. I have willingly agreed, as a public employee, to wage reductions when our economy hit hard times. I have willingly sacrificed the needs and wants of my family for the health and sustainability of our government. What I ask now is that you acknowledge my story, acknowledge my sacrifices for our community, and respect my rights and my choices. What that means is that you do not pass this bill out of this Committee, and that you let this absurdity end today, and let government workers continue working hard for the community rather than working to fight the state for our basic rights as employees.

Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees:

I appreciate the time in meeting with the bill's sponsor to talk about the concerns and issues we had with this bill. I was also mildly appreciative of the comments that were made at the outset by Tray Abney indicating that this is not about the elimination of collective bargaining and even

Assemblyman Kirner's comment that it is not Armageddon. However, for school administrators, if you read closely in section 7, collective bargaining is completely eliminated as a tool. I strongly agree with the comments made by our elected politicians and with Ruben Murrillo and Rusty McAllister.

I think especially noteworthy is what Commissioner Giunchigliani said when she talked about working conditions. As we move forward in this high stakes evaluation process, working conditions for teachers and principals will become of the utmost importance, and their working conditions are very different when you think about working conditions for other public employee groups. They are the working conditions that are necessary for us to work together cooperatively, teachers and administrators, to make sure we have the highest achievement possible for students. Those things are part of our discussions at the table through collective bargaining. They deal with such things as having a highly qualified teacher in every room on the first day of school, making sure there is a substitute every time one of those highly qualified teachers is absent, and making sure that when a principal selects an assistant principal that those persons come out of a pool where people have been highly trained. That is not what is happening now. We need to make sure that when principals and teachers begin to look at filling vacancies in their schools, those groups, principals and teachers together, have the right to say we are not going to accept the assignment of poorly performing employees—that is called mutual consent placement. Those kinds of things are absolutely necessary if we are to make the gains needed for student achievement.

I represent about 900 school-based administrators, and without collective bargaining—I think Commissioner Giunchigliani spoke to it best—we lose the voice for those things that are most important to make sure that good things happen for teachers and kids.

Stan Olsen, representing Nevada Association of Public Safety Officers:

We are in opposition to A.B. 182. Several of us reached out to the bill's sponsor to try and work out any disagreements, and we were turned down. We tried to work it out before we got to this table, and we were denied.

Carla Fells, Executive Director, Washoe County Employees Association:

We have approximately 1,100 employees in Washoe County, 600 of whom are nonsupervisory, and 400 of whom are supervisors. I am here to testify because I believe in collective bargaining, and our members deserve a fair wage, with full due consideration to Washoe County's financial status and economic conditions. It is confusing how eliminating or restricting collective bargaining will do anything but silence the voices of our most vulnerable employees in the workplace that I represent, such as social workers and road workers who plow

the roadways during snow storms and operate loading equipment and snowplows. Our association understands there are a number of things that can be negotiated in a collective bargaining agreement other than wages and compensation including, but not limited to, ensuring a fair performance rating system, whistleblower protection, job flexibility, proper training, equipment, mentoring, career advancement opportunities, quality control, and an overall ability to hold the employer accountable.

Something that I noticed in this bill that struck me as very odd is the confidential employee not being covered by a union and management. The two largest embezzlements in Washoe County occurred (1) with a supervisor who eliminated the employees who worked under our collective bargaining unit, double-checking him signing checks, and (2) a court employee who was not allowed to belong to a collective bargaining unit because it is against the NRS in Nevada for court employees to be protected by a union. My employees are held to a high standard. We have always been the checks and balances for the taxpayers and the citizens when it comes to care for elderly and children in social services. We feel that this eliminates the voices of the vulnerable people that we provide union protection for. We vehemently oppose A.B. 182. We think this Committee should not vote it out of this Committee.

Vice Chair Seaman:

We are going to take a short recess [at 3:14 p.m.].

The meeting is called back to order [at 3:21 p.m.]. Those who are at the table wishing to testify in opposition, please continue.

Tracey Thomas, Private Citizen, Sparks, Nevada:

I am a Washoe County employee and, more importantly, I have been a registered Republican for 34 years and, sadly, I have to be ashamed of that. I am opposing A.B. 182. In our association, the dues are not automatic. An employee must request the dues be deducted from his or her paycheck. There is an error being proposed in this bill which states there is no benefit decrease. The benefit of having representation is a great benefit to many of us. We cannot afford to hire attorneys for lawsuits. We rely on being able to arbitrate when we have been unjustly discharged because someone does not like you. I have been discharged for that, and it took the association one year to get my job back. The county has taken six years to implement the remedy for that arbitration. If arbitration is taken away, what remedy will be provided as a substitute? Fact-finding is also proposed to be taken away. How will employers be held accountable?

Regarding separating supervisors from a bargaining unit, supervisors were put into a category so the county could avoid having to pay them time and a half for overtime. The supervisors are paid straight time and do not have the responsibility that this bill is suggesting a supervisor has. If supervisors are not allowed to be members of a bargaining unit, it will cost the county money, including having to reclassify all the supervisory positions into lower positions. I do not understand. If something is taken away, what will be the replacement, the alternative?

Teresa Twitchell, Private Citizen, Sparks, Nevada:

I oppose A.B. 182 in its entirety, and would like to address section 7, subsection 3. I am a line worker social worker, and there are three levels of management above me. If I had an issue, without having the employee association to help me advocate for myself and my coworkers, there would also be human resources management, as well as the manager's office, before I would probably be able to take my issue to my commissioners. When I was reading the bill, one of the concerns is that there are so many layers, and our government can be so large. For the average line worker, not only are we more focused on advocating and helping the customers we serve, but we are not necessarily looking out for our own benefits. With the employee association and the collective bargaining that you have allowed us to use in the past, it is something where we are able to focus more on customer services and the citizens of Nevada.

Uriah Wise, Private Citizen, Carson City, Nevada:

I am here representing myself as an employee, but not as an employee on the board. Nevada is a wonderful state. I moved here ten years ago from California and am raising my family here. Regarding A.B. 182, I am opposed because when the economy burst the bubble and we were in the great recession, the city came to the employees association asking that we reopen our contract. The association agreed to that and in doing so, merit increases and wages were frozen for the members and nonmember employees of the city for four years. The employees accepted it and kept on working as we are today. We were grateful for that, and we also saw the need to open our contract and work hand in hand with the city to forgo layoffs and to freeze new hires to help save someone who is new with the city and trying to raise a family who was brought in on the lower end.

The language in this contract, and also the testimony we have heard today, is a specific target for firefighters, police, and teachers. Let us not forget that collective bargaining protects them, too, and it also protects support staff. When there was a protest two weeks ago outside this building, it was public

works employees who set up the barricades to make the demonstration safe and peaceful for those involved.

Loralei L. Barr, Board Member, Carson City Employees Association:

I am a Carson City employee and will state my presentation in bullet points, as most of this has already been said. I want to add a figure to one of the main concerns that has already been brought up: the need for the language regarding dues deductions. We are a small organization, and the elimination of the ability to have that process done through city payroll would be prohibitive to us. I process payroll, and the cost to the city has been estimated to be one penny per 4,000 residents in Carson City. We would be more than willing to reimburse the city the estimated cost of \$45 per year that it would cost the city to process these dues on their payroll because it is an automated process. The majority of the government entities I contacted have automated processes so no doubt their costs are just as low.

We are covered in collective bargaining. With the agreement we have with the city, should that contract be removed, I have many concerns. We serve as a watchdog for excesses in management expenses and embezzlement problems. We assist human resources (HR) with any disputes between employees and supervisors, and that saves the city money in using HR personnel.

This is the first time I have testified or been involved in any way regarding collective bargaining and wish to dispute the fact that our money in dues is paid for political activity. We refrain from doing that in every case, unless it has to do with defending our membership and their rights.

The fact that we enjoy the benefits and wages we have sets a standard to maintain a stable workforce. The elimination of seniority would be prohibitive in that if it were to be eliminated, instead of laying off the lower wage earner, it would be tempting to lay off the higher paid personnel, thereby eliminating the training and the legacy of knowledge, and bringing increased costs to the city to train the lower-paid workforce. Not to mention, I represent nonmanagement, nonpublic safety employees who are often used to participate whenever there is an emergency in the city and the Emergency Operators Center is activated. You would be losing the training for those employees and have consistent training costs to have to retrain the new employees to take those positions and that would not be a best practice.

I feel we provide stability to the workforce. If collective bargaining is eliminated, we cannot collect the dues. We often tell our employees, "You need to stand up and voice your concern." Frequently, state employees and reductions in cost are targeted through salaries because that is the biggest

cost as a service we provide to the community. During the downturn, there were articles saying state jobs could not be filled to a rate of 8.8 percent, and in one year, 9.3 percent. People were not applying for the positions because the benefits, the decrease in hours, the manipulation of their job were all taken away. As an unemployed person, the fact that I would not apply for that job and would rather go somewhere else indicates the instability of that type of system.

[A letter of opposition ([Exhibit F](#)) was submitted by Charles Muller, Chapter President, Nevada Retiree Chapter 4041, American Federation of State, County and Municipal Employees (AFSCME).]

Vice Chair Seaman:

If anyone has testimony in opposition, please submit the document to the Committee secretary. Is there anyone who is neutral on A.B. 182? [There was no one.] We will have the bill's sponsor return so that the Committee can ask questions.

Assemblywoman Neal:

Can you provide any instances where workers have been overprotected or their actions prevented or created real obstruction to the government?

Assemblyman Kirner:

I cannot.

Assemblywoman Carlton:

I have a question regarding seniority that was brought up in testimony. My concern is when seniority is taken away, that opens the entities for discrimination lawsuits. Discrimination can be claimed on either age, race, color, sex, religion, or disability. The employer might not even realize a person has a particular disability. Opening the entities for these lawsuits, what was the thought process behind that?

Assemblyman Kirner:

The thought process behind that particular clause in this proposal is, for example, the teacher of the year for Nevada ended up getting laid off because he was the least senior person. Maybe there is a mechanic who is the only one capable of working on a particular fire engine. Because that individual is the least senior person and the size of the fire department has to be reduced, that person is laid off and someone else bumps into that job who does not have the capability of those kinds of repairs. That was the mentality behind it.

Is there room enough to work with this particular paragraph to maybe change the language? I think there is room to do that. One of the gentlemen who testified said he had met with me and I had denied him. The fact is he met with me and said will you take this out, take that out, and take this out. He did not say let us work together.

Assemblywoman Carlton:

My question was about setting up the counties for lawsuits. If the counties start picking and choosing who will be fired, anyone over the age of 40 can file a claim on an age-related lawsuit. It seems to me with the discussion points and the history, there are facts behind this, and I would like an answer to my question.

Vice Chair Seaman:

I will ask legal counsel to answer your question.

Assemblywoman Carlton:

I asked the sponsor.

Vice Chair Seaman:

I will have legal counsel handle that for you.

Assemblywoman Carlton:

I will be happy to talk with Mr. Mundy offline and not waste the time of the Committee. I am sorry the sponsor could not answer the question.

Assemblyman Kirner:

For the record, I believe I answered the question.

Assemblyman Ohrenschall:

In section 1, subsection 2, I am very concerned about the effects that paragraph will have. My concerns are in line with Commissioner Giunchigliani's testimony. There was a day I was sitting in juvenile court when there was a ruckus in the detention center. A child had gotten free, grabbed a water fountain, tore it off the wall, water was flowing everywhere, and he was trying to throw the water fountain at the detention staff. Officers had to jump on top of him, wrestle him, there were injuries for both the kid and the officers, and some injuries kept people out of work for months. I worry about depriving employee organizations of that kind of experience, people who have been rank and file, who have been in the trenches and know what can happen. You can hire someone who has a master's degree or a Ph.D. to work in your union, but if you cannot have people who have been there, who have seen what can happen, and the dangers in the different lines of work, I am concerned that we

are doing a disservice to the safety of the employees, not just collective bargaining rights. I wonder what the thought process is with that, because if employees cannot afford to take the time off and cannot afford to be involved in their union, how do you see that working out, and what are your thoughts on that?

Assemblyman Kirner:

Are you talking about section 1, subsection 2?

Assemblyman Ohrenschall:

Yes.

Assemblyman Kirner:

I needed to get to the correct place in the bill. Can you please repeat the question?

Assemblyman Ohrenschall:

If this bill passes as written, and if employees cannot be part of their unions, cannot be active, and they have to hire outside representation, is that not a brain drain? Is that not discriminatory to the members to have people who do not know the dangers they face? That is my concern.

Assemblyman Kirner:

There is nothing in this bill that says we cannot have union people working for the State. This bill does not eliminate collective bargaining in any shape or form. This bill is not intended to say that you cannot have union workers working for the city or the county. It says that a city or county, for instance, should not be responsible for paying the salaries of a police officer who is not performing police duties but is doing union duties. It says the union should pay that, fair and square.

Assemblyman Ohrenschall

I am concerned, Assemblyman Kirner, that we are putting an obstacle in front of employees who have valuable contributions to make to the other employees and to the local government.

Assemblyman Kirner:

I want them to make that valuable contribution.

Assemblywoman Kirkpatrick:

Regarding sections 3 and 7, I would like to give folks some history. Senator Hardy's bill, Senate Bill No. 98 of the 76th Session, was on supervisory positions. This was a trade to get revenue; the sunset package.

Public employees were asked to step up to give a trade on something to help everyone across the board. Public employees have stepped up time and time again to do that. Ironically, I was the lead negotiator on that, which was an interesting process. I want to share it because I am concerned about these two sections which are the crux of what we talked about in S.B. No. 98 of the 76th Session.

Speaker Ocegüera asked me to meet with him, Senator McGinness, Senator Hardy, and Dale Erquiaga who, at that time, was chief of staff. At 3 a.m. we were arguing about what is a supervisor because it affected people across the board. It affected people in different positions and I said, "What is it that you want to get to? Who are you trying to get after?" Is it the parks and recreation person who is a supervisor, a lower-level person you say cannot be a supervisor and be in the union and grow with the county. Is it the doctor who is at University Medical Center who is a supervisor and overseeing to make sure all patients are being served? This is what I was told, and this is a true story. "We just want to get the school district. We are upset with the school district, so we just want to get after them." I said, "Are you kidding me? We are going to throw the baby out with the bath water on the supervisory position, not knowing who at the Greer Education Center (the Ed Shed) you are actually trying to get hold of." Now it is 5:30 a.m.; we went through this trying to come up with a definition that worked. Trying to come up with a definition to ensure that the people who are at the very top were not part of the supervisor status, but that we had a position so that a person could be a supervisor and could grow with whatever entity he or she was with, because from my perspective, it is difficult to get someone to be in management. You get all the drama and you get the least amount of pay and you have to work the most hours. I worry with term limits that we will forget about how we arrived at these conversations. I think the history is extremely important on this particular piece because we ought to talk about the history.

It is hard today to get people to be supervisors—there is no incentive for it. Now, if you say that you cannot be a supervisor and be part of a collective bargaining organization, and get those extra wages, why would you move up? Here is what we have. In my private sector world, we have it all the time, all these Indians and no chiefs because nobody wants to take on the responsibility, and it creates a whole different problem. As we went through this bill, probably 5 or 5:30 in the morning, we were still trying to work with both sides in negotiating. This is how this building works, because sunsets in this building meant something. It meant that a whole bunch of people are going to get laid off. Ironically, sunsets are back, and here the folks that gave up in the beginning are still asking to be given up.

The other key piece of what we said was, "Can you just go back and open your contracts?" Once a new deal is decided by your local officials, can you just go back and open another contract if your financial pieces get below a certain part? Well, guess what? Every single public employee within this bill has had to do that. In my mind, they kept their word. They gave up something, we got the sunsets as a state, we were able to move forward, and then we change the definition. I want to understand, who do you believe fits within that supervisory position? I am concerned that we are throwing out that park supervisor who makes \$16 an hour. I am concerned we are throwing out the middle rows of folks as opposed to the folks at the top. If somebody is appointed to be a supervisor, there is no reason we should penalize them. You want to reward good workers and you want to bring them up.

Thank you for letting me give the history, but I spent a lot of time in that Senate Caucus trying to close this building down, and this was a key piece of it. The supervisory definition based in statute is very hard to limit to whom. Have you thought about who you envision as a supervisor? Your vision might be different from mine and instead of having this conversation 68 days from today, we can understand where it is we are trying to get to.

Assemblyman Kirner:

I appreciate the history of the question. I was here in 2011, too, and I remember some of this, anecdotally, because I was not involved in the discussions you were involved with. I presume you recall that after the session there was a lot of consternation as to what a supervisor is, even then, when we had agreed on the definition. What I am trying to do here is address that. The definition you came up with was the description by the federal government that said they had hire authority, fire authority, budget authority, and there are very few people within government who would fit those qualifications, whether the person is called a supervisor, a manager, a deputy chief, battalion chief. The reality is that very few people fit that.

As I looked at this bill, and I mentioned to you at the outset that I thought there would be some amendments, that is one of the areas that I think needs further discussion, at least if you go to section 7, subsection 3, paragraph (a) that talks about a supervisory employee. I am not convinced that is as fully spelled out as it should be. In looking at paragraphs (b), (d), (e), and (f), those are pretty good, but there is room to do some wordsmithing around that. I do not have any issue with your concept that you were talking about.

Assemblywoman Kirkpatrick:

I appreciate that because the one thing that came up a lot, and I see the doctor and the administrator are included in here, I want to have a real conversation

on what the expectation is of a supervisor. Hats off to Ms. Erdoes from our Legal Division because at 5 in the morning, four days with no sleep, she was able to get us to where we could have an understanding of what we believed. The one thing I want to remind folks is we are unique across our state. Every entity does it differently, and we have to be mindful of that when we have that discussion. I look forward to working with you on that.

Assemblyman Kirner:

Assemblywoman Kirkpatrick, you know me well enough to know I will do that.

Assemblyman Paul Anderson:

The one thing that I bring from this, especially today, is the opportunity to discuss the policy. For those who have not been around very long, myself included, we do not have the historical perspective, and certainly it is not always exactly as it seems from the outside.

I think we have recognized, as many of the union officials have come to the table, that their job is to fight for every dollar and every benefit for those they represent and to try and balance that with the other side's needs. Our job here is to be stewards of the taxpayer funds. These are taxpayer-funded unions, right? That is where those dues ultimately come from; they are taxpayer-funded positions that we fill. I think our duty is to protect those funds the best we can. I think it is good that we are here at the table and having the conversation, regardless of the end result of A.B. 182. I think the policy discussion is vital. I think it is a good process for us.

I have a question on the ending fund balance, section 13, subsection 3. I am curious as to how we got to the 16.6 percent that is in the bill, and if there is any background on that. Also, how would we protect that from misuse, whenever an entity is saying, "Okay, we will put 16.6 percent aside." We heard through testimony today, anecdotally anyway, that sometimes those funds can be supplanted or misused or decisions can be made on those funds to use it for something else other than for the good of the folks who are working for the state, city, or municipalities.

Assemblyman Kirner:

Two things I would say to your opening remarks. We, as a body, are concerned with our taxpayers, but we are equally concerned with those who work for the State and our workers, as well. I would like to see us think of that in terms of a balance.

Regarding your question on the ending fund balance and how did we get to 16.6 percent, right now, 8.3 percent is used, which is about one month.

You have heard earlier testimony that sometimes that is exceeded and it gets into the 12 to 14 percent range. We took one month's worth and doubled that for two month's worth. It is a cash flow issue. We had these discussions with the northern Nevada representatives of both parties, and had regular meetings with the City of Reno. One of the things that the City of Reno talked about was their charter and the 8.3 percent, and whether that should be 16.6 percent, and so on. That is how we got there.

Assemblywoman Diaz:

I would like to know the reasoning or the problem behind what is currently in place for all the language that is stricken in section 7. What is the problem that needs to be remedied that we are eliminating the ability to collectively bargain for a principal, assistant principal, or other school administrator? I do not see a problem with how their union works with the school district. In conversations with former superintendent Pedro Martinez, the school district has been addressing how to divest themselves of ineffective administrators, not based on seniority but effectiveness. In the Clark County School District, the union is also looking at doing what is best for kids. I do not understand that if our administrators are working hand in hand with the districts, why we need to eliminate their ability to collectively unionize.

Assemblyman Kirner:

I am trying to draw the nexus between eliminating administrators and the ability to unionize.

Assemblywoman Diaz:

If I am reading the bill correctly, there is a strike-out in section 7, subsection 2, "A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent...the same specified ranks to negotiate as a separate bargaining unit." All of that language is being eliminated. Why is it being taken out of the NRS?

Assemblyman Kirner:

You will see we put "school administrator above the rank of teacher," et cetera, in subsection 3. The question I think you are asking is what problem are we trying to resolve. Is that a fair summary? Part of this is the notion that management typically is not part of the bargaining unit. That is not necessarily true with 100 percent of the companies around the world. When I look at this, I see the principal, assistant principal, superintendent, and deputy superintendent as being part of management. There is a unity of management that needs to be there. That is why these positions are called out.

Assemblywoman Neal:

In section 10, subsections 5 and 6, I am trying to be clear on the new language in bold where it says, "Before the submission of the dispute...." What is struck out in the existing language is that if parties did not agree to the findings or recommendations, the parties had an ability to request the formation of a panel to determine whether or not the findings and recommendations of fact dealt with some of the specified issues, and that was stricken. There is also a time period that was stricken in subsection 6. I would like clarification on the intent behind that language, and what public purpose we are expecting to achieve.

Further, language was added in section 10, subsection 6, paragraphs (a) and (b). I am concerned because transparency was mentioned in some of the testimony in the hearing from the supporters. There is a difference between transparency and private contract rights, and subtle expectations that persons have when they enter into contract negotiations, and what those expectations are. There is a difference and a distinction. This section allows that it is published before the fact finder makes the recommendation to hold a public meeting. Does this somehow create or allow the public to weigh in on a contract negotiation that they have no rights to, nor are they legitimately a party to? Just because you are a taxpayer does not make you a legitimate legal party to a contract between a government and a public employee. I am trying to get clarification on the meaning of that other portion.

Assemblyman Kirner:

In section 10, subsection 5, it states, "Before the submission of the dispute to fact-finding, the governing body of the local government employer or the chief executive officer of the local government if specifically authorized by the governing body may elect to make the findings and recommendations on all or any specified issues final and binding on the parties." What this does, and how it differs from the past, it makes fact-finding not necessarily binding. It is up to the executive officer or the local government employer as to whether it should be binding.

Regarding the comments in section 10, subsection 6, paragraphs (a) and (b), this is all about transparency. I am not an attorney. When you talk about the taxpayer not having a legal right, I do not know if that is the case, but this clause would seem to say that the public has a right to hear what the agreement is that is being struck or potentially struck. It seems to me that the public has a right to comment on that.

Assemblywoman Neal:

That is why we need to have a conversation about what is the intent and what is the meaning. I was reading congressional research on public government and

existing contracts and when legislation interferes with that. It talked about the public good that we are seeking to meet. That is why I need to be clear about the public good that we are seeking to meet, because unless there is an outlying public good that we are seeking to achieve that interferes or interrupts with the contract, there is no right for an outside person to come in and say, "I want to weigh in." So I am not clear because it says, "hold a public meeting." What would be the purpose of holding a public meeting except to take comment?

Assemblyman Kirner:

If you are asking me what I think about a public meeting, again, I am not an attorney. I would say the purpose of a public meeting is to give people who have a vested interest in the contracts of their city or their county an opportunity to comment.

Assemblywoman Neal:

So why do you have the meeting happening before the fact finder makes the recommendation, unless somehow the public has an ability to weigh in on the decisions?

Assemblyman Kirner:

I think if you have it before, it gives the fact finder and the governing body the opportunity to hear what the constituents have to say.

Assemblyman O'Neill:

The young lady from Washoe County who spoke about how she was laid off because she was last in, first out. Would this bill have hurt her or helped her if it had been enacted at the time of her contract negotiations?

Assemblyman Kirner:

I do not think this would have affected her one way or the other. This bill does not eliminate collective bargaining.

Assemblyman O'Neill:

What I am getting to is they still could have bargained and discussed or agreed to what layoffs would or would not have been, correct? During her bargaining negotiations?

Assemblyman Kirner:

Right now, this says that in this case, Washoe County could lay off and they could decide what the factors would be. To the point Assemblywoman Carlton made, and I agreed with, from a language standpoint, I think we can probably work on that section. I think that performance should be a factor. I think

seniority is a factor, and certainly the ability to perform the job is a factor. Those points probably should be written into this bill a little more clearly.

Assemblywoman Fiore:

As a legislator, I bring forth legislation that helps and benefits my constituents. With this bill, can you tell me how it would benefit the taxpayer?

Assemblyman Kirner:

There are a number of ways in which this bill benefits the taxpayers. Clearly, when there is transparency, the taxpayer has some sense of involvement and some sense of input. I think that benefits our taxpayers. We have heard testimony from Ms. Engleman, I believe, that Carson City had agreed to a contract, which supposedly was a neutral contract, but a few months later they found out they were obligated to pay several million dollars. Things like that get exposed when a hearing is held.

You heard testimony from Professor Keefe who was hired by SEIU to come to Carson City and talk about compensation. Again, this bill does not address compensation per se. That is still an issue for negotiations, but it makes it public. We talk about transparency in this body and how important it is. The Open Meeting Law is all about transparency. I think it serves the public better.

Assemblywoman Kirkpatrick:

As a past chair of the Assembly Committee on Government Affairs, we had these types of bills that came before us, and we talked about arbitration. I went back 20 years and looked, and 20 years is a long time to look at how the arbitration process works. I will produce a document for the Committee to see. In that 20 years of arbitration, the counties won 90 percent of the time. Washoe County won the most. It is interesting to me that we are talking about a public hearing for the constituency to have input but yet, and I will use my own city, North Las Vegas, and Reno, where predominantly, and supposedly, very conservative Republicans were in charge when these things were passed. The constituency did not balk. Why? Times were good, things were going well, and everybody kept moving. There is a sense of accountability from our local elected officials to have those conversations with constituency. To my point, the reason we had out-of-state arbitrators come in, and it is controversial, is because politics was taken out of it. They were just looking at the facts, trying to figure out what was in the best interest and what could be done.

I am concerned that if we put the politics back in, it may reverse, and then we will be back in two years trying to undo it because the labor organizations will win all the time. I wonder if there has been any conversation on why you

necessarily want it close to home if there is not a better balance to do it, and why the constituency group should have the meeting before? The headline never really matches the meat of what the conversation is, and it is sexy now during bad times to talk about all these supposedly greedy folks. For the 20 years that I went back in the history, it was not sexy. What was sexy was we were growing. We were the fastest growing state in the country. I want to be sure that just because it is sexy today, that we are not throwing out the baby with the bathwater on changing that policy. Can you explain to me how you came to that discussion? Are there other states that do it? I am trying to understand. It took me a good two weeks to go back 20 years, and I want to understand the thought process. The last thing we need is politics involved—there are enough politics. I will tell you that workers who are involved in these organizations are Republican, Democrat, Green, Independent, and Nonpartisan. What is your logic, because I like the history?

Assemblyman Kirner:

I am not exactly sure why politics is being inserted into this, and I do not see this as political. I see it as an arc in negotiations. We are not saying that arbitration should go away. We are saying arbitration is a negotiable item, if you will. We are about to have a contract. Let us talk about arbitration and how we resolve matters. Should we get to some point in this contract or at the end of this contract, or as we negotiate future contracts, how should we address impasses? I see that as a give-and-take thing. What I am concerned about is binding fact-finding, and I am trying to eliminate the binding nature of fact-finding. You have to do this or you have to do that—you cannot look at pieces of this thing, and that is what I am attempting to do.

Assemblywoman Kirkpatrick:

I believe that is reasonable. I want to be sure we do not have the wrong people at the table, because then we have resolved nothing and nothing gets resolved going forward. My other point based on your discussion in reading the bill, would that mean we have rules in place and everybody knows what the next step is if you do not get to this point? Would every organization be able to negotiate their own arbitration process? I thought that is what I heard, which is the part that concerns me.

Assemblyman Kirner:

I would think that Clark County may sit with their respective organizations, because they know them best, and talk about how the parties want to handle the issues. Washoe County may sit down with their organizations and have a different process, but one that both the union organizations and the commissioners can agree to.

Assemblywoman Kirkpatrick:

How would the Employee-Management Relations Board know which rules to follow? Is that not something to consider? It is not as simple as Washoe County does it one way and Clark County does it another.

Assemblyman Kirner:

It would be written into the contract.

Assemblyman Ellison:

I believe in the right to manage, and that is an important part of the job with any management company, either in the private sector or in government. You heard some of the fears from a few of the people and their testimony. Maybe you can put some of this to rest, and maybe you already have. The fear factor comes from the people with age and, perhaps from turning in a bad boss, or from being passed over for promotions, or terminated. The big thing is to get rid of the fear. Can you comment on that?

Assemblyman Kirner:

I am not sure about the so-called fear. For example, I heard the first person testifying in the police group about this bill limiting negotiation powers. If you look at section 4, everything, with the exception of dues, is still negotiable. You still have union representation. You still have a representative protecting your rights. You still have a collective bargaining agreement—none of that goes away. Mr. Collins talked about collective bargaining being a valuable tool and that management can learn what is going on in the workplace. Management is not part of the union and yes, they can figure in my bill. Is it a valuable tool? Mr. Collins is right—it is a valuable tool. Nothing in this bill takes away the opportunity to organize, to belong to the union, to have representation by the union, and to have them negotiate everything from salary, sick leave, vacation, holidays, insurance benefits, total hours of work, all the way down to grievance, arbitration, the general savings clause, et cetera. There is nothing in this bill that takes away from that.

I have acknowledged the fact that I would like to spell it out a bit more on the supervisory people and acknowledged that I have no problem working with the seniority clause and trying to clarify that. I was a bit taken aback by the reference to Adolf Hitler. I thought that was in poor taste, but that is just the way I view it. That is the kind of thing that, when thrown out, is threatening to people. We do not need that in this body and in this state.

Assemblywoman Fiore:

There were many legislators north and south who talked about these laws that were written by past elected officials. That is all well and good, but as we

progress, changes always need to occur. Is it a fear that if our members had to pay their union dues directly, that the unions would go out of business. I support the members of all our unions. I do not understand the fear. We have to pay a bill. We support our union members, we support our union bosses, and here is \$50 to do your job. What is the fear if you have to pay yourself?

Assemblyman Kirner:

I am at a loss, myself. If, in fact, the organization is providing a service, and I believe they are, and if I were the member, why would I not be willing to pay my dues directly? I think there are other means to pay the dues as I said in my introductory comments. The dues can be automatically deducted from a member's checking account. I pay my utility and mortgage bills that way. There are any number of things that can be paid that way. I do not know that a person has to have a dues deduction from the paycheck. This is not the same for me, which is why I have written the bill this way. It is not the same for me in deducting money for United Way or those kinds of things. This is an adversarial relationship between the union and the organization. I do not mean that in a negative sense. I just mean their objectives are different. I am not understanding why the government should have to deduct dues to support an organization whose goals are sometimes opposed to my goals as a government agency. I am not saying that they are always separated, and I am not saying we do not want peace in the workforce and that the unions are not helping that to occur. It is just that there are diametrically opposed purposes. I do not know why there would be a fear.

Assemblyman Ohrenschall:

My question is for Professor Keefe from Rutgers University, if he could please come to the microphone. I have been looking over some of the bills, some of the deleted sections in NRS 288.215 and NRS 288.217 doing away with determination of financial stability for police, fire, and teachers negotiations. I always thought having your cards on the table lent itself to resolving points more quickly, rather than trying to keep things secret when working out issues. I wonder, in a state like Nevada, and you have studied states across the country, if we are asking more and more from our public sector employees with less and less, and retention is a big factor. If we fail at retention and people do not want to continue to be detention officers, parole officers, or probation officers, that has a cost, too. Could you opine on that?

Jeffrey Keefe:

Let me see if I understand the question. I know where you are going in terms of retention and collective bargaining, or collective negotiations, as I would call it. For 30 years, there was an argument in this country between Democrats and Republicans about whether the National Labor Relations Act

should apply to the public sector. I think the Republicans got it right: no, it should not. What should not apply is the right to strike, even though some states identified that as important. We came up with an alternative dispute resolution, which includes mediation and conciliation that precedes this. It has a long history. The efforts go to fact-finding, the kind of voluntary arbitration procedure and arbitration. This has been studied a lot in the academic field, and we see no bias in settlements to arbitration. Why this works in the public sector is because we have two political institutions that have come together: a town council or a county council, and a union. Both are, by law, democratic institutions. Neither side wants to look like they are giving anything to the other side that weakens their constituency. We have heard that we do not want to diminish the taxpayer. Being a taxpayer, I do not want to be diminished. Also, if you are a union member, you do not want to be diminished.

What the public sector got out of this bargain was the ability, and this is what it had been doing, to pay less in terms of wages. To do that, there had to be a retention strategy that prevented corruption because that is the other evil—corruption—that is, giving jobs or services away to your friends. We came up with a civil service system that rewarded seniority and benefit plans that retained employees. We wanted longevity out of experienced employees—many people who we could not attract otherwise—who would have better opportunities in the private sector. This system has worked somewhat well. We have a very small government in the United States. We provide excellent public services. Are our schools in trouble? Sure. Do we have too many people in prison? Sure. Still, we work things out.

The retention issue is critical in the public sector because below market wages are being paid. I know that in elections that is going to matter. The union also has to be able to say to its members that we got you something. These are two political institutions. This is our version of what we used to call industrial democracy; that the two sides are accountable to respective constituencies.

We devised these alternative dispute resolutions because we really did not want strikes. The professor in Las Vegas said something about the Boston police strike of 1919. The police did not create violence, nor did the city of Boston. The citizens of Boston went on a rampage of breaking windows and looting all the stores of Boston when Boston police went on strike for two days. Then we outlawed police strikes. I fully support that. I think you should fully support that, but a way must be found to equalize the power so we are not driving away qualified people to work for us, the citizens. So there is a balancing act, and the question is what should the balance be?

Assemblyman Ohrenschall:

Has it been your experience in jurisdictions and your study where things like determination of financial ability are taken away and going to a binding arbitrator, a fact-finder, are taken away? Does that work to the benefit of the government and the taxpayer or not?

Jeffrey Keefe:

That is hard to say. Many of these things are grandfathered, and we have gone through a new wave of this over the last five or six years. I have talked to managers, and I have talked to union representatives and they see some erosion, but most governments are not in the hiring phase. Having employees retire helped them balance the budget. We will see that in the next upswing. We have been having a recovery in employment, but there must be a recovery in wages before we will know this. The private sector has to get stronger, and then we will get the answer loud and clear.

Vice Chair Seaman:

Assemblyman Kirner, would you like to make closing comments?

Assemblyman Kirner:

I think we have had a good hearing, with both sides presenting. I think collective bargaining is a valuable tool, and I agree with Mr. Collins. I am concerned about the evergreen clause, and that is why it is in the bill. It is different in each collective bargaining agreement. In some it is fine, and some have evergreen clauses that automatically roll into a salary increase, and that is the only thing we are trying to stop. I think Mr. Sisolak talked about 99 percent of our public employees are doing an incredible job. I do not know if it is 99 or 98, but I do not have an issue with that kind of statement. I think our public employees are doing a fine job. I have visited every school in my district. I visited with every principal in my district. I am actively involved in the Education Alliance, which is a business and community organization that is involved with our children in Washoe County, so I see what is going on there. This bill in no way attacks collective bargaining. In no way does it attack middle-class people. It just tries to level the playing field a little bit and make the field a little more balanced. There are a number of issues, but in my mind, these are not serious changes that upset the apple cart or the balance. You heard the professor say it is important to have a balance.

Vice Chair Seaman:

I will close the hearing on A.B. 182.

[Assemblyman Kirner assumed the Chair.]

Chairman Kirner:

We will be in recess for a few minutes [at 4:28 p.m.].

The meeting is called back to order [at 4:37 p.m.]. We will go to work session and work one bill today.

**Assembly Bill 231: Revises provisions governing the practice of chiropractic.
(BDR 54-701)**

Kelly Richard, Committee Policy Analyst:

Assembly Bill 231 was heard in Committee on March 20, 2015. It revises provisions governing the practice of chiropractic. It authorizes the board to require certain licensees to submit to a mental or physical exam, if the licensee's competence to practice is questioned by the Board's President or other member of the board in reviewing a complaint. It revises the definition of "unprofessional conduct" for purposes of discipline by the Board. It also allows chiropractic training and education received from certain foreign schools to meet the requirements for licensure under certain circumstances and waives the application fee for an applicant for temporary licensure who provides volunteer services. Finally, the bill requires an applicant for reinstatement of licensure to submit fingerprints and pay the fee for processing.

There is an amendment attached ([Exhibit G](#)) which was submitted during the hearing on the bill by the sponsor, and that amendment specifies that the Board will pay the cost of any mental or physical examination required by the Board under section 1.

Chairman Kirner:

The chair will accept a motion to amend and do pass.

ASSEMBLYMAN NELSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 231.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON VOTED NO. ASSEMBLYMAN SILBERKRAUS WAS ABSENT FOR THE VOTE.)

We will close the work session and open the hearing on Assembly Bill 453.

**Assembly Bill 453: Provides for the regulation of the sale of dextromethorphan.
(BDR 40-392)**

Chris Ferrari, representing Consumer Health Care Products Association:

Assembly Bill 453 follows seven other states that have passed similar requirements in requiring identification be provided for those appearing to be under the age of 25, but the goal being in excess of 18, for the purchase of medicines containing dextromethorphan. Dextromethorphan is contained in many common medicines, including Alka-Seltzer, Contac, and other over-the-counter flu remedies we use and rely upon ([Exhibit H](#)).

It is an effective medicine found in most cough medications, and we want to ensure that we continue to allow Nevadans to have access to the medication. We want to make sure identification is furnished if somebody appears to be 18 years of age or younger.

Section 1 of this bill bans the sale of "Dex" to minors without a prescription. The bill is not intended to criminalize retailers or purchasers, and that is why the penalties associated with the bill are civil and not criminal. We are simply trying to keep these medicines out of the hands of teenagers. Most chain retailers, as my colleague, Ms. MacMenamin will testify, have programs in place in training for their members, and they already require that identification for purchase. This simply mandates that process across all retail in the state, ensuring that teens cannot get that medication to abuse it.

There are other people who had intended to be here today but were unable. Brent Kandt, with the Office of the Attorney General, was planning to testify in support. In addition, Mr. Collins from the Las Vegas Police Protective Association informed me that he would sign in as in support, as did Mr. Calloway with the Las Vegas Metropolitan Police Department. I appreciate the Committee's indulgence.

Assemblywoman Fiore:

In Nevada, are there a lot of incidents with this issue?

Chris Ferrari:

I do not know the specific numbers as it pertains to Nevada. What we have seen across the country is a lowering in the type of behavior, particularly in the states that have passed legislation to this effect. So this is just to make sure that we are taking all precautions possible to keep the medicine out of the hands of those using it for unintended purposes.

Assemblywoman Fiore:

How much NyQuil does one have to take to get high?

Chris Ferrari:

That is a good question. I do not know if I can answer that with any level of accuracy. I think I can speak on a personal level that we had friends growing up who would buy a bottle or two and try to use it to excess to attempt to get some sort of high. It has several different street names—Skittle, used as a verb, or skittling, or it is called the red devil. Obviously, if it is something available to someone under the age of 21 without any type of identification being furnished, it becomes another means to try and get high.

Assemblywoman Neal:

Section 1, subsection 2, paragraph (a) of the legislation talks about compounds or mixtures. I know you sent a list of the drugs—Tylenol Cold, Triaminic, Alka-Seltzer Plus, NyQuil Cold medicine—some of which you would give your children. If somebody has a 14- or 15-year-old they want to send into Walgreen's to pick up some Dimetapp or some Vicks, the minor will be asked for identification. How is this workable? My sister is a pharmacist, and I know there are some drugs that are kept behind the counter, typically put there if it is something that is being stolen. They can go to the pharmacist and ask for them, rather than grabbing them off the shelf. There are other ways to deal with this issue. Why is that not an alternative method?

Chris Ferrari:

I will defer that question to Ms. MacMenamin. I know it becomes a problem from an inventory perspective on the retail side to put too many things behind the counter, but I am understanding the challenge you are raising. Obviously, all of us have been in that situation where we have somebody run in and do an errand for us. We would hope that someone would take the time to walk in and buy the medicine for themselves. That would present a challenge for that person but, hopefully, they would be able to do that.

Assemblywoman Neal:

Section 1, subsection 3, paragraph (b), subparagraph (1), what would be the "other written or documentary evidence" that a minor would produce in the store that an 18- or 19-year-old who is running the cash register is going to know or deal with? That is very vague. I always think about real life. If this bill passes, all of a sudden somebody is not aware of the law. They send their underage child into CVS, and the minor comes out of the store saying I need identification. Whose I.D. is being brought in? Their mother's identification? Are they going home to get a birth certificate? A passport? Just to get some Dimetapp? I am trying to figure that out. It is more than an inconvenience

because they do not get it. They do not understand the policy. My kid is not a drug abuser. My kid does not do purple syrup.

Chris Ferrari:

I believe that would be a better question for Mr. Mundy. That is a drafting issue, and when they are referencing a driver's license, obviously there are state I.D. cards and other methods of I.D. that anyone in a check stand would be briefed on, if the clerk were selling a product such as alcohol or cigarettes or anything requiring proof of age.

Matt Mundy, Committee Counsel:

If I recall correctly from the file, we were asked to model this after Arizona law, and that language came from their statute. That term does not come up in the *Nevada Revised Statutes*. We do not have any context by which to explain. I think it would be worthwhile to try and clarify that and describe exactly what that means to the extent that it means birth certificate or a state-issued I.D., or something along those lines.

Vice Chair Seaman:

I like the bill. Does this mean that those kids working at CVS now have to be 18 in order to sell this? Alcohol cannot be sold unless the salesperson is 21. What will happen to the young people working behind the counter?

Chris Ferrari:

I will defer that question to Ms. MacMenamin on the retail side. I am not aware of the age requirements for the employment at those facilities.

Assemblywoman Bustamante Adams:

Can you expand on the other states? I think you mentioned seven others. Could you name them, and maybe the year each state enacted this? Also, you said there is a process currently in place that retail stores are using. If you can go back and expand on that as well. What is already in place?

Chris Ferrari:

The states I have on my map are New York, Louisiana, California, Washington, Arizona, and two others. I put a map on NELIS for you to take a look at ([Exhibit I](#)). I will get you a final list of those states. There are bills filed in Arkansas, Tennessee, Texas, New Jersey, and it is anticipated that Ohio and Pennsylvania will also be filing measures as well. As it pertains to the retailers, I am not trying to avoid your question; I would rather let the professional answer than me try to speculate as to their policies. I know several large retailers have internal training policies about selling any type of product that requires furnishing identification.

Assemblyman Ellison:

We do not have the answers from the experts on how much it would take, maybe a gallon of this drug to affect someone. The problem is that we are putting a burden on the retailers such as when Sudafed was put under the counter. The store employees would request that the pharmacist find the item, which was more of a problem for the vendors and the stores. We do not know the amount, whether it be one bottle or 50 bottles, and that will go by the age of the person. How will you determine that?

Chris Ferrari:

We worked with retail on this bill since day one, and the only reason that Ms. MacMenamin is not joining me at the table today pertains to the end of section 2 with regard to the penalty component. The language is drafted differently than had been anticipated, based on the Arizona model, and we will work with her on that portion.

I will get you the impact information on body weight versus quantity of product to try to give you a sense thereof. Just like many different medicines, that will depend on your individual physiology and obviously, height, weight, and amount consumed. I will get some examples for the Committee.

Assemblywoman Fiore:

The more I look at overregulating, we have 18-year-olds who move out of the house and live on their own, some of whom go into the military and cannot drink alcohol but they can die for our country. Now you want to propose that they cannot buy cough syrup. I do not like this bill. I think it is a bad bill. I do not support it.

Assemblywoman Kirkpatrick:

I feel like this is a bill that former Assemblyman Bernie Anderson brought back in the day, Assembly Bill No. 150 of the 74th Session, that had all this material in it and was whittled down to Sudafed today. There is a reason the bill was changed because people were concerned about the age, about the basic medication they could walk in and purchase. I want to understand, and to Assemblywoman Fiore's point, I feel like some kids today will be standing outside Walgreen's going, "Hey, can you go in and get me some NyQuil?" That seems silly, but that is a real possibility.

I want to understand the age, because people can buy cigarettes at the age of 18, and I want to understand why we are revisiting this. Something must have happened that these other states are going down that road. My 15-year-old granddaughter may need Alka-Seltzer at some point. This bill seems to go

a little bit farther, and I will do the history, but I think this was former Assemblyman Bernie Anderson's bill, and before that I think former Assemblywoman Sheila Leslie brought the bill. If you could give me some history, I would appreciate it.

Assemblyman Nelson:

In section 1, subsection 1, paragraph (b), the bill says, "A minor shall not knowingly purchase, receive or otherwise acquire...." Would that mean even if his or her parent gave it to the child? Arguably, that could mean that.

Is this really a symbolic bill? The penalty provision in section 1, subsection 5, paragraph (a), says if someone violates, such as the pharmacist, that person can get a warning and a \$50 fine. There is no penalty that I can see for the minor violating the statute, is that correct?

Chris Ferrari:

That appears to be the case. From a broader perspective, I think the intent is to be a reminder for a retailer that might not be thinking about this issue. I think Ms. MacMenamin and her members do a very sufficient job on the training front, and we want to make that uniform across the state and make sure everybody is acknowledging the importance of furnishing proof for this type of medication.

Assemblyman Nelson:

Would Comtrex fall into this? I remember when my boys were teenagers they had friends call and say, let us take 20 Comtrex and get a high. I wonder if this is the same thing?

Chris Ferrari:

Yes, Comtrex is on the list.

Assemblywoman Neal:

Section 1, subsection 1, paragraphs (a) and (b) require the minor or parent to have a valid prescription to buy Alka-Seltzer Plus cold medicine. Typically, we do not go to the doctor to say, "Can you give me some Triaminic?" and then return to the store. The parent has to pay the doctor for him or her to see the minor and write a prescription. There are extra burdens or layers in this bill that for single mothers, poor people, or people in general, they cannot get the Alka-Seltzer unless he or she has a prescription and an I.D. so the individual can walk out of the store with some Vicks. Say I am sick. I get what you are trying to do, but I am not going to the doctor for some NyQuil. I am not going to do it, not when I know that just a week ago I could get the NyQuil from the store without a prescription. The bill does not have an effective date, so that

would make its implementation October 1. What are the other states doing with the prescription? That is burdensome to me.

Chris Ferrari:

I think on many of these—we had the same dialogue on the pseudoephedrine, and for underage—if you had a prescription you could go into the store for purchase. Is it common for someone to go to the doctor prior, and does that create inconvenience? Certainly, but in the case we are discussing, this is someone under the age of 18 and that is the goal of A.B. 453.

Assemblywoman Fiore:

When you look at this, and now we have people who are on Medicaid and they are going to use more state resources, federal resources, to go to the doctor where we could just go and get an item at a store, there are unintended consequences for silly bills like this. It is bad legislation.

Assemblyman Silberkraus:

I think the intent of the bill is good. I have done some cursory research, and I think the real issue, and what people talked about here, is the amount that is being consumed. I wonder if there might be a way to go back, revisit this, find out what that volume level might be. Perhaps a 14-year-old can go to a store and buy a single bottle but he cannot purchase 20 bottles, or something along those lines. I recommend that.

Chris Ferrari:

We will provide the Committee with some information in terms of the impact and volume associated therewith.

Chairman Kirner:

Relative to section 1, subsection 5, paragraph (b), how expensive is it to have a civil action to recover \$50?

Chris Ferrari:

In speaking with the State Board of Pharmacy today, they have a concern as well, and we are going to work with them to make sure that language makes sense. In terms of fiscal policy, I agree with you. That would not be very logical.

Chairman Kirner:

Are there any other questions from the Committee? [There were none.]
Is there anyone here to offer support?

Chris Ferrari:

Mr. Kandt and two gentlemen I mentioned previously from law enforcement were here for the prior hearing and have left for the day. They said I could use their names for the record.

Chairman Kirner:

Is there anyone who is neutral on this bill? [There was no one.] Is anyone in opposition?

Liz MacMenamin, Vice President of Government Affairs, Retail Association of Nevada:

We talked with Chris Ferrari at length during the interim in bringing forward this legislation. The concept we talked about was something totally different from what we see before us today. I am in opposition to this for a number of reasons.

One of the things brought up was this drug being sold in Walgreen's. Unfortunately, or fortunately for the general public, these are medications that are not just sold in a pharmacy or a grocery store—they are sold in convenience stores. This bill in no way can address some of those sales.

Chairman Kirner:

From what I understand from Mr. Ferrari's testimony, he is not done with this bill, and he wants to sit down with you and work out some details. Is my understanding correct?

Liz MacMenamin:

I will be glad to sit with Mr. Ferrari and see if we can work something out that is beneficial to the young people out there who might be abusing this.

Vice Chair Seaman:

Is this the drug that was used to manufacture methamphetamine?

Liz MacMenamin:

No. I would like to go back and give some additional information because I heard the question about putting this behind the counter. This is really problematic. Pretty soon, if we continue along these lines, we are going to throw everything behind the counter. And that is not doable. This is a very safe medication. One of the ingredients besides the dextromethorphan is alcohol. Somebody was talking about NyQuil and how much a person has to consume.

As a personal example, years ago I had a friend who was an alcoholic and was trying to quit drinking. She was drinking a lot of NyQuil at night because of the alcohol. There is the potential for abuse in other ways on these medications. I will be glad to work with Mr. Ferrari on this to see where we can go. I heard several questions from the Committee, and if any of you would like me to spend some time with you, give me a call and I will be glad to come to your office.

Assemblyman Nelson:

I asked this of Mr. Ferrari. We hear the phrase that this is a solution where there is no problem. Would that fall into this category? Do you know if your members are seeing a lot of people coming in and buying 20 bottles of these so they can go out and abuse them, or do you know?

Liz MacMenamin:

At this point, my members are not reporting that they are seeing large amounts of this preparation being purchased for that purpose by teenagers. I understand from the education that I have on this that they take candy and put it in this cough syrup. I do not know if that enhances it; I am not quite sure what it does. No, we are not seeing increased amounts. We know that the organization that Mr. Ferrari is representing would like to see this done on a federal level, and had hoped that the more states that are on board, the easier it is to get the federal government to do something about it. They are trying to be proactive. Their fear is that we will have a pseudoephedrine problem with this somewhere down the road. That is my understanding and is the best I can answer. No, there is not a huge bulk of purchasing of this drug at this time.

Chairman Kirner:

Are there any further questions? [There were none.] Mr. Ferrari, would you like to make closing comments?

Chris Ferrari:

We will reach out to the retailers, members of the Committee, and the State Board of Pharmacy, and get back to you with something that is cleaned up and hopefully more passable.

Assemblywoman Fiore:

I just want to say that I love you—just not this bill.

Chairman Kirner:

Seeing no further action on A.B. 453, I will close the hearing and open the meeting for public comment. [There was none.] The meeting is adjourned [at 5:05 p.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Randy Kirner, Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Commerce and Labor</u>			
Date: <u>March 25, 2015</u>		Time of Meeting: <u>1:33 p.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 182	C	Carolyn G. Goodman, Mayor, City of Las Vegas	Letter in opposition
A.B. 182	D	Jeffrey Keefe, Private Citizen, West Orange, New Jersey	Nevada Private and Local Government Public Employees' Compensation Compared
A.B. 182	E	Jeffrey Keefe, Private Citizen, West Orange, New Jersey	Are Nevada Local Government Employees Over Compensated?
A.B. 182	F	Charles Muller, Nevada Retiree Chapter 4041, AFSCME	Letter of opposition
A.B. 231	G	Kelly Richard, Committee Policy Analyst	Work Session document
A.B. 453	H	Chris Ferrari, Consumer Health Care Products Association	Safeguard Your Medicines and Know What is in Your Cabinet.
A.B. 453	I	Chris Ferrari, Consumer Health Care Products Association	Age 18 DMX Restriction States