

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Ninth Session  
May 9, 2017**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:48 a.m. on Tuesday, May 9, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chair  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Chris Brooks  
Assemblyman Richard Carrillo  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblywoman Amber Joiner  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblyman Richard McArthur  
Assemblyman William McCurdy II  
Assemblywoman Daniele Monroe-Moreno

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Dina Neal, Vice Chair (excused)  
Assemblywoman Melissa Woodbury (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Kelvin Atkinson, Senate District No. 4  
Senator David R. Parks, Senate District No. 7



**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Carol Myers, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Nevada Law Enforcement Coalition; and Washoe School Principals' Association  
Marlene Lockard, representing Service Employees International Union, Nevada Local 1107  
Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers, Local 9110, AFL-CIO  
Ruben R. Murillo, Jr., President, Nevada State Education Association  
Ryan Beaman, President, Clark County Firefighters Union, Local 1908  
Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.  
Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada  
Danny Thompson, representing Teamsters Local 14; and International Union of Operating Engineers, Local 3  
William Stanley, representing Southern Nevada Building and Construction Trades Council; and the International Union of Elevator Constructors  
Scott R. Davis, Deputy District Attorney, Clark County  
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada  
Vicki Moore, Accounting Manager, Finance Division, Douglas County  
Jeff Fontaine, Executive Director, Nevada Association of Counties  
Nicole Rourke, Associate Superintendent, Community and Government Relations, Clark County School District  
Bill Wellman, Division Manager, Las Vegas Paving Corporation  
Nathan R. Ring, representing International Union of Operating Engineers, Local 12; International Union of Painters and Allied Trades, District Councils 15 and 16; and Bricklayers Joint Trust Funds  
Greg Esposito, Government Affairs Director, UA Local 525, Plumbers, Pipefitters, and Service Technicians  
Peter Krueger, representing National Electrical Contractors Association, Greater Sacramento Chapter  
Rob Benner, representing Building and Construction Trades Council of Northern Nevada  
Craig Madole, Chief Executive Officer, The Associated General Contractors of America, Inc., Nevada Chapter

Fred Reeder, President, Reno-Tahoe Construction, Sparks, Nevada  
Lance Semenko, Chief Operating Officer, Q&D Construction, Inc., Sparks, Nevada  
Mac Bybee, President/Chief Executive Officer, Associated Builders and Contractors, Inc., Nevada Chapter  
George Del Carlo, Co-Owner, Classic Finishes, LLC, Reno, Nevada  
Jan Leggett, General Manager, Construction Division, Moana Nursery, Reno, Nevada  
Frank Lepori, President, Frank Lepori Construction, Inc., Sparks, Nevada  
Aaron West, Chief Executive Officer, Nevada Builders Alliance  
Marc Markwell, Chief Financial Officer/Secretary, Sierra Nevada Construction, Inc., Sparks, Nevada  
Carl Ruschmeyer, Director, Douglas County Public Works  
Darren L. Schulz, Public Works Director, Carson City Public Works Department  
Dave Backman, Senior Vice President, K.G. Walters Construction, Reno, Nevada  
Brian Reeder, representing Nevada Contractors Association  
Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees  
Ed Gonzalez, representing Clark County Education Association

**Chairman Flores:**

[Roll was called. Committee rules and protocol were explained.] We have three items on the agenda today. We are expecting a lot of testimony today, so we will be limiting testimony in support, opposition, and neutral to two minutes. I will open the hearing for Senate Bill 356 (1st Reprint).

**Senate Bill 356 (1st Reprint): Revises provisions relating to collective bargaining. (BDR 23-1132)**

**Senator Kelvin Atkinson, Senate District No. 4:**

It is good to be back in "the People's House." I sat on this Committee for five sessions. In a nutshell, this bill turns back the clock on collective bargaining to the way it was in 2013 before enacting Senate Bill 241 of the 78th Session. In response to testimony in the Senate, we amended Senate Bill 356 (1st Reprint) to achieve a compromise to one of the changes made in 2015.

Before going over the bill, I think it is important for the Committee to understand the seriousness of the unintended consequences of S.B. 241 of the 78th Session. While there is a long list of negative outcomes, I will only mention a few. Perhaps one of the worst impacts of S.B. 241 of the 78th Session was a pay freeze that affected over 1,600 county employees. That is nearly one-third of the entire bargaining unit simply because their anniversary hire dates fell between June 1 through August 24.

Another unfair result was the need for a union to take a county to court over a county's decision to freeze or withhold pay increases based on the county's interpretation of S.B. 241 of the 78th Session. While the union won a case and successfully settled another, victory came at the cost of those employees who were never sure if the county's retroactive

calculations of annual adjustments were done correctly. Additionally, there were employees who received a lump sum payment, which put them in a higher tax bracket for that year. I can provide more examples, but I would prefer to talk about a few changes in the bill.

Sections 1 and 7 remove the requirement for the Local Government Employee-Management Relations Board (EMRB) within the Department of Business and Industry to hold certain hearings within 45 days and reinstates the prior timelines. Section 3 eliminates restrictions on the continuation of collective bargaining agreements beyond their expiration date, which will reinstate the ability to include an evergreen clause within the collective bargaining agreement.

Section 4 reinstates the eligibility of principals and other school administrators to be part of a collective bargaining group. Section 5 exchanges the shorter notification deadline for teachers and educational support personnel to provide notice of intent to collectively bargain from January 1 to February 1 collectively. Section 6 reinstates the requirement of four negotiation sessions rather than eight. Additionally, section 6, subsection 3 states, "The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing . . . ." S.B. 356 (R1) eliminates various restrictions and deadlines on arbitrations that were added in 2015.

As originally introduced, Senate Bill 356 repealed *Nevada Revised Statutes* (NRS) 288.225, the section that was added in 2015, which prohibits granting leave to employees for union business unless the value of the leave is offset by bargaining concessions or the leave is paid for by the employee organization. As a compromise, S.B. 356 (R1) adds section 6.5, which reinstates NRS 288.225—restrictions on granting leave—but which also adds a grandfather provision to allow the number of employees who were granted such leave by their local government employer prior to June 1, 2015, to continue to be granted leave to participate in employee organization duties.

Sections 8 through 19 are conforming changes related to the reinstatement of eligibility for principals and school administrators to be part of the collective bargaining unit and reverts back to the one-year statutory probationary period. Section 20 repeals two existing statutes in NRS Chapter 391 that made principals at-will employees for certain periods of time based on the performance of the school or the transfer requests of more than 50 percent of the teachers at their school.

**Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:**

We represent a number of the public employees' groups that are covered by the statutes in S.B. 356 (R1). First of all, I am in a unique position because during the last session, I testified in support of S.B. 241 of the 78th Session. Since the implementation of the provisions of the bill, we have had a number of things come to light such as unintended consequences. We were led to believe that the provisions would speed up contract negotiations, but in reality, contract negotiations are slower now. The bill removed all the incentives for a local government employer to negotiate in good faith and in a timely fashion.

The provisions did not allow for an evergreen clause, salary increases due to merit, step increases, or retroactive pay after the contract was agreed upon. It leaves local government employers with no incentive to act quickly. Every day they do not negotiate, they save money without paying the penalty. There are provisions that deal with school administrators in S.B. 356 (R1), but that is not my area of expertise. The Committee will hear Senate Bill 493 later today that addresses the concerns of the school administrators.

An amendment to S.B. 356 (R1) is available in the Nevada Electronic Legislative Information System submitted by Marlene Lockard, who is representing Local 1107, Service Employees International Union Nevada (Exhibit C). They have been meeting on a regular basis to review S.B. 356 (R1). The amendment changes some language in section 3, subsection 1 and removes section 3, subsection 1, paragraph (b). In section 3, there were two subsections added to address specific issues. The first part of section 3, subsection 2, paragraph (a) of the amendment states, "Shall continue to pay the compensation and monetary benefits provided for in the agreement, any promotional, step or merit increases in compensation or monetary benefits . . . ." Local government employers interpreted the existing law to say that they are not required to pay a step increase based on an employee hire date.

For example, a contract expires on June 30. Employee A is hired on June 25, and Employee B is hired on July 10. Employee A receives a step increase because the contract has not expired yet. However, 15 days later, Employee B does not receive a step increase. After the contract is agreed upon, Employee B does not receive a step increase and has to wait until the next July. In June of the following year, Employee A receives another step increase while Employee B is receiving the first one. Another example is when an employee has been promoted to a position of greater responsibility and does not receive a pay increase for a whole year. This language addresses the problem by stating that if there are step increases or merit pay increases, the employee will receive them regardless of the end of the term or expiration of the collective bargaining agreement.

Section 3, subsection 2, paragraph (b) of the amendment addresses the situation where a local government employer interprets the language in the statute that once the contract has expired, there is not a contract, and the process must begin from scratch. All areas are up for negotiation. The language in this amendment states nothing in the contract may be modified until another contract is agreed upon. Section 3, subsection 3 is a new subsection concerning retroactive compensation. Retroactive compensation will only occur if the local government employer and the employee group negotiate it or if a fact finder or arbitrator rules the compensation to be retroactive. It is not mandatory. It must be negotiated.

Section 4 of the bill is being addressed by Senate Bill 493. Section 5 concerns teachers and school administrators. There are people here today who can speak to that in depth. Section 6, subsection 2 of the bill discusses selecting an arbitrator 330 days before the end of the term of the existing contract. That does not happen now, and there is no real reason to have it in the bill, so it has been struck out.

A new section 6.5, subsection 2 of the amendment was added, which inserts "in past bargaining sessions" after ". . . the purposes of this section to have made concessions . . . ." Senate Bill 241 of the 78th Session added language to negotiate a concession equal to the amount of what the leave would cost. That was asked for because during negotiations everything requested had a cost associated with it. By adding the language "past bargaining sessions," it clarifies that the concession has already been negotiated if it was in the contract as of June 1, 2015. For example, employees gave up 1 percent of their pay to pay for union business leave. Some local government employers interpreted that union leave should be negotiated each time the contract expired. The employees are not receiving their 1 percent pay reduction back, but they are being asked to concede another 1 percent. This clarifies that if a concession was in place by June 1, 2015, then it exists for the past, present, and future contracts.

Section 7 removes language because the situation does not occur right now. The EMRB must make a decision on any type of complaint within 45 days. The EMRB is six months behind, and they are not able to comply with a 45-day standard. We are asking to have it removed. Sections 8 through 19 deal with school teachers and administrators, and I will not address those issues. We want to thank Senator Atkinson for bringing this bill forward and addressing our concerns.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of S.B. 356 (R1)?

**Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Nevada Law Enforcement Coalition:**

We support the testimony from Mr. McAllister, the amendment submitted by Ms. Lockard, and S.B. 356 (R1).

**Marlene Lockard, representing Service Employees International Union Nevada, Local 1107:**

The public side of Service Employees International Union represents over 5,000 workers. They were dramatically impacted by the legislation of the last session. We feel it is very important for both sides—management and employees—to get this legislation right and pass it, so it is in the interest of both parties to come to the table and bargain within a reasonable amount of time. Mr. McAllister covered, in wonderful detail, the unintended consequences that occurred. Adding to that, counties ended up paying a tremendous amount of fees in legal costs as well as all of the public unions in the state of Nevada. The past legislation did not resolve the collective bargaining issues but served as a full employment plan for the lawyers. We hope that this bill passes. It will eliminate the need for future litigation and provide a framework where both sides can bargain in good faith.

**Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers, Local 9110, AFL-CIO:**

I am a member of the Nevada Law Enforcement Coalition. This is not a Republican or Democratic issue. There is only one question that needs to be answered. Why was S.B. 241 of the 78th Session enacted? The purpose was to get unions to the bargaining table. Is it successful? The answer is no. Senate Bill 241 of the 78th Session is doing the exact opposite. The bill and its amendments have been articulated very well. I will focus on section 6.5 concerning union leave.

The notion that employee groups must bargain for union leave every year is preventing us from getting to the bargaining table. We come to the Legislature every two years to implement new bills and define strategies for spending money. We come here to fix things. Senate Bill 241 of the 78th Session is broken. We need to fix it. Everyone likes to say they are pro-law enforcement. They are not pro-law enforcement if they thwart the employee's ability to receive wages, benefits, or enhanced working conditions. Senate Bill 241 of the 78th Session is getting in the way of getting employee unions to the bargaining table. That is the exact opposite of the original intent. On behalf of law enforcement, we need to fix it. That is all we are asking of you.

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

I am representing 40,000 educators in every county in Nevada. We support S.B. 356 (R1) and the amendment that has been presented. I am going to speak specifically to the union leave. As educators, we put in a lot of work during the day and after school. We do it all for the sake of our students, otherwise we would not be in education. One of the byproducts of S.B. 241 of the 78th Session—especially in rural counties—is the ability to find time during the day to meet. Not everyone lives in Elko, Winnemucca, or Wells. The educators may live an hour outside of where they work. We have had problems in the rural areas where the administrators, support staff, and teachers have had to wait until after school to negotiate. If they live an hour away, they do not get home until nine or ten o'clock at night. When this was discovered, one of the superintendents in the northern school district counties asked what we were going to do about it? I have administrators who have to be at school at six o'clock in the morning, and they stay until six o'clock at night. If we have to negotiate after hours, it impacts our ability to do our job well.

We are asking for you to fix S.B. 241 of the 78th Session. The intentions were good, but we all know that after legislation is passed, there may be a need to clean up what is broken. We are asking you to clean up what is broken.

**Ryan Beaman, President, Clark County Firefighters Union, Local 1908:**

Since 2003, I have been very fortunate to negotiate collective bargaining agreements with Clark County. I will not repeat what has been said, but I would like to state that since the passage of the bill last session, we have negotiated two contracts. Yolanda King, Clark County Manager, and her leadership were present and able to make decisions. Agreements were made on time because we did not have to negotiate with an attorney. We support S.B. 356 (R1).

**Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.:**

I will not repeat testimony or beat a dead horse. I want to thank Senator Atkinson for bringing this bill forward. We urge your support.

**Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada:**

Ditto what everyone else has said. I would like to echo that we are trying to clean up and fix the language that my organization has had to deal with since the last session. We want to clarify for both parties, so there is no interpretation from either side. We support this bill. I want to thank Senator Atkinson and the Committee for hearing this bill.

**Danny Thompson, representing Teamsters Local 14:**

Teamsters Local 14 represents thousands of city employees in southern Nevada, including the City of Henderson, the City of North Las Vegas, the Las Vegas-Clark County Library District, and others. We fully support this bill and thank Senator Atkinson for bringing this important issue forward.

**William Stanley, representing Southern Nevada Building and Construction Trades Council; and the International Union of Elevator Constructors:**

The International Union of Elevator Constructors represents a bargaining unit at McCarran International Airport that maintains the automated people movers, also known as the trains. Those individuals who maintain critical infrastructure allowing people to move about the airport have been without a collective bargaining agreement since June 30, 2014. This is an example of the type of foot-dragging that the unintended consequences of S.B. 241 of the 78th Session had. To think that a group of individuals who go to work every day are now without a collective bargaining agreement is unconscionable. I believe that a lot of the language in S.B. 356 (R1) will help correct that. We support the bill and want to thank Senator Atkinson for bringing the bill forward.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to S.B. 356 (R1)?

**Scott R. Davis, Deputy District Attorney, Clark County:**

Clark County is opposed to S.B. 356 (R1), based on sections 1 and 3. Two years ago, the Legislature sought to solve a problem. Contract negotiations were lackadaisical, there was no sense of urgency, and they were taking too long to complete. Often, there were years between one agreement expiring and another agreement being finalized. That is the legacy of the old system that S.B. 356 (R1) will try to reestablish.

Senate Bill 241 of the 78th Session sought to fix that problem by putting the parties on the clock. It passed with broad support from the unions and management. It makes sense if you think about it. Think about a sporting event. When a team is on the clock, all of a sudden everything happens more quickly and with more purpose.



Senate Bill 241 of the 78th Session sought to bring that principle to the negotiation process. Is it doing it? In Clark County's experience, yes, it is. Since S.B. 241 of the 78th Session passed, and in the last fiscal year, Clark County negotiated four collective bargaining agreements and six fiscal reopeners. Each one was completed before the end of the fiscal year and approved by the county commissioners before the expiration of the prior agreement.

If you understand NRS Chapter 288, there are still incentives for local government employers to negotiate. They are required to negotiate in good faith, and there is a process in place to deal with any instance where that does not occur. Those complaints come before the EMRB. The EMRB is capable of handling bad faith bargaining complaints. You will not hear of a single case where the EMRB has failed to comply with the 45-day deadline stated in section 1 of the bill unless the parties have volunteered to waive those deadlines. If there is a deadline, the EMRB will meet it. Ultimately, this Committee's goal should be to move forward and improve the collective bargaining process, but S.B. 356 (R1), as currently drafted, represents an unequivocal step backward, and Clark County opposes it based on those grounds.

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

I am also here on behalf of the Las Vegas Metro Chamber of Commerce. We oppose S.B. 356 (R1) because it is a rollback of hard-fought collective bargaining reforms that occurred in 2015. One of the biggest issues back then was the elimination of the evergreen clause. Frankly, contracts should end. We have talked about a lot of incentives to negotiate. If a contract does not end, there is no incentive for the unions to come to the table. If raises and increases last into perpetuity, there is no incentive for unions to negotiate with the taxpayer representatives hired to control costs.

I do agree if an employee is in a new position or different role that is higher than what the employee was previously in, there should be a different pay scale. If the current law affects that situation, we should discuss it. Finally, we are always concerned about employees conducting union business on taxpayer time. We think this muddies the water. We think union business should be conducted and paid for by the union, and taxpayers should pay for the business that is done on the taxpayer's behalf. For those reasons, we oppose this bill.

**Vicki Moore, Accounting Manager, Finance Division, Douglas County:**

I am here today to voice our opposition of S.B. 356 (R1)—specifically, section 3, as it allows for labor contracts to continue until a new agreement is reached. Organizations strive to meet agreements with labor bargaining units that are fair, equitable, and fiscally responsible. Allowing agreements to go beyond their terms has the potential to bind the organizations into further obligations that may not be available.

In years when revenues are down and budgets are low, this new legislation has the potential for bargaining units to push out new labor agreements and force organizations to continue with the existing contracts. There will no longer be a sense of urgency to reach an agreement in those years of hardship. Additional problems occur when a new agreement is less than an existing agreement. How do organizations take back from employees based on revised agreements? This will lead to increased hours spent correcting payroll files, communicating with employees, and collecting overpayments. It will also lead to moral issues within the organizations and mistrust of management. I appreciate the hard work of the Committee but respectfully request that the new language on the continuation of labor agreements be removed from S.B. 356 (R1).

**Jeff Fontaine, Executive Director, Nevada Association of Counties:**

We are opposed to S.B. 356 (R1) as written—specifically, section 1, which removes the time frame by which the EMRB must conduct a hearing. We believe that creates an open-ended process. Also, section 3, the continuation of the contracts—the evergreen clause—clearly has budgetary implications on county governments, and we are opposed to that section for the same reasons that were raised by Ms. Moore from Clark County.

**Nicole Rourke, Associate Superintendent, Community and Government Relations, Clark County School District:**

We are opposed to S.B. 356 (R1) based on the language in section 3 that returns the evergreen clause to the statute. However, we do appreciate the modifications that have been made in section 4 concerning returning bargaining rights to school administrators.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Will the sponsor please come back up for closing remarks and response to the opposition?

**Senator Atkinson:**

Thank you to the Committee for hearing S.B. 356 (R1). As you have heard, you are either for or against S.B. 356 (R1). Many of the people who came today will tell you there was a deal made last session; we know what that deal was and why it was struck. Senate Bill 241 of the 78th Session included some bad provisions that have done harm to the unions—they should be forced to live with a bad deal for a legislative win. It is wrong, and everyone knows there were bad results that occurred from that bill. People should not have to bear the burden for others trying to get legislative wins last session. People are being harmed; people are not receiving pay or increases. You heard the Chambers and others state that taxpayers should not have to pay for employees meeting with their unions. When are they supposed to do it? If you are grieved and hurt by your employer, it should occur immediately.

After legislation is passed, we come back, and we determine if it is working. If it is working, we leave it alone. If it is not working, it is our job as legislators to fix it. That is what S.B. 356 (R1) does. I ask this Committee to look carefully at what has been presented today, see if it is ripe for a fix, and I ask for your support.

**Assemblyman Daly:**

In the private sector, when a contract expires, the employees have a right to take economic action. They can stop working and go on strike. Public employees do not have the right to strike. That is where the evergreen clause comes in. It changes the balance of power in the contract negotiations. The local government employer is in the position where, when the agreement ends, the employees cannot quit. That is a shining example of an unbalanced, unfair, and unjust process.

[([Exhibit D](#))] was submitted but not discussed.]

**Chairman Flores:**

I will close the hearing on S.B. 356 (R1). I will open the hearing for the next bill, Senate Bill 357 (1st Reprint).

**Senate Bill 357 (1st Reprint): Revises provisions governing the use of apprentices on public works. (BDR 28-534)**

**Senator Kelvin Atkinson, Senate District No. 4:**

This measure governs the use of apprentices on a public works project. I am excited to sponsor and present this bill. Apprenticeship is recognized as one of the oldest established methods of training. It is a process where individuals earn while they learn to become highly-skilled workers. Apprenticeship is a combination of on-the-job training and related classroom instruction in which workers learn the practical and theoretical aspects of a highly-skilled position. It is no secret that many older construction workers are reaching retirement age. We may not be able to fill these vacancies in the future if we do not have a trained workforce. Apprentices are an effective means of accomplishing this. This measure will create and expand training opportunities for apprentices in Nevada to enter careers that provide a family wage.

In Nevada, we have created the State Apprenticeship Council within the Department of Business and Industry, which establishes standards for apprentice programs. The purpose of the program includes creating an opportunity for persons to obtain training that will equip them for profitable employment and citizenship, and the establishment of an organized program for the voluntary training and guidance in the arts and crafts of industry and trade. Also, we have established laws setting forth the requirements for a public body which sponsors or finances a public works project to award a contract to a contractor for construction of a public works project. The bill, as amended, is a compromise agreement to require a contractor or a subcontractor on a public works project to ensure an apprentice performs not less than a certain percentage of the total hours of labor on that public works project.

I will go over the key provisions of the bill as they are today. Section 4, subsection 1, beginning in calendar year 2019, requires each contractor and subcontractor on a public works project with an estimated cost exceeding \$1 million to ensure that an apprentice performs no less than 3 percent of the total hours of the horizontal or vertical construction work. Horizontal contractors or subcontractors with fewer than 25 employees are exempt from the requirements of this bill. Vertical contractors and subcontractors with fewer than 6 employees are also exempt.

Section 4, subsection 10, paragraph (b) defines horizontal construction as, ". . . any fixed work other than vertical construction except as specifically provided herein, including, without limitation, fixed work relating to irrigation, drainage, water supply, flood control, a harbor, a railroad, a highway . . ." and other types of fixed work. Section 4, subsection 10, paragraph (c) defines vertical construction as, ". . . construction or remodeling of any building, structure or other improvement which is predominately vertical . . . ."

The measure authorizes the Office of Labor Commissioner, Department of Business and Industry, to adopt, with the approval of the State Apprenticeship Council, regulations revising the apprentice percentage requirements each calendar year and impose a monetary penalty for any failure of the contractor or subcontractor to comply with the apprentice percentage requirements on a public works project. Further, section 4, subsection 2 requires a public body to verify that a contractor is in compliance with the apprentice requirements or has paid a monetary penalty before awarding a public works contract that exceeds \$1 million. The public body cannot award a contract to a contractor who has not satisfied the apprentice requirement or paid the monetary penalty. Finally, we have accepted an amendment to remove the bidding preference language.

Senate Bill 371 of the 78th Session passed unanimously in the Senate, but did not make it off the Assembly Floor. Since then, we have worked with organizations because of our growing economy, exciting opportunities, more so in the south, and the need for qualified people to perform the necessary construction jobs. Many people are working the bottom of the bottom jobs because they do not have the required skill set. This provides an opportunity for them to learn and be paid while they learn.

We know this affects a large portion of minorities. The Regional Transportation Commission of Southern Nevada was part of a consortium that conducted a disparity study to determine the number of contract dollars awarded to minorities and women-owned businesses. The study suggested that, among African Americans, their participation increased by less than 1 percent. Less than 1 percent. Some people believe we do not have a problem.

People who were not too keen on the apprentice requirements for a public works project believe this is a much better bill than the one from last session. We have worked with whoever expressed an interest. Early this morning, I heard from some people about some opposition, but they have not come to the table. I will say it again; we will work with anyone who wants to work with us on the measure. I hope the Committee agrees that we need to get

something done, and we need to get it done this year. The new stadium, Project NEON, and other public works projects are great opportunities to develop a diverse workforce. With the Committee's indulgence, I would like Mr. Wellman to present the bill in further detail.

**Bill Wellman, Division Manager, Las Vegas Paving Corporation:**

The merits of this apprentice bill have been discussed for at least three sessions. It was discussed during the hearing of Assembly Bill 413 of the 77th Session, which permitted larger counties to impose additional taxes on fuels for motor vehicles. To be clear, I am only representing Las Vegas Paving Corporation. We feel the intent of this legislation has always been in the best interest of helping to grow our communities through its workforce. However, it has taken some serious and challenging discussions, many meetings, working groups, and a variety of other formats to formulate the language needed to ensure reasonable and responsible success. That is why we are here today. None of this means anything if we cannot be successful in delivering Senate Bill 357 (1st Reprint). Although not everyone is supportive, the language we have today is meant to be unbiased, understandable, and manageable for all contractors and public entities. I would like to go through the sections.

All of these provisions affect the *Nevada Revised Statutes* (NRS) Chapter 338. Section 4, subsection 3 of the amendment ([Exhibit E](#)) states, ". . . before awarding a contract for a public work for which the estimated cost exceeds \$1,000,000, a public body must verify whether . . ." a contractor has met the 3 percent apprentice labor hour requirements for the previous year or has paid a monetary penalty imposed by the Labor Commissioner pursuant to section 4, subsection 7. This affects public work contracts on or after February 1, 2019.

Initially, we discussed assessing the apprentice labor hours on a project-by-project basis, but it was not workable. We met with representatives of the construction industry and agreed on an annual utilization of labor hours to be used on prevailing wage projects. The math is simple. If Las Vegas Paving has one million hours per month on various public works projects, 30,000 of those hours must be performed by apprentices. Beginning in 2018, each contractor or subcontractor accumulates their hours and uses apprentices for 3 percent of the horizontal or vertical work.

This means that as a prime contractor at the time of bid submission and per NRS, we are obligated to provide a list to the public entity of any contractor performing more than 5 percent of the work on that public works project. The effective date of this provision was set for February 2020 because smaller and minority businesses may be challenged to implement the process. We are providing more time before they are required to meet the provision and the Labor Commissioner has time to qualify them.

Section 4, subsection 3 of the amendment ([Exhibit E](#)) directs a public body to verify the contractor complies with the provisions of section 4, subsection 1 before awarding a public works project that exceeds \$1 million. Currently, contractors submit their project hours to the public entity of the public works project. The intent is for the contractor or the public entity to forward those hours to the Labor Commissioner. The Labor Commissioner would

issue some form of certification—similar to a bidder's preference certificate issued by the State Contractor's Board within the Professional and Occupational Licensing Boards—stating that the contractor met the 3 percent apprentice labor hours' obligation or paid the penalty and is qualified.

Section 4, subsection 4 of the amendment ([Exhibit E](#)) allows for a preference to a contractor of 1 percent for each percentage point over the minimum apprentice labor hours described in section 4, subsection 1. We have agreed to remove this language. I am bringing it up to demonstrate the bill is a work in progress. However, we believe we are very close to satisfying most of the concerns that have been brought to our attention.

In section 4, subsection 5 of the amendment, the Labor Commissioner may grant an exemption only if the Labor Commissioner finds there is a demonstrated lack of qualified apprentices in a specific geographic area where the public works project resides. For example, if a contractor was working on a U.S. Highway Route 50 project in the Austin area, the likelihood of meeting the required 3 percent apprentice labor hours may be challenging. The Department of Transportation (NDOT) would need to apply for an exemption and any labor hours would not count towards a contractor's commitment of the annual 3 percent apprentice labor hours.

Section 4, subsection 6 of the amendment exempts the provisions of subsections 1 through 5 on a public works project if the horizontal contractor employs fewer than 25 employees or a vertical contractor employs fewer than 6 employees. This is specific to the project, not the contractor's business as a whole. Section 4, subsection 7, paragraph (a) directs the Labor Commissioner to determine the percentage of total hours performed by apprentices on the public work. Section 4, subsection 7, paragraph (b) directs the Labor Commissioner to determine whether a contractor or subcontractor satisfies the requirements of subsection 1 or subsequent sections as applicable. If not, in section 4, subsection 7, paragraph (d), the Labor Commissioner may impose a monetary penalty for any failure of the contractor or subcontractor to remain qualified for a public works award that exceeds \$1 million. The rates are on a sliding scale based on the contractor's efforts. The Labor Commissioner makes the determination based on the annual hours submitted.

Section 4, subsection 8 of the amendment directs how the money collected by the Labor Commissioner is distributed. I would like to read into the record the specifics of what that section states because it is important to some of the questions and concerns that may come after. Section 4, subsection 8, states, "All money which is collected by the Labor Commissioner for monetary penalties imposed pursuant to subsection 7 must be: (a) Distributed only to programs of apprenticeship that are registered and approved by the State Apprenticeship Council pursuant to Chapter 610 of NRS; and (b) Used only for the recruitment, education and training of apprentices and placement of apprentices in employment." We want to ensure this money does not go to the State General Fund, and it is used for the intended purpose of this bill, which is to create workforce development through apprenticeship programs.

Section 4, subsection 9 allows the Labor Commissioner on or after January 1, 2020, to adopt regulations to revise by not more than 2 percent the following year the apprentice participation percentage. In other words, starting in 2020, once we see how this program is working and growing, the Labor Commissioner, with the approval from the State Apprenticeship Council, may adjust the 3 percent to some other number up to 2 percent a year. Section 4, subsection 10 defines horizontal and vertical construction.

A friendly amendment from the Nevada Contractors Association has been submitted ([Exhibit F](#)). It covers reporting and accountability issues on behalf of the apprenticeship programs. We support those programs, and they will present to this Committee later.

**Assemblyman Kramer:**

I understand the requirement for the apprentice labor hours in a previous year for a public work project that a contractor must meet. It seems if a contractor's subcontractor did not meet the apprentice labor hours requirement, it would negatively affect the contractor because the contractor is responsible for its subcontractors. Does S.B. 357 (R1) pertain to the contractor or subcontractor individually? Are there any existing records to show the percentage of apprentice labor hours? Is there a natural inclination to hire apprentices? You provided the example of an NDOT public works project in Austin and the low availability of apprentices in that area, and NDOT would apply for a waiver. Did you mean NDOT or the contractor working for NDOT?

**Bill Wellman:**

The answer to your first question is apprentice labor hours percentage applies to each contractor or subcontractor. Each licensed contractor is an independent on purpose. It is not a project-by-project goal. As a representative of Las Vegas Paving, it is my goal to meet the 3 percent apprentice labor hours on public works projects in the previous year. Private projects or exempted projects, which are less than \$1 million, are not part of the accumulated hours. Contractors may also be subcontractors. That is dependent on whether a contractor is a subcontractor to Las Vegas Paving or working directly with the public entity. Each one of Las Vegas Paving's subcontractors is responsible for their public work hours, whether that is 10 hours or 1,000 hours, on a project that exceeds \$1 million. The hours are accumulated on the project and other \$1 million public works projects. The hours are not project specific. The reason for that is that contracts may span multiple calendar years.

**Assemblyman Kramer:**

If a contractor has a subcontractor and the subcontractor does not meet the 3 percent requirement, will the contractor receive the penalty? Does that mean the contractor may not be able to get a public works project next time because the subcontractor did not comply?

**Bill Wellman:**

No, the subcontractor is independent of the contractor. The contractor is not responsible for each subcontractor.

**Assemblyman Kramer:**

Has there been any tracking of these apprentice hours in the past? It sounded like NDOT would be penalized if the contractor was not able to meet the apprentice labor hour's percentage. Did you mean the contractor that is hired by NDOT?

**Bill Wellman:**

The Department of Transportation would request the exemption knowing in advance that it would be challenging for the contractor to find apprentices in that area. It would be up to the contractor to decide if they wanted to bid on a public work project that did not receive an exemption. We discussed this at length, and in order to keep the exemptions unbiased and fair for all contractors, they cannot apply for an exemption. That is why each public entity may apply for an exemption. Senate Bill 357 (1st Reprint) is very clear that it must be, "... a demonstrated lack of qualified apprentices in the specific geographic area [page 4, ([Exhibit E](#))] . . . ." If the geographical area were Las Vegas, then it would not be likely that a contractor could not find apprentices.

Assembly Bill 191 of the 78th Session revised fuel taxes on motor vehicles. We doubled our apprenticeship participation because of that bill. We went from 2 percent to 4 percent, and I thought that was very good. The 4 percent includes non-prevailing wage projects. We have asphalt plants, crushers, and other things that are not part of a public works project. We looked at that and brought the numbers forward. Last year, Las Vegas Paving had about 3 percent labor hours on public works projects. It has been a challenge to figure out the percentage for S.B. 357 (R1). The workforce development entities have testified before this Committee that they have the people available to do this. We will find out in two years. The friendly amendment provision concerning accountability issues ([Exhibit F](#)) will need to be amended to this bill.

**Assemblyman Kramer:**

As a contractor, I calculate the apprentice labor hours and the 3 percent is achieved. You mentioned that some projects are prevailing wage while others are not, and people move from one job to another. Does this make the calculation process complicated? Is there an appeal process? How are the numbers reconciled? Was it a difficult process for Las Vegas Paving? Will there be a significant cost associated with calculating the hours?

**Bill Wellman:**

The simple and quick answer is no. There is nothing in the bill that states "prevailing wage." These are public works projects, which are essentially prevailing wage projects. Every contractor or subcontractor must report on a monthly basis to the public entity of the prevailing wage project, whether that is the City of Las Vegas, Clark County, Washoe County, or Carson City. The report is composed of the hours worked, the classification of each person who worked on the project, and the rate they were paid. It is known as a certified payroll report. There is not a contractor in this room who does not do that on a prevailing wage job. Since we already submit that report to the local public entity, that same information could be forwarded to the Labor Commissioner.



I have been in business for 45 years in Nevada. A year ago, I was very naïve on how the hours were calculated. I thought the Labor Commissioner verified the certified payroll report, but the buck stops with the local public entity. It is their job to police and ensure that each employee is paid the proper amount per their classification on the public works project. If there is a discrepancy in the report, it is forwarded to the Labor Commissioner for resolution. That might result in a fine, discussion, or whatever the Labor Commissioner determines.

It is the intent of S.B. 357 (R1) that the data from this report would be rolled into a report for the Labor Commissioner. For example, Las Vegas Paving had 1,000 hours on Project A and 500 hours on Project B in one month. The Labor Commissioner would receive a report that Las Vegas Paving had a total of 1,500 hours on prevailing wage projects for the month. The classification could include how many apprentices and their level—apprentice, entry, or four-year apprentice. We use LCPTracker software to compile our report because most public entities use this system. It should be relatively easy to accumulate the apprentice labor hours.

At the end of the calendar year, the Labor Commissioner will look at the numbers and adjust the apprentice percentage and issue a qualification acknowledgment that a contractor met or did not meet the requirement. If there was a disparity, the Labor Commissioner would assess a penalty.

**Chairman Flores:**

Please clarify the exact section in the bill that states the hours reported by the contractor to the public body are in turn reported to the Labor Commissioner.

**Bill Wellman:**

There is not a specific section. That is something that the Labor Commissioner will have to develop.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of S.B. 357 (R1)? We are requesting testimony be kept to two minutes.

**Nathan R. Ring, representing International Union of Operating Engineers, Local 12;  
International Union of Painters and Allied Trades, District Councils 15 and 16;  
and Bricklayers Joint Trust Funds:**

We stand in support of the bill and thank Senator Atkinson for bringing it forward. We were part of a number of the working groups that came up with the language, and we think it is a great bill.

**Greg Esposito, Government Affairs Director, UA Local 525, Plumbers, Pipefitters, and Service Technicians:**

We support the bill and appreciate Senator Atkinson for bringing it forward. If you think about what public works dollars accomplish and the economic stimulus they provide, it only makes sense to maximize their potential. When we shop for a house or a car, we try to maximize our consumer dollars to get all the amenities and upgrades we can. This body has passed bidder preference bills and local hire legislation in the past. It only makes sense to allow the state and its public entities to take that one step further and ensure there are available craftsmen for future public works projects. This bill ensures we are training craftsmen for the future. We support apprenticeships.

You may hear there are not enough apprentices to meet the demands. First, the bill's percentages are far below industry standards. The Nevada State Pipe Trades has a 3-to-1 ratio on projects, which means that 25 percent of the people on the job are apprentices. Three percent is far below what we consider industry standard. If we had a shortage of apprentices, how did we build some of the most complex construction projects in a decade? We built the entertainment capital of the world in less than a decade with some of the largest privately funded construction projects in history. We did that through journeyman and apprentices trained in their craft. Local governments want to ensure their communities have well-trained craftsmen for the future. This bill makes sense.

**Danny Thompson, representing International Union of Operating Engineers Local 3:**

In the past five years, the construction industry has gone through the toughest times of any industry. It has been devastated. If you are a contractor and you are still in business, you have a really sharp pencil. There is work not just in northern Nevada but in southern Nevada, with the Las Vegas Raiders stadium and the Las Vegas Convention Center District Project. I think it is fitting that we strengthen our apprenticeship requirements. I can tell you, on behalf of the International Union of Operating Engineers Local 3, we can meet those requirements in the bill, and we are proud to support it.

**Peter Krueger, representing National Electrical Contractors Association, Greater Sacramento Chapter:**

We are signatory statewide union contractors, and we are in support of S.B. 357 (R1).

**Rob Benner, representing Building and Construction Trades Council of Northern Nevada:**

We stand in support of S.B. 357 (R1). Northern Nevada has seen a severe construction worker shortage due to "the Tesla effect." The shortage will only get worse due to our aging construction workforce and the increase of work in southern Nevada. The only way we are going to meet the long-term needs of the construction industry is by training the next generation of construction workers. At the end of the day, if we cannot build it, businesses cannot come to Nevada.

**William Stanley, representing Southern Nevada Building and Construction Trades Council:**

Our 16 affiliated local unions all have apprenticeship programs. I come before you today to support S.B. 357 (R1). Conceptually, the bill is leveraging our public works dollars to create opportunities for those individuals who may be underserved and underrepresented in the construction trades. It ensures we will have a qualified and trained construction workforce to build the new Nevada. We received the conceptual amendment this morning. We have a few concerns, and we have a few conceptual amendments. As this bill continues to work itself forward, we are committed to working with the bill sponsor. That will ensure Southern Nevada Building and Construction Trades Council's 16 building trades interests—representing the overwhelming majority of apprentices in the state of Nevada—are represented in this bill.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to S.B. 357 (R1)?

**Craig Madole, Chief Executive Officer, The Associated General Contractors of America, Inc., Nevada Chapter:**

I would like to thank everyone who met with us several times to discuss our concerns. However, even with the amendment we saw this morning, we still have a few concerns. There are some improvements, but in section 4, subsection 6, paragraphs (a) and (b), to clarify that the employee numbers for vertical and horizontal work are not for the entire company but only for onsite employees would be helpful.

We would like to propose an administrative review by the Labor Commissioner prior to any fine levied or paid to ensure an exempt project is, in fact, exempt. We would like a requirement for experience, where the bill would come back to this body for any changes. The bill allows the Labor Commissioner to modify the existing percentages, and we feel some experience to come back to this Committee in 2021 is a reasonable consideration.

**Fred Reeder, President, Reno-Tahoe Construction, Sparks, Nevada:**

Reno-Tahoe Construction is a general engineering contractor firm based in Reno. I am also signatory with the International Union of Operating Engineers and the Laborers Union. I am here in opposition to this bill. I do not disagree that we have a need to develop our workforce, but I do not believe that legislative mandates for apprentice hiring will cure the problem. During the past seven to eight years, our industry has been one of the hardest hit in the state. Because of the loss of jobs, we lost out on a generation of workers. The work was not there.

In my own firm, I went from a high of 150 employees to a low of 12 employees, and 2 of those employees were myself and my wife. The future looks stronger in northern Nevada, and we have cautiously expanded our operations. I am now back up to 60 employees in the field. Out of those 60, I employ 4 apprentices, which equates to a little less than 7 percent.

My problem is, of those employees who are apprentices, I scatter them on my private and public works jobs. I typically do about 50 percent on each. Last year, we did more private work, so any apprentices I had would not have been considered because I did the utility work for the Switch Citadel Campus located at the Tahoe-Reno Industrial Center.

Typically, when I dispatch employees, it is based on the type of equipment, the type of job, equipment availability, skills of employees, the status of the jobs in progress, any deadlines I have, and lastly, it is based on the personalities of people. This mandate is telling me I have to dispatch based on the quotas of S.B. 357 (R1). You are telling me to run my company less efficiently. Through my eyes, this legislation favors the larger union contractors, and I am not by any means a large union contractor.

Union contractors have accredited apprenticeship programs while nonunion contractors do not have accredited programs. That is not to say that the nonunion people are not training their people; some of the best employees we get have come from the nonunion sector. They have learned multiple trades as they have worked their way up. The best operating engineers we get are the people who have worked in the field and the ditch and learned the trade from the bottom up to work their way into a seat. Those opportunities are not always available in the union companies.

In closing, we have been hit hard. One of the things I see happening on January 1, 2019, is I will be laying people off so I can bring these apprentices on. In addition, on an apprentice's graduation day, I will be laying those apprentices off to bring on a new batch of apprentices. I do not know if this is going to cure our problem. I do not think it is the time or place to enact legislation to tell me how to run my business. I believe it is my right to dispatch my employees as I see fit. I am the one with all the risk in the game. I have the skin on the line here, and I do not think any more regulations or mandates that interrupt the way I run my business is needed at this time.

**Lance Semenko, Chief Operating Officer, Q&D Construction, Inc., Sparks, Nevada:**

Q&D Construction, Inc. is a union contractor in horizontal and vertical work. We participate in all the union apprenticeship programs. Currently, we have 25 apprentices and we employ 500 people, equating to about 5 percent. On the horizontal side, S.B. 357 (R1) is very doable. On the vertical side, how are we going to police our subcontractors on bid day? We typically turn our bids in one minute before the deadline.

In my opinion, this will penalize the good contractors. What will happen when there are no public works projects or very few public works projects? If a contractor does not do any public works projects for a year, are they disbarred from working on them the next year because they do not have any apprenticeship hours? We do a lot of private work. Every day we try to find workers because "the Tesla effect" has caused a shortage in northern Nevada. I go out to the Sierra Nevada Job Corps Center, and I go out to the schools.

Another problem is if we are busy with workers, we will not have enough people to follow up and be apprentices. I do not care what anyone says, and I do not care what any of these apprenticeship programs say, we must work on keeping the qualified few and not go out to the masses. This will cause people to get hurt and have shoddy performance on the job site. With that, I am opposed.

**Mac Bybee, President/Chief Executive Officer, Associated Builders and Contractors, Inc., Nevada Chapter:**

As an organization, we wholeheartedly support apprenticeship and wholeheartedly support workforce development. The bill sponsor is correct; there is a dire need for skilled craft professionals in this state. The reality is that not everyone is equipped to work on commercial construction. There is a qualification process and a diminishment of the number of individuals by the time they are in their fourth year and become a journeyman. Putting percentages statutorily in place could end up being problematic for the contractors and, in my view, it would stifle competition and bidding.

In addition, there are on-the-job training hours. There may be a contractor working on a school public works project, and they have their apprentice labor hours percentage to meet. Then, they get a project like Switch, which is obviously done, but it is technically more advanced than a school project. In that instance, it might make more sense to expose those apprentices to the Switch work environment, but the contractor may not be able to because of the mandates in the bill. We have gone to the bill sponsor and expressed our concerns. We would be open to bona fide training programs or other measures in the bill to provide a bit more flexibility.

**George Del Carlo, Co-Owner, Classic Finishes, LLC, Reno, Nevada:**

I am signatory for five collective bargaining agreements. Currently, I have 38 employees, and 2 are apprentices on one particular job. I will set the stage. I have a private job in Wendover, Nevada, and it is over \$1 million, so I would be affected by this bill. Of the last seven apprentices I have tried to hire in the last two weeks; two of them failed their drug test, two of them took my travel money and I have yet to see them; the other two worked for a week, cut a hole in the floor of their hotel room, and they are persona non grata in Wendover. Out of seven people, I have gained one.

The point I am trying to make is there is a reality out here. We are not sitting back and looking at numbers. We have to look at faces day to day, and those faces cause problems either for themselves or us. If they have personal problems, we try to help. I do not want to be punitive for something I had no effect over, or I could not control. I did my best to get seven employees. I have signed all these contracts. I have asked the unions for members, but people are not available.

I am a new company. If I want to get into the public works game, I have no record of apprentice hours; I have no record. I have to get on my hands and knees and beg all the general contractors to give me a chance. It is a big question mark in their mind because they may be punitive on the other end. The last point I want to make is we are not ogres. We are owners of businesses, and we want to survive. We are doing things to try to help in this process of getting new people into the industry—not only journeymen but apprentices.

The last contract I signed with the International Union of Painters and Allied Trades, we said, okay guys if you can get 20 percent more journeyman in the next year, and if you can get 30 percent more apprentices, we will give you more money. More money than you are asking for because we know our future is in front of us. We are not sitting back on our heels and saying we cannot do this; we are actively out there doing things. I am against this because we are doing our part, and S.B. 357 (R1) will put too many restrictions on owners. We want to survive and help the whole community survive.

**Assemblyman McCurdy:**

You mentioned you had seven apprentices, but you were only able to retain one. Is the turnover always that high?

**George Del Carlo:**

No, not always that high. However, there is a lot of pressure to have more people to meet the demand of the increase of jobs. We are asking the unions to provide us more people, and they are having trouble finding people. I work out of Reno, and I have apprentices coming out of Las Vegas to fill our requirement in Wendover. I am a new company and, based on my experience right now, looking at seven people and only retaining one, I would say yes, but people who have been in the business longer may have a different result.

**Jan Leggett, General Manager, Construction Division, Moana Nursery, Reno, Nevada:**

Moana Nursery has been in business for 50 years and over the years has worked on a number of public works projects, including schools, highways, parks, and other projects. Unfortunately, the landscape industry in northern Nevada has no such thing as an apprenticeship program. We are currently working on the extension of Interstate 580 in Carson City. If this bill were to go into effect today, we would be excluded from this project. Going forward, we will be excluded from these types of projects because of the requirement for an apprenticeship program. We are definitely in opposition to this bill. We have been here for 50 years, and we would like to be here for another 50 years serving our community.

**Frank Lepori, President, Frank Lepori Construction, Inc., Sparks, Nevada:**

I have been in business for a little over 30 years. I am a nonunion open shop, and we do not have an apprentice program available to us. We used to send them to the Nevada Chapter of Associated Builders and Contractors, Inc., but they stopped their program. Hopefully, they will restart the program. We have had two or three apprentices attend their program. We have about 60 people in the company and about 6 to 8 apprentices. We hired a couple last week. We are always looking for apprentices.

You asked the question about keepers, or how many people we need to go through to keep one person? It is probably about five people to find someone who will fit the bill for construction work. Construction work is hard, it is dirty, and it is hot. It is not for everyone. Some people think it is for them, but by the time they are in the system, they realize it is not. There is a problem with drugs. We do our share of public works projects and prevailing wage types of jobs. We do not have the option to have apprentices because our apprenticeship program is not certified. We send our younger people or our apprentices to school, and it does not count. We send them to forklift training. It does not count. We send them to asbestos classes. It does not count. We send them to lead training. It does not count. We send them to fall protection. It does not count. We are not accredited. We do all the right things, but we do not get credit for it.

I am out of the public works projects game, or I will have to pay more to participate. I pay for the class and the individual to go there, and now, if this bill passes, I pay the penalty. I do not see how that is fair to my company. Personally, I went through the system. I was a carpenter; I went to apprenticeship school; and I had in-the-field training. I learned more in the field than I did in class.

**Aaron West, Chief Executive Officer, Nevada Builders Alliance:**

The idea of requiring apprentices does not mean people are going to line up to become one. You have heard from a lot of individuals today that it is a difficult process. Currently, the Nevada construction workforce has 22 percent of the workers over the age of 55, and 7 percent of our workforce is under the age of 24. We have a perception problem within the industry. My staff and I are in various schools three to four times a week talking to kids about opportunities in the construction fields. We are trying to move that needle, but it is not going to swing over right away. We have some bigger issues.

I agree we need a skilled workforce, and apprenticeship programs are great for that. The challenge to that is there are barriers to entry; we all know that apprenticeship programs require a high school diploma or equivalency. Our education system has approximately a 25 percent dropout rate. That is a huge number of people being excluded from this opportunity. There are bigger issues that need to be addressed before we look at this type of mandate.

**Marc Markwell, Chief Financial Officer/Secretary, Sierra Nevada Construction, Inc., Sparks, Nevada:**

Sierra Nevada Construction, Inc. is a heavy highway road builder based out of northern Nevada. We agree that workforce development is a major concern, especially with the economy picking up. We cannot support this bill as written. I do not want to reiterate what some of my colleagues and fellow contractors brought up, but I would like to highlight a couple of points. We are a medium-sized contractor. We are signatory to the International Union of Operating Engineers and the Laborers Union, and we struggle with wondering if we can meet this goal from year to year based on the gap that might occur between apprentices graduating to journeymen. We have smaller subcontractors we will have to worry about. We have to make sure they can comply and we can use them in a bid.

There are a lot of mom-and-pop businesses that we help through the process, such as submitting certified payroll and those types of things. An additional administrative burden will make it harder for them, and they may shy away from public works projects and focus on private works projects. That would leave a big gap for us in some of their areas. I highlighted a little bit about the administrative burden, and another layer will make it difficult for us. We have a lot of administrative burdens to follow up right now. We do agree workforce development is a major problem, and we look forward to working with Senator Atkinson. We appreciate his efforts.

**Carl Ruschmeyer, Director, Douglas County Public Works:**

In principle, we support apprenticeship programs. However, under this bill, we are in opposition based on language in section 4, subsection 2. That language requires the public body to verify compliance with certain requirements identified in section 4, subsection 4 of the bill. Our concern is the language "verify." That term is very unclear, not well defined, and open to interpretation. The bill sponsor touched on the issue of potentially amending the language. We would like to work with the bill sponsor and are recommending language to require a contractor to submit, as part of their bid, a certificate of eligibility or another type of certificate that would be received from the Office of Labor Commissioner. We believe that would address our primary concern and help to clarify the public bodies' responsibilities. It reduces the administrative burden on the public body, streamlines the bidding process, and protects the public body from the protest.

**Darren L. Schulz, Public Works Director, Carson City Public Works Department:**

I am representing the public body that the bill refers to, and I will echo Mr. Ruschmeyer's remarks. I think the work is in the right direction, but it is still not clear to us as to whose responsibility it is going to be to ensure the requirement has been met or was met in the previous year. We are in favor of a declaration that would be turned in with the bid to let the public entity know the requirement was met. Our concern is the bill, as written, does not state how this will be carried out. We work with the Office of Labor Commissioner on a weekly basis to ensure prevailing wages are checked and governed. I would be interested to hear from the Labor Commissioner on how they will administer this because the office is really busy.

**Dave Backman, Senior Vice President, K.G. Walters Construction, Reno, Nevada:**

K.G. Walters Construction is more of a specialty general contractor. We construct water and wastewater treatment plants, pumping plants, and infrastructure. I think some thought needs to be given to the occasion where a specialty contractor is needed. Sometimes it is not possible to find the specific specialty contractor in the state. Sometimes the specialty portion is a substantial portion of the contract. I am not sure how that would be viewed coming to a bid. Many times they come out of left field. We do not know they are coming, but we have to cover the work in a contract. I am not sure how a specialty contractor could be qualified in this program. I think some thought needs to be put into that.



I also believe this is going to be a huge fiscal impact for everyone involved, including the state and the Labor Commissioner. How would contractors know their status at the calendar's year end for the first week in January? The status may not be current enough to make decisions like that. I agree with all my colleagues and their prior testimony. I think this is a huge burden. I do believe in workforce development and that there is a gap, but we are trying to overcome it with a mandate. I do not think this is doing business owners in this state a favor.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position?

**Brian Reeder, representing Nevada Contractors Association:**

Nevada Contractors Association represents more than 600 members throughout the southern Nevada construction industry. Senator Atkinson has been great to work with in this process, and we appreciate his willingness to work with us and address some of the challenges we identified in S.B. 357 (R1). We share his goal of workforce development, training, diversifying, and growing the next generation of construction workers. We are neutral on the bill with the amendment presented by Mr. Wellman ([Exhibit E](#)) and the amendment submitted on behalf of the Nevada Contractors Association ([Exhibit F](#)). Some of the challenges we found were addressed by the amendment submitted by Senator Atkinson.

Specifically, we appreciate the bill sponsor's willingness to lower the goal on vertical construction from 7 percent to 3 percent. We believe that is more achievable, and we want this to be a success. Secondly, the public entities' ability to petition the Labor Commissioner for an exemption when the circumstances demand, we think is an important piece. Finally, the removal of the bidder preference—we saw challenges with that and are appreciative that it has been removed.

With your permission, I would briefly like to go through the amendment we submitted ([Exhibit F](#)). The amendment has two parts. First, this bill creates goals that are not currently in statute. They are brand new goals, and contractors do not have control over how many apprentices are available. They are going to need to know if there are apprentices available for the jobs they are bidding on. We are proposing for the apprenticeship programs to report to the State Apprenticeship Council on a quarterly basis. This needs to be ongoing reporting, including the number of apprentices enrolled in each program, the enrollment capacity, and the completion rate for the program. In addition, we think it is a good idea for the State Apprenticeship Council to report to the Legislative Counsel Bureau before the 2021 Legislative Session on the success and availability of apprentices in this state.

For any of this to work, these programs need to be producing enough apprentices. We want to make sure that underperforming apprenticeship programs demonstrate an effort to improve. We are proposing adding a requirement for apprenticeship programs that fall below 40 percent capacity to submit to the State Apprenticeship Council a strategic corrective action plan to recruit and retain apprentices and submit monthly progress reports. To ensure

it will work and there is accountability, we want the State Apprenticeship Council to have the power to enforce those provisions. We apologize for the late amendment. We are available for questions now or later.

**Chairman Flores:**

Senator Atkinson, please come back up for closing remarks.

**Senator Atkinson:**

The opposition did a good job today of bringing up individuals and agencies that have never talked to me. Some of these issues may have been discussed had we made a connection. California and Washington do this on a much more aggressive scale, and it works. Nevada can do it as well. There are ways to do it. Last session, we started with a requirement of 15 percent, and that went down to 3 percent. The 3 percent would increase for 5 consecutive years to get us to 15 percent. That was more palatable for the opposition.

The bill this session is much more watered down in an effort for us to get something going. Some individuals came to the table in support; others thought they would do it the way it was done last session and have the Assembly defeat it. That is part of the game, and I understand that, but the door has always been open. The 22 percent statistic concerning the 55-and-over workforce is what this bill does. We must continue to create and train new construction workers.

Lastly, one of the testifiers mentioned the economy picking up and that this is not good. That is the same argument they had five years ago when they said the economy was bad and that was not good. Is it bad and this is not good; or is it good and this is not good? They cannot have it both ways.

Senate Bill 357 (1st Reprint) is an effort to train our workforce to get our people on public works projects. For the individuals who are stating they cannot have it, the opportunity is here to have it. The issue is about money because it will cost businesses to create the apprenticeship programs. Create the programs and get in the game. You have to get in the game if you want to participate. That is what S.B. 357 (R1) is about. I will work with all parties to move this forward and get it passed this session.

**Chairman Flores:**

I would like to encourage those who testified in opposition to reach out to Senator Atkinson. Senator Atkinson, please invite some of the members of this Committee to be a part of the conversation. I will close the hearing on S.B. 357 (R1). I will open the hearing on Senate Bill 493.

[([Exhibit G](#)) was submitted but not discussed.]

**Senate Bill 493: Revises provisions concerning the participation of certain school administrators in collective bargaining. (BDR 23-1081)**

**Senator David R. Parks, Senate District No. 7:**

Senate Bill 493 reinstates the eligibility of principals and other school level administrators to participate in collective bargaining. It passed the Senate with a unanimous vote last month. In the last session, this Committee made a number of changes to our long-standing collective bargaining laws in Senate Bill 241 of the 78th Session, and this bill modifies one aspect of that measure.

Instead of using a salary cutoff to determine which administrators can be members of a collective bargaining unit, S.B. 493 eliminates the use of salary to determine which school administrators are to be excluded from membership in a collective bargaining unit. The bill has three operative sections. Section 1 allows principals and other school administrators at the school level to be part of a collective bargaining unit and excludes any administrators above the rank of principal; those are school district-level administrators. Section 2 clarifies that the change will not affect the terms of current collective bargaining contracts but will apply to any extension or renewal of contracts on or after July 1, 2017. Finally, section 3 makes the first day of the next fiscal year the effective date, which is July 1, 2017. I urge you to support this measure to restore bargaining rights to school principals while excluding district-level school administrators, thereby creating a better and simpler way to determine eligibility for participation in collective bargaining units.

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

Simultaneously, with my position as the Executive Director, I serve as the chairperson of the Clark County Association of School Administrators' and Professional-Technical Employees' Welfare Trust, which provides health benefits to administrators. I would like to express my appreciation to Senator Parks for sponsoring this bill and Senator Ford, Senator Segerblom, and Senator Woodhouse for co-sponsoring.

By way of background, the existing law excludes any administrator who has a salary in excess of \$120,000 from bargaining group membership. The intent of S.B. 241 of the 78th Session was to exclude high-ranking central office administrators from participation in collective bargaining organizations. The mechanism by which this exclusion occurred was by establishing a salary cap in the legislation of a \$120,000. This legislation went into effect July 1, 2015, and immediately excluded 32 administrators from the Clark County Association of School Administrators and Professional-Technical Employees bargaining group. With one exception, each of these excluded administrators was a high-ranking central office administrator with a salary in excess of \$120,000.

The 2015 legislation created two unintended consequences. First, not all high-ranking administrators were excluded because some had salaries under \$120,000. Some administrators were excluded because their salary exceeded \$120,000, and other high-ranking administrators with the same job title remained eligible for bargaining group

membership because their salaries were under the group threshold amount. This was not the intent of the 2015 legislation. The second unintended consequence was when the provisions took effect in 2015, one of our high school principals was excluded from the bargaining group because he had a salary in excess of the threshold amount. If the salary cap remains in law, this next year as many as 25 additional high school principals may be excluded from the bargaining group. This was not the intent of the 2015 legislation.

The work of the school principal is critically important to the overall success of the school. High school principals should not have to worry about being excluded from their collective bargaining organization because they received a modest salary increase or earned an advanced degree that puts them over the salary threshold. It is not right for principals to worry if their next raise will be enough for them to lose their right to participate in collective bargaining.

Additionally, in the Clark County School District, some of our very best principals who work in schools with high student achievement have been selected to become a franchise school principal. As a franchise principal, these administrators lead and manage two or three schools. These are exemplary principals who do an outstanding job at increasing student achievements at multiple school sites. These principals should not have to worry about losing their collective bargaining rights simply because their compensation exceeds the threshold amount.

As I mentioned at the beginning of my testimony, I serve as the chair for Clark County Association of School Administrators' and Professional-Technical Employees' Welfare Trust. The Trust provides benefits to all school district administrators who have eligibility for bargaining group membership. Principals should not have to worry about losing their health benefits.

In closing, S.B. 493 is a simple fix to these unintended consequences. It is important to note that this bill does not undo or roll back any of the reforms that were contained in S.B. 241 of the 78th Session. Senate Bill 493 eliminates the use of salary to determine which administrators are to be excluded from membership in the bargaining group and instead uses position, title, and job function as the mechanism for exclusion. This new criterion will exclude additional central office administrators, better accomplishing the goal of the 2015 legislation, and at the same time, this new exclusion methodology—that is position, title, and job function—will protect our school principals' rights to remain in collective bargaining and to participate in the collective bargaining process.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of S.B. 493?

**Ronald P. Dreher, representing Washoe School Principals' Association:**

We thank Senator Parks and the other co-sponsors for sponsoring S.B. 493. I am going to echo the same comments that Mr. Augspurger put on the record. I represent all of the school principals in Washoe County and have for the past several years. Senate Bill 241 of the 78th Session had unintended consequences on those principals.

**Ed Gonzalez, representing Clark County Education Association:**

We thank Senator Atkinson for bringing this bill forward. We support this bill and think it aligns with what the intent was the last session. Anyone who is trying to get a pay raise should not be excluded from benefits, especially health care. The intent is to limit it to central administrators and not principals.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to S.B. 493?

**Nicole Rourke, Associate Superintendent, Community and Government Relations,  
Clark County School District:**

I will say it is a qualified opposition because we feel this bill does not go quite far enough. We appreciate the sponsor bringing this forward for clarification, and we agree that there were unintended consequences. We also agree with the health care portion that people should not be denied or worried about their benefits. The people who are now no longer part of the bargaining group fall into that category and are now concerned about their benefits. They should be able to participate in the same benefits program.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Senator Parks, thank you for your presentation. Is there anyone in Carson City or Las Vegas here for public comment? [There was no one.] This meeting is adjourned [at 10:49 a.m.].

RESPECTFULLY SUBMITTED:

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Carol Myers  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Senate Bill 356 (1st Reprint) submitted by Marlene Lockard, representing Service Employees International Union Nevada Local 1107, and presented by Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO.

[Exhibit D](#) is a letter dated May 8, 2017, in opposition to Senate Bill 356 (1st Reprint) to Chairman Flores and members of the Assembly Committee on Government Affairs, authored by Christopher J. Hicks, District Attorney, Washoe County.

[Exhibit E](#) is a proposed amendment to Senate Bill 357 (1st Reprint) presented by Bill Wellman, Division Manager, Las Vegas Paving Corporation.

[Exhibit F](#) is a proposed amendment to Senate Bill 357 (1st Reprint) submitted by Brian Reeder, representing Nevada Contractors Association.

[Exhibit G](#) is a letter dated May 4, 2017, to the Senate Committee on Commerce, Labor and Energy, authored by Aviva Gordon, Legislative Committee Chairwoman, Henderson Chamber of Commerce, and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce, in opposition to Senate Bill 357 (1st Reprint).