

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Eightieth Session
April 4, 2019**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 6:53 p.m. on Thursday, April 4, 2019, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Melanie Scheible, Vice Chair
Senator James Ohrenschall
Senator Ben Kieckhefer
Senator Pete Goicoechea

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Heidi Chlarson, Committee Counsel
Jenny Harbor, Committee Secretary

OTHERS PRESENT:

Steven Kreisberg, Director of Research and Collective Bargaining Services,
American Federation of State, County and Municipal Employees
Carter Bundy, American Federation of State, County and Municipal Employees
Rick McCann, Executive Director, Nevada Association of Public Safety Officers;
Nevada Law Enforcement Coalition
Eddie Ableser, Nevada Highway Patrol Association
Catherine Byrne, State Controller
Annette Magnus, Executive Director, Battle Born Progress
Jeana James
Timothy Provost
Deborah Hinds
Veronica Brown-Davis

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Kelvin Chung

Annita Martinez

Richard Zemke

Cedric Williams, President, Sierra Range Chapter, American Federation of State,
County and Municipal Employees Local 4041

Elizabeth Crumrine

William Gibbs

Amber Fryer

Lanyne Russie

Victor Avena

Larry Coffey

Brandon Harmon

Keenan Korth, Clark County Education Association

Mary Sanada

Richard Ewell

Trisha Lindower

Autumn Zemke

Ken Edmonds

Fabiola Chavez

John Lum

John Tsarpalas, President, Nevada Policy Research Institute

Ed Uley

Randy Pope, Executive Director, Western States Right To Work Committee, Inc.

Paul Moradkhan, Las Vegas Metro Chamber of Commerce; Reno Sparks
Chamber of Commerce

Ann Silver, Chief Executive Officer, Reno Sparks Chamber of Commerce

Michael Pelham, Nevada Taxpayers Association

Kent M. Ervin, Nevada Faculty Alliance

Doug Unger, Chair, Council of Faculty Senate Chairs, Nevada System of Higher
Education

Jennifer Nelson

Karen Hyman

Jim Strange

Aaron Hill

Scott Huber

Jason Elias, Western Regional Coordinator, American Association of University
Professors

Chris Daly, Nevada State Education Association

John Aliano

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Tick Segerblom

Steve Soltz

Marlene Lockard, Service Employees International Union Local 1107; Las Vegas
Police Protective Association Civilian Employees

Thomas Dunn, Professional Fire Fighters of Nevada

Ray Richards

James Mcparland

Joe Reynolds, Chief Legal Counsel, Nevada System of Higher Education

SENATOR OHRENSCHALL:

I will open the hearing on Senate Bill (S.B.) 135.

SENATE BILL 135: Provides for collective bargaining by state employees.
(BDR 23-650)

SENATOR DAVID PARKS (Senatorial District 7):

Senate Bill 135 relates to collective bargaining for State employees. State employees are the only public employees in Nevada who do not have the right to bargain for their working conditions and their wages. This bill will give them a closer degree of equivalence with workers who are employed by city and county governments in Nevada. It will also give them a voice on the job.

This bill has been a long time coming. State workers are drastically underpaid compared to similar states as well as when compared to city and county employees in Nevada. The reason for this disparity is that they have no authority to either bargain or negotiate. Currently, State employees must beg collectively for changes in their working conditions or compensation.

Passage of S.B. 135 will be a major step forward not only for State employees but also for the State of Nevada as a whole. It will go a long way toward addressing the problems the State has with turnover due to the fact that employees leave State employment after the State has invested in hiring and training them.

Collective bargaining will also establish a collaborative relationship between employees and management, which is designed to build trust and cooperation by focusing on common interests, with both parties together engaging in creative means to address these common interests.

There is a Proposed Amendment 5542 of S.B. 135 ([Exhibit C](#)) from the Legal Division. In the interest of time, we will follow this document for the remainder of the meeting.

STEVEN KREISBERG (Director of Research and Collective Bargaining Services, American Federation of State, County and Municipal Employees):

As Senator Parks mentioned, S.B. 135 provides State workers with the right to join together for the purposes of collective bargaining. That is not a self-executing right; it just gives workers the option of joining together in a union and to bargain collectively with the employer. Employees themselves will decide whether they want to exercise that right. Adoption of this bill does not create collective bargaining per se, it just gives State workers the right that virtually every other worker both in the public and the private has in this State and nationwide.

It is important to understand that distinction. By adopting such a bill, you are expressing trust in your workforce to make correct decisions for themselves and to exercise the rights they believe they should exercise as opposed to policy makers exercising those rights for them.

Collective bargaining requires majority support; the majority of those involved in the collective bargaining process and represented by a union must choose to do so. Absent that majority, there will be no collective bargaining in the State.

The Local Government Employee-Management Relations Board will validate whether there is a majority under this bill. Senate Bill 135 also creates 11 separate bargaining units. These are groupings of common classifications. If a majority in these common job classes elect to have collective bargaining and a union, they will have it.

In addition to bargaining over the common economic features unique to those job classifications, there is also an opportunity to address agency-specific matters through the structure of bargaining contemplated in this bill.

Significantly, this bill requires any agreement reached between employees and the Executive Branch requiring an appropriation of funds be approved by this Body and the Assembly. In other words, the constitutional role of the Legislature to appropriate money is completely preserved by S.B. 135. The bill

and the collective bargaining process itself will not lead to an expenditure of funds absent the appropriation of those funds by the Legislative Body.

Finally, collective bargaining is not a new or unusual process. It will be new for State employees but not for Nevada public sector employees, school boards or local government. There is a high rate of unionization in this State in various industries, especially in the hotel and gaming industries. What is unusual is to have one group of employees excluded from that process. In this case, it is State employees.

The demonstration of the effectiveness of collective bargaining is there for you to see, as local governments and the private sector have made effective use of the process. It is a way to channel conflict in the workplace. Conflict is inevitable in just about everything we do, and unresolved conflict leads to frustration, high turnover and various other problems. Conflict resolution promotes retention, productivity, efficiency and effective relationships.

Experience tells us resolution of conflicts through the collective bargaining process is more effective than the grievance procedures in place through law and regulation, which do not work well and are expensive.

There is already a policy-making apparatus in place to create personnel policies. Collective bargaining would substitute for that, and it would be more effective because there would be more input from workers affected by personnel policies.

CARTER BUNDY (American Federation of State, County and Municipal Employees): Given some of the opposition you may hear, it is important to reiterate that all of the appropriations in budget processes remain with the Legislature.

This is the fifty-first anniversary of the assassination of Dr. Martin Luther King Jr. while he was attempting to win collective bargaining rights for the City of Memphis sanitation workers who, to this day, have collective bargaining rights and are represented by American Federation of State, County and Municipal Employees (AFSCME) Local 1733. It is special that we are on the first step to win collective bargaining rights for over 20,000 Nevada State employees.

SENATOR PARKS:

Mr. Kreisberg, please take us through each section of S.B. 135.

MR. KREISBERG:

Section 1 of S.B. 135 is a statement of intent. It describes what the bill will ultimately provide for.

Section 2 implements certain breast-feeding provisions that were passed into law in 2017. It makes that consistent with this particular statute.

Section 3 clarifies how conflicts between specific terms and conditions of employment covered by a collective bargaining agreement and State personnel rules are resolved. To the extent that there are conflicts between a collective bargaining agreement and personnel rules of the law, the collective bargaining agreement will prevail.

Section 4 deals with *Nevada Revised Statutes* (NRS) 287, which is the health benefits provisions of law.

Section 5 amends NRS 288. It is a codification of sections 6 through 44.

Section 6 incorporates NRS 288 definitions into this bill. *Nevada Revised Statutes* 288 is the Local Government Employee-Management Relations Act.

Section 7 renames the Local Government Employee-Management Relations Board to the Government Employee-Management Relations Board and gives it authority over our relationship as State employees in a State government.

Section 8 defines "collective bargaining." The definition of collective bargaining under State law will differ from the definition under local bargaining law.

Section 9 talks about the Commissioner being appointed by the Board.

Section 10 defines "Executive Department." We have clarified that definition in amendments to make it clear the Nevada System of Higher Education (NSHE) is an Executive Department for the purposes of this bill. So classified employees at NSHE will be considered employees under this bill and incorporated into the bargaining units.

Section 11 defines "fact-finding," although there is no fact-finding used in this particular process for State government employees.

Section 12 defines "labor organization."

Section 13 defines "mediation."

Section 14 defines "strike." As in local government collective bargaining law, this particular bill prohibits strikes by State employees.

Section 15 incorporates various sections for State employees.

Section 16 defines "arbitration."

Section 17 defines those 11 bargaining units I spoke of earlier. We have broad definitions of occupational groups that will be joined together in bargaining units. Section 17 specifically spells those out.

Section 18 defines a "confidential employee." These are employees who will assist managers engaged in collective bargaining. Under this bill, a confidential employee is ineligible for representation by a collective bargaining representative because it could present a conflict or lead to some confidential matters being disclosed to the union that should not be.

Section 19 defines "employee." It also excludes from coverage by S.B. 135 employees who work for the Public Employees' Retirement System (PERS) since they are not classified employees.

Section 20 defines what a labor organization is.

SENATOR KIECKHEFER:

In section 19, it looks like PERS employees are being carved out of the definition of "employee." Is that correct?

SENATOR PARKS:

Yes. They were included under the original draft but they are being removed. There are only a small number of PERS employees.

MR. KREISBERG:

Section 21 defines "grievance."

Section 22 is a statement of findings by the Legislature about why collective bargaining is a positive process and why the Legislature is adopting this law.

Section 23 sets out how the Board will be funded. In this particular case, it sets out a process whereby the Board is funded by a \$10 charge per each employee of the Executive Department.

Section 24 establishes employees' rights to collective bargaining and access to data so employees can intelligently participate in that process. The disclosed data currently exists and is relevant and necessary for the purposes of collective bargaining.

Section 25 states a collective bargaining agreement must include a grievance procedure with binding arbitration and payroll withholding of dues. The payroll withholding of dues is on a voluntary basis on the part of an employee. The collective bargaining agreement will have an exclusive grievance resolution through the negotiated procedure except when we are speaking of a grievance or appeal related to an adverse action—a disciplinary action, a demotion—where employees retain their statutory rights of appeal as they exist today.

Employees have a choice to use the negotiated procedure or the statutory procedure, but there is no turning back once the employee makes that choice. You get one bite of the apple to pursue your appeal through that particular procedure. It is a fairly common process, sometimes called an election of remedies, where an employee elects which remedy to use.

Section 25, subsection 5, paragraph (c) also states a collective bargaining agreement requiring an appropriation of funds is not effective unless that appropriation of funds is provided.

Section 26 is a listing of prohibited practices, often known as unfair labor practices. These are fairly standard and are similar to the unfair labor practices or prohibited practices described in local government bargaining law. They are also similar to laws throughout the Nation, both in public and private sectors.

Section 27 states how prohibited practices are to be processed by the Government Employee-Management Relations Board.

Section 28 refers to a hearing officer decision, how an appeal from that decision could be made to the full Board, and the remedies thereof to any kind of unfair labor practices that are found to have merit. Importantly, prohibited practices or unfair labor practices could be filed against either the labor organization or the employer. It is for violations of statute, and it is possible that either party could violate statute. In our experience, prohibited practices are not common. We tend to work things out without filing charges with labor relations boards.

Section 29 spells out those bargaining units I spoke of a few times before. There are general descriptions of the job classifications included within each of the 11 bargaining units. There is an amendment—there were originally ten bargaining units.

Section 30 describes the recognition process for majority support—how to obtain a collective bargaining representative if a majority of employees demonstrate they want a particular labor organization to be their representative for the purposes of collective bargaining.

Section 31 speaks about an election process as an alternative for employees to choose a labor organization or, in the case of an election, choose not to be represented by a labor organization. In any election, the choice of no representation appears on the ballot.

Section 32 covers situations where there are multiple unions on the ballot or where employees decide they no longer wish to be represented by a particular labor organization. A labor organization can be certified or recognized as the exclusive representative of employees, but employees have the opportunity to say, "Collectively, we no longer wish to be represented by that particular labor organization or we no longer elect to be represented by any labor organization." Section 32 describes that process.

Section 33 is a technical matter about how election results can be challenged if there is believed to be impropriety by any of the parties to the election. Those tend to be rare, but it is possible and there is a process here for challenging that.

Section 34 talks about the duties of the exclusive representative. The union has the duty to represent all employees and multiple bargaining units in good faith

without discrimination. We cannot discriminate on the basis of membership nor another nonmerit factor.

It also describes the exception to that rule for category I peace officers. Organizations serving as the exclusive representative of category I peace officers are limited in representing only other category I peace officers. The amendment, however, eliminates this restriction.

Section 35 states if there is an exclusive representative for a bargaining unit, only that exclusive representative has the right to collect dues via payroll deduction. Employees can join any organization they want, but the right to payroll deductions of those dues is exclusive to the certified labor organization.

Section 36 speaks to a two-year term for collective bargaining agreements. Agreements would be effective in odd numbered years to coincide with the budget process. The exclusive representative of the employees and the State would bargain an agreement to the extent it requires the appropriation of funds, which would be addressed in the biennial budget. The collective bargaining agreement would be effective July 1 of the odd-numbered year through June 30 of the next odd-numbered year. There would be a replacement agreement the following July 1.

Section 37 reiterates that if a collective bargaining agreement provision needs legislative approval, the Governor requests that approval and the agreement would be effective only to the extent that the Legislature approves necessary funding.

Section 38 creates the timeline for collective bargaining so it complies with the State's budget process. We understand, as in all states, appropriation committees need to know what they are expected to try to approve in advance of making those decisions. Section 38 spells that out.

Section 39 describes what the parties do in the event they cannot come to an agreement voluntarily. The first step is a voluntary mediation process where a professional will try to get the parties to agree through advice, prodding, etc.

In the absence of an agreement, sections 40 and 41 speak to a binding arbitration process. Importantly, the arbitration process is not binding on the Legislature, it is binding on the chief executive. That chief executive, depending

upon the arbitrator's decision, then offers up that decision—to the extent that it requires any expenditure funds—to the Legislature for approval. The Legislature retains its discretion to disapprove of an arbitrator's award involving the appropriation of money. Only the Legislature decides when money is spent. Arbitrators cannot bind the State to the expenditure of funds.

Section 42 speaks to supplemental bargaining because we have crosscutting bargaining units where employees in the same job class will be in a single bargaining unit regardless of agency.

We recognize there will be a need to address agency-specific issues such as hours of work. Some agencies have different hours of work than others or may be more able to provide for flexible work schedules. You cannot have a flexible schedule if you are a corrections officer working on a shift or if you are working in one of the hospitals; you have to be there at a specific time. However, those employees have special needs regarding the selection of shifts—who gets to work which shift and which days off. We often address those types of matters in an agency-specific collective bargaining agreement because that is where operational issues occur and where they need to be addressed.

Often, agency-specific terms are some of the most important terms of agreement for our members. If you talk to a corrections officer, he or she will tell you the ability to work shifts that fit with his or her lifestyle is the most important thing following compensation because it drives the rest of his or her life. How much time he or she can spend with children, family, hobbies and other activities is driven by work shifts. Because there are 24/7 operations in corrections facilities and hospitals, these important decisions are often addressed in collective bargaining agreements in a manner that preserves operational imperatives but also addresses employee needs. We do that often in supplemental bargaining.

Section 43 addresses how actions or proceedings can be challenged in court and establishes the right to sue and be sued.

Section 44 specifically exempts negotiations from open meeting laws. Collective bargaining is not a spectator sport. By opening meetings up to the public, various parties could wind up posturing and showboating in an attempt to resolve issues. This exemption enables parties to have frank discussions and encourages compromise.

The product of a collective bargaining session is the agreement. The agreement will, however, be laid bare for all to see through both the legislative process and, once the agreement is reached, it is a public document.

Section 45 gets into some more definitions.

Section 46 and 47 would have changed the composition of the Board but have been struck by proposed amendments.

Section 48 extends the Board's jurisdiction to this particular relationship.

Section 49 applies to strike penalties that exist in law to State bargaining units.

Section 50 cites section 44 about the privacy of negotiations; they are not open meetings.

Section 51 speaks to another technical clause dealing with the arbitration process.

Section 52 would make changes to the composition of the Government Employee-Management Relations Board and how members are appointed, but it has been deleted by the proposed amendment.

Section 53 implements the act and gives the Board a deadline of October 1. Although it has not been discussed with Legislative Counsel, there is a possibility this section can be struck because other features of the act charge the Board with that responsibility.

Section 54 is a conforming section.

Section 55 states the act is effective upon adoption.

SENATOR OHRENSCHALL:

This is a historic event. Our State employees in the last two decades have had to endure and suffer through issues such as furloughs and high turnover rates. I spoke with a constituent in southern Nevada who used to work for the Department of Corrections (DOC) but just accepted a position at one of the local government offices because of the struggle of trying to support a family while

continuing to work for the State. The hope is that S.B. 135 will cure those problems and restore State employees to where we want them to be.

Regarding the section about the Governor appointing someone to negotiate, what if he or she appoints someone who does not negotiate in good faith? Does this bill have enough protections in it to address that situation?

MR. KREISBERG:

There are two remedies. First, the Governor can replace his or her appointee if he or she feels the appointee is not exercising the responsibilities appropriately. This position, as the State's chief negotiator, serves at the pleasure of the Governor.

It is a prohibited practice for the State as a Body to negotiate in bad faith, and there are ways to address that issue through statutory mechanisms laid out in this bill.

Regardless of governors—and we have some governors who do not care for us—it has been our experience as the largest public sector union in America to have productive relationships and deal in good faith at the bargaining table. Good faith does not mean we agree, it means we speak to each other in a manner trying to promote agreement. We try to persuade each other, but sometimes you cannot be persuaded. We have an arbitration procedure designed to help resolve that deadlock. Ultimately, if it is an issue involving the appropriation of money, the Legislature decides. There is an accountability to the public as well as an accountability between the parties and the bargaining relationship.

SENATOR OHRENSCHALL:

What is the thinking behind the carveouts for employees—those with PERS, for instance? Why are they not covered in this bill?

MR. KREISBERG:

The carveouts are specific to PERS because they are not classified. When the bill was drafted, that information was lacking. Once the education was provided that PERS staff are not classified, it became clear they do not have the same community of interest with classified workers. They can have different pay scales and benefits. The Public Employees' Retirement System has traditionally followed many of the classified employees' personnel systems. By law, they

have independent authority to run their affairs, so it would be inappropriate for the Governor and his or her appointee to represent PERS in bargaining.

SENATOR PARKS:

Public Employees' Retirement System employees are paid from the PERS system, not State general funds, which is another compelling criteria.

SENATOR KIECKHEFER:

My question is in regard to section 24 where it indicates the execution of a written contract can be requested by either party. Is there a difference between a collective bargaining agreement and that which is written down and executed in an actual contract?

MR. KREISBERG:

They are the same thing. One of the hallmarks of collective bargaining is the embodiment of an agreement in writing that can be enforced for a term. It is sometimes referred to as a contract, a memorandum of understanding, a collective bargaining agreement or an agreement. They are all synonymous. Bottom line, it is a written agreement that is executed—signed—and binding by both parties for the term of the agreement.

SENATOR KIECKHEFER:

So putting it into a contract has no other implication in terms of efficacy or force than a memorandum of understanding or an agreement signed by both parties?

MR. KREISBERG:

They are the same thing.

SENATOR KIECKHEFER:

In section 24, subsection 1, paragraph (a) outlines employees' rights. What does it mean to "engage in other concerted activities?"

MR. KREISBERG:

Employees have associational rights under the United States Constitution. It is similar to rights of freedom to associate. It could be things as provocative as working together for informational picketing or a rally. It could be workers joining together in a discussion with their supervisor about something relevant to the workplace. Employees would be protected by the act of joining together.

What employees are not protected from doing is interrupting work. By the terms of this bill, that is considered a strike. They have associational rights to act in concert together while being limited by other expressed provisions of law such as the prohibition on strikes.

SENATOR KIECKHEFER:

Strike is being repealed from NRS 288.070 in section 54, and a definition is being inserted into section 14. Is there a difference between those two definitions?

MR. KREISBERG:

These are drafting and codification changes made by Legislative Counsel.

HEIDI CHLARSON (Committee Counsel):

The definition is the same; the change was done for organization of NRS.

SENATOR KIECKHEFER:

Sections 30 and 31 reference elections. How does that happen in the first instance? Does each union or association identify members of these individual occupational groups of employees? Are lists of names and phone numbers published?

MR. KREISBERG:

Employees' names are publicly available through an information act. It is up to the strategy of the workers and their organizations to decide how they want to go about the process of demonstrating majority support. It is possible that a labor organization would not be able to demonstrate majority support within a bargaining unit.

I will use the example of category III peace officers, which are primarily corrections officers. The way the process would work, if a majority of corrections officers sign authorizations, meaning they are designating a particular labor organization as a representative for purposes of collective bargaining, that labor organization would then petition the Board for recognition. The labor organization would say, "Please verify that we have majority support and, if so, certify us as the representative of that particular bargaining unit." The Board would then compare the authorizations with the employee list obtained from the State. If there was a demonstration of a majority—50 percent plus 1—the Board would certify that union as the representative of that unit. If

the labor organization came up short, the petition would be dismissed and that bargaining unit would be unrepresented.

Alternatively, a labor organization can petition for an election within that bargaining unit. That would entail getting signatures from at least 30 percent of eligible members of that unit and submitting them to the Board. If the Board verifies the 30 percent threshold was met, a secret ballot election would be conducted. An election is needed because the union had not demonstrated a majority, only 30 percent.

SENATOR KIECKHEFER:

Is there ever a process in which there is an election with more than one unit represented?

MR. KREISBERG:

During the time one union petitions for an election, another organization has an opportunity to say, "We have support as well." An election would then be held between both organizations as well as no representation—there would be three choices on the ballot. If none of those options receives a majority vote, the top two would face a runoff election. The choice that receives the majority would then be certified.

SENATOR KIECKHEFER:

How long does the Board have to make the determination where everyone fits and put every State employee into a category? Do employees have any discretion over deciding which employment group they are a part of?

MR. KREISBERG:

The statute authorizes the Board to make that determination; it is not a determination made by the State or the labor organization. Typically, the Board will solicit the views of all parties—the Executive Department, the labor organization and the employees—before making a final decision.

SENATOR KIECKHEFER:

That answered my question; however, I see a lot of potential overlap between some of these different groups in section 29.

From a rollout standpoint, is there an expectation of when, in this statute, each of these units will be certified and when the first election should be held?

MR. KREISBERG:

The time frame will depend on multiple things. First, the Board would have the discretion to start making determinations sua sponte and creating these bargaining units by regulation.

The Board would also make that determination if there is a petition for representation filed by a labor organization. If a labor organization files a petition for the bargaining unit created by section 29, subsection 1, paragraph (a), for example, the Board would then look at all the job classes occupied by Executive Department employees and place those who fall in that blue collar unit—that labor and trades bargaining unit. The Board has to act because it needs to certify which employees are eligible and whether the 30 percent or 50 percent threshold has been met if an election is going to be held.

There is experience with this in other states. Ohio did it by regulation, Maryland by petition and New York by a combination of both. It is not an uncommon process. The experience has been borne out in a number of other states in state-employee labor relations.

SENATOR KIECKHEFER:

Regarding the definition of "professional employee" under section 29, subsection 3, paragraph (d), subparagraph (1), what is the difference between something that is done "predominately intellectual" and "routine mental?"

MR. KREISBERG:

This definition is borrowed from numerous other statutes including the federal Fair Labor Standards Act, which is the initial impetus for the definition of professional employees. Under the Fair Labor Standards Act, professional employees are exempt from the requirements of overtime pay. This particular definition is borrowed from the United States Department of Labor's definition of professional employees. It is a fairly common definition in labor relations and employment standards.

SENATOR KIECKHEFER:

I have a question regarding section 29, subsection 3, paragraph (d), subparagraph (4) where it states a professional employee "requires advanced knowledge in a field of science or learning customarily required through a prolonged course of specialized intellectual instruction" A lot of people move up through the system of public employment where they start out at the

lowest designation of a certain job category and ascend through that designation. Many of our job descriptions include "or commensurate experience" terminology. A lot of people would move between those administrative and clerical positions into professional employees. Is there a clear cutoff in that? Would you categorize an Administrative Services Officer (ASO) I as administrative but an ASO III as professional, or would everything within a job classification categorized within the same bargaining unit?

MR. KREISBERG:

This section is commonly referred to as a positive education requirement. In the example of a level I job moving up in a linear fashion to a level IV job, if the education requirement was the same, the designation of professional or nonprofessional would be the same regardless of I through IV because distinguishing characteristic between I through IV is, typically, experience and the ability to work independently. Level IV positions tend to have much less supervision than level I, and, typically, less supervision is needed when one has more experience. Qualification requirements reflect that.

A certified public accountant (CPA) is an example of the type of job that is considered professional. There are plenty of jobs in the financial management field that do not require a CPA license. You or I might say they are professional, but they are not considered professional under this definition because they do not require the positive education requirement of a CPA.

SENATOR KIECKHEFER:

Section 34 indicates a union can represent more than one organization, but it excludes category I peace officers. Why is that?

MR. KREISBERG:

That is struck in the amendment.

SENATOR KIECKHEFER:

More broadly, the system with bargaining is trying to sync up with our budgeting system. The way I read the bill, agreements would theoretically try to be executed sometime in March of odd-numbered years. Is that correct?

MR. KREISBERG:

Yes.

SENATOR KIECKHEFER:

Our budgeting process really started nine months ago where agencies begin building their budgets. I find it difficult to imagine making wide-scale changes to our State budget based on an agreement that might only be executed now while still getting out of here within 120 days.

MR. KREISBERG:

That is one of the more difficult issues to resolve. You have a tension. If we negotiate and reach an agreement too far in advance, we could wind up with changed economic circumstances which could then be problematic. That is a concern. Think about how rapidly State revenues declined in 2009. In a matter of months, the bottom fell out. That was not a typical event, but it gives one the impression of what we are trying to balance. If there is a belief on the part of the Legislative Body that this agreement should be executed on a different date, we can discuss amendments. We just want to make sure it conforms to the process that works for the Legislature to do its job.

SENATOR KIECKHEFER:

I worry about that as a mechanism of implementation and an adoption of the policies that the Legislature ultimately approves.

When I look at our existing collective bargaining laws for local governments, there is always a list of mandatory subjects of collective bargaining that is absent from this. Why is that?

MR. KREISBERG:

This uses the more common definition for the scope of bargaining that we see in most other states: wages, hours, and terms and conditions of employment. A more amorphous definition allows the parties to better engage in bargaining than a laundry list. It is just a matter of what we thought was more effective and, based on our experience, the broader definition is more effective. This definition is almost the same as one from the National Labor Relations Act in the private sector.

SENATOR OHRENSCHALL:

Regarding section 35, has there been an issue in other states where dues have been withheld from employees for a different organization?

MR. KREISBERG:

It has not been an issue due to phrases like this. When the right to payroll deduction of dues is created in statute, one must conform to an environment where there is an exclusive representative. Under law, our members and members of other labor organizations can have payroll deductions of dues. That is a service that states institutionally provide to their employees. Once a collective bargaining representative is in place, it is inappropriate to have a rival or second organization collecting dues by payroll deduction. The words "exclusive representative" means the only one.

SENATOR OHRENSCHALL:

Would that language protect employees from their withheld wages being sent to an organization other than the exclusive bargaining unit?

MR. KREISBERG:

It does that and provides for labor peace. If there was a constant contest between labor organizations for membership, the exclusive representative may behave in different ways with its employer. They may be compelled to do certain things to look good for the employees and not behave as responsibly. We have exclusive representation to provide for labor peace and stability.

SENATOR OHRENSCHALL:

I have a question about section 43 as it relates to the labor organization and the Executive Department subject to being sued. When does this happen? What happens in other states that have collective bargaining for their employees?

MR. KREISBERG:

I cannot think of many cases where we have sued or have been sued. When it does occur, it is usually to enforce an order of the Board where one of the parties does not comply. It has not happened recently, but we have seen employers go to court to enjoin an illegal strike on the part of an employee organization. Labor organizations have gone to court to enforce collective bargaining agreements when an employer did not otherwise abide by those agreements, or to enforce an order of the Board.

SENATOR PARKS:

Mr. Kreisberg, please review section 44 regarding negotiations and why they should not be open to the public.

MR. KREISBERG:

In our experience, the negotiation process is best played out between the parties that negotiate themselves. It promotes frank discussion of issues. If you are the Governor's representative, anything you say may be on the front page of one of the local newspapers, so you would be guarded and perhaps not as frank. The reporting process can be distorted and people's words can be taken out of context. We then wind up in a politicized bargaining environment. What we are trying to do through negotiations is depoliticize our relationship so issues can be dealt with based on facts and what is best for employees and the State government. To do so in a fishbowl can be difficult. It is important to exempt collective bargaining process discussions from open meetings laws.

There have always been exemptions to open meeting laws. Not every meeting the Governor has with his or her staff is open to the public because there has to be a time for frank deliberations. The bargaining process fits into that mold.

The product of those discussions, however, should be fully disclosed to the public. No deals should be made that everybody does not get to see. Our union requires any agreement that we reach be voted on and approved by our membership. We believe in full transparency for the outcome, but the process used should be closed to the public.

SENATOR PARKS:

As someone who has sat through a number of years of negotiation for contracts, I concur.

SENATOR KIECKHEFER:

If the Founding Fathers had to hash out the Constitution in an open forum, we would still be waiting for it. However, I would prefer that last best offers in arbitration be disclosed to see where our arbitrators are falling and how they are balancing different offers by the different units. Has that ever been on the table in other states?

MR. KREISBERG:

Typically the arbitrator's award is a public document that reveals the final positions of the parties. It also reveals the arbitrator's award and his or her reasoning as to how that award is reached.

SENATOR KIECKHEFER:

You work for the organization nationally, correct?

MR. KREISBERG:

Yes.

SENATOR KIECKHEFER:

Senator Parks opened up the hearing by stating Nevada State employees are drastically underpaid and we have tried to work on that over the years. I want to pay them more. I represent a lot of them; this is my District. As someone who has national knowledge in this matter, where do you think we stand on a percentage basis?

MR. KREISBERG:

I think it is undeniable the Great Recession hit Nevada as hard if not harder than any other state, especially when you look at Clark County and property values. Although employment has come back, the same levels of income and wealth probably have not yet returned. And it does not just apply to State employees, but State employees have suffered significant hardships. I am not aware of any other group of state employees who pay as much for their pensions. A regular employee pays 14.5 percent; public safety employees pay more than that. The State pitches in its share, but that has to be factored in when we talk about pensions and how much employees are paying for those pensions.

Health benefits offered to Nevada State employees are far inferior to those offered to virtually all other state employees that we represent. I would estimate the overall value, when you combine premiums with out-of-pocket expenses, point-of-service costs, deductibles, etc., are 20 percent below what we would typically see. If we get to the collective bargaining table, we will perform an analysis and have these types of discussions.

State of Nevada employees' pay rates trail behind local government workers in similar occupations by 10 to 20 percent. Looking at what people are paid in other states, though there is no analog for all of the jobs our members perform with local governments, it is not uncommon to see discrepancies of 15 to 25 percent. Overall, total compensation for State employees is approximately 20 percent below what we see in the state employee market.

SENATOR KIECKHEFER:

When you talked about PERS contributions, did you mean that as a dollar or percentage basis?

MR. KREISBERG:

That would a percentage of pay.

SENATOR OHRENSCHALL:

If S.B. 135 passes, do you envision Nevada Public Employees Benefit Program (PEBP) services provided to State employees in terms of health care drastically improved? How will this bill affect that?

MR. KREISBERG:

The priorities in bargaining will be set by our membership. I cannot tell you what the union will do because I am not the union. The people will tell us and you, the Governor and anyone who wants can listen to what their priorities and needs are. From what I have heard, health benefits is an important issue to them.

SENATOR KIECKHEFER:

Our healthcare plan is set by an independent board. The Governor does not have the authority to negotiate health benefits under our current structure. How is that addressed?

MR. KREISBERG:

Under the terms of the bill, the collective bargaining representative and the Governor would have authority to negotiate health benefits over the provisions of NRS 287. Any resulting agreement requiring appropriations would be submitted to the Legislature for approval.

SENATOR KIECKHEFER:

The structure of our healthcare plan is not decided by our Governor. It is decided by the PEBP Board, so even the benefits structure is not something the Governor can authorize under statute. It would require an entirely separate change to how we vet and approve PEBP benefits offered.

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RICK McCANN (Executive Director, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):
We support S.B. 135. This will be historic for our hardworking women and men under our State employ.

We are trying to capture the same processes as we work with local government employees, which is to bring State employees under the purview of the Board.

There may be some changes here and there that we will undergo. Even if this matter is passed by this Committee and passed out of the Legislature, and it goes into effect July 1, no one is getting a raise on July 2. Let us be clear about that. We are going to have go through some processes to make this work.

I will read section 22, which summarizes what this State has spent years getting to this night to talk about in a real way.

Collective bargaining works. It protects all employees, all parties, in the State of Nevada. I just read it in section 22. It says that we are all going to share in that protection no matter where we may end up, no matter the agreements or disagreements we end up with. It is a collective process. That is what we are all here to do. We just want the opportunity for our State employees to do the same thing.

Collective bargaining is needed, in part, so we can stop coming to this Body every Session and begging. I sat before a committee a couple of days ago and I said, "I am begging you on behalf of our State law enforcement employees." I would like to stop begging and start bargaining. We do not want to have to beg on the last day when the money bill comes down for the generous but paltry amounts our State employees have ended up with.

It is not right that we spend 118 days talking about getting employees raises then try to figure out what is left in the last 48 hours. That has got to stop, and collective bargaining will bring that to an end.

Perfect or imperfect as the process is, it works, it is necessary and the time is now. I say to this Committee and I will say it to the Bodies during Floor Sessions, "Thank you for finally having our backs." It is necessary, and the time has come. We urge your consideration and passage of S.B. 135.

EDDIE ABLESER (Nevada Highway Patrol Association):

We have members in all memberships of the Department of Public Safety: troopers, parole and probation, emergency management, investigations, fire marshals, dispatch, and administrative support. We support S.B. 135.

We have talked about pay disparities across the State. Specifically, Department of Public Safety officers—the one force that protects the State of Nevada—are approximately 30 to 35 percent underpaid on average compared to local law enforcement. This is why we have low morale, and a lot of members who are trained by the State of Nevada then leave to work for local law enforcement. This bill will help curtail that and remedy the causes that have prevented the department from growing successfully. We urge your support for this bill.

CATHERINE BYRNE (State Controller):

I support S.B. 135 to provide for collective bargaining rights for State employees. I am here to provide a few comments from the standpoint of an employer.

In Nevada, it is difficult to recruit, train and keep good, qualified State employees. We compete with local governments that pay better, have collective bargaining rights and a sizeable pension contribution. State employees can leave and receive a 14.5 percent raise right out the door because of that PERS contribution. We cannot compete with that. We need to provide a way to combat these problems.

Another problem we are going to have from the State standpoint is a silver cloud, which means we have a large group of State employees who are going to be retiring in the next two to seven years. We are having problems getting a population to come up from behind and help provide services to get new hires trained and up to speed to work in these State jobs. Some of our employees have been here for 30 years; we will lose this intelligence and institutional knowledge. By providing collective bargaining rights for State employees, we will get the retention and quality employees we need.

We will also have a structure where the relationship between the employer and the employee is set by an agreement in contract. An employee relations board will sit between the two parties, and the parties will have their own representation. That is a much cleaner method to use than going through human resources where everybody files a grievance and each grievance is handled

independently. That is inefficient. But if you can handle a lot of these employment-questionable vague issues through an agreement, you will get a more efficient management style and more continuity.

I support S.B. 135 from the standpoint of an employer trying to retain good talent for this State.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

I am here as a supporter of Nevada's workers, and I represent the 20,000-plus subscribers to our Battle Born Progress network Statewide. We support S.B. 135 and the members of our community who make our State function and who will be impacted by this critical bill.

Nevada State employees are our friends and our neighbors. I was taught to treat our neighbors the way we would like to be treated. For me and our organization, that means giving them a voice; this bill does exactly that. From corrections to nursing, these Nevadans make our Silver State run. We depend on the people who do these jobs every day. Making sure our State workers can negotiate over working conditions and compensation is a right, not a privilege. When they have a voice, our communities are stronger. This Body has a mandate to do better for all workers in our State this Session.

JEANA JAMES:

I support S.B. 135 and have submitted my written testimony ([Exhibit D](#)).

TIMOTHY PROVOST:

I support S.B. 135 and have submitted my written testimony ([Exhibit E](#)).

DEBORAH HINDS:

I support S.B. 135 and have submitted my written testimony ([Exhibit F](#)).

VERONICA BROWN-DAVIS:

I support S.B. 135 and have submitted my written testimony ([Exhibit G](#)).

KELVIN CHUNG:

I am a correctional officer working in Ely State Prison. As you can see, my face looks terrible. I was just discharged from the hospital after being attacked on Monday by two inmates at the prison. I was hospitalized for three days and was

barely rescued with my life. We need a voice to speak to management about our working conditions and to save our employees and staff.

I do not want anyone else hurt. Unfortunately, Ely State Prison is currently understaffed with fewer than 85 people. Management tried to resolve this problem by using correctional assistants and other means that sacrificed the security of the prison. As a result, officers have been hurt.

My unit member and I went to an administrative hearing about gas masks leaking when used. Unfortunately, our equipment and our training are not up to date and, as a result, a lot of officers are being hurt.

I support S.B. 135. I want you to see the damage done to my face because management and our top officers will not listen without collective bargaining.

ANNITA MARTINEZ:

I support S.B. 135 and have submitted my written testimony ([Exhibit H](#)).

RICHARD ZEMKE:

I support S.B. 135 and have submitted my written testimony ([Exhibit I](#)).

CEDRIC WILLIAMS (President, Sierra Range Chapter, American Federation of State, County and Municipal Employees Local 4041):

I have an award plaque from last year's AFSCME conference, which named me the No. 1 recruiter of the year. I am not saying this to gloat, I am saying this because it came at a price.

I was in the trenches, going to homes and looking at families, husbands and wives with children, single parents and single people. They are out there, working State of Nevada employees who are one paycheck away from losing their homes or their condominiums because they are not able to make rent, let alone put food on the table for their children. What about clothes on their backs? We will not even talk about sending their children to college; that would be a dream. I had a chance to hear their stories first-hand.

I will share my own story. I came to Carson City in 2005. It took me a while to get a State of Nevada job, but all I heard was, "Get a State of Nevada job. You can make ends meet. You can have everything you want. You can get that house. You can go to school and to college." I was hired in 2011 and I was

comfortable, but I was not getting the "extra" people talked about. One year later, I became the president of my local chapter.

I keep hearing about the budget being balanced on the backs of State of Nevada employees as it has been for decades. It is time for that to stop. We are here en masse as one voice, asking you to support this bill along with us.

Senator Parks, I did not realize you were the one who championed this bill. We appreciate the fact that you have brought this bill to the table, and we hope it comes to fruition.

SENATOR PARKS:

I am just one person working on this. I have been here a number of years and have worked on previous bills seeking collective bargaining representation. I am still at it.

ELIZABETH CRUMRINE:

I support S.B. 135 and have submitted my written testimony ([Exhibit J](#)).

WILLIAM GIBBS:

I am a mental health counselor for the State of Nevada. I have been in the State for 15 years. Young people with my degree from our universities come to work for us. They make contacts through networking with the city, the county and private industry and we lose them because the benefits and pay are not in line with the county, the city and private industry. The young people I train leave.

We are the last resort for our severely mentally ill patients. These individuals do not have the funds and resources to go other places. I am proud to work with these people and hope to make a difference. But trust is a big thing. If you are a counselor or therapist, you first must establish trust with your patient. We do that. A lot of these patients have not been listened to, they are embarrassed and are looked at funny by everyone. When they finally bond with me or one of our workers, they start talking. Because they trust us, they may take medications that they would not take before.

I cannot blame my coworkers who leave for better wages and insurance. I have some patients who have been through five to seven case workers in a year; that is detrimental to their mental health. I have seen relapse after relapse because of this. It is not healthy for our patients. Collective bargaining would give us a

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voice to put things closer on par with the agencies my young coworkers are leaving for.

SENATOR PARKS:

We know that continuity of involvement between the caregiver and patient is vital to his or her well-being.

AMBER FRYER:

I am a senior correctional officer at a segregation unit of Northern Nevada Correctional Center. I am also the Secretary of the Nevada Corrections Association, and I have worked for the DOC for seven years. I am also an eight-year veteran of the United States Army.

I support S.B. 135 and have submitted my written testimony ([Exhibit K](#)).

LANYANE RUSSIE:

I have been a State employee for ten years and an AFSCME Local 4041 member for seven years. I support S.B. 135 and have submitted my written testimony ([Exhibit L](#)).

VICTOR AVENA:

I support S.B. 135 and have submitted my written testimony ([Exhibit M](#)).

LARRY COFFEY:

I support S.B. 135 and have submitted my written testimony ([Exhibit N](#)).

BRANDON HARMON:

I support S.B. 135. I am a State employee who was hired in August 2009. The pay freeze began affecting me in 2010, and the bleeding stops in 2023. This year alone, I will have not realized \$9,125 in pay. In aggregate over the total pay freeze, I will have not recognized \$72,496 in pay. That number does not include furloughs or PERS increases. Collective bargaining will best protect my wages from being taken without some form of reinstatement thereafter.

KEENAN KORTH (Clark County Education Association):

We support S.B. 135, and I have submitted my written testimony ([Exhibit O](#)).

MARY SANADA:

I am a retired State employee. I left the State in my late forties because of working conditions. I loved my job, but my working conditions became intolerable. After leaving State employment, I went into private practice and doubled my salary within a few years.

I never had collective bargaining. You have heard the testimony of the current employees and the struggles they face. I am here to support S.B. 135. It is time.

RICHARD EWELL:

I have worked for the same section of the same agency of the State of Nevada for almost 20 years. In that time, I have had 16 supervisor changes because the compensation inequality was so grave. My official workstation is located in Carson City.

I spend all day in soft talk and negotiation with the largest taxpayers in the State. I would like to give the Committee 9 talking points directly related to the strife we have experienced as staff members in the State of Nevada over the last 20 years.

For at least the last ten years, we have experienced direct pay cuts that have never been returned. Our step pay has been frozen for six years, which has never been caught up retroactively. You asked the question, "How much do you think State of Nevada employees are behind?" I can conclusively tell you, through studying the recruitments of other states for my position, we are 33 percent behind in base wages alone. This percentage does not include all the other benefits that go along with the package. We have seen the elimination of annual cost-of-living adjustments for the same years and somewhat beyond, which were never retroactively returned.

As discussed by the union representatives, after the 20 years, I have to keep paying more increases in health insurance with worse and worse coverage. Speaking as a single man with cardiac artery disease, I am one heartbeat away from bankruptcy. I went to the hospital and had an operation. My insurance covered a portion of it, and I am bankrupt trying to cover the rest.

Also, it has been imposed upon State employees to increase their contributions to the PERS program. What the union representative did not cover was that the

program has morphed over the years to force employees to work longer to collect full benefits.

These are all talking points that you can bring to your associates in the Legislature, and these can be documented through the different Legislative Sessions. The different changes in programs is grave from an employee staff perspective.

Along the same lines is the PERS program. When new hires look at their retirement benefit, it is impossible to fathom they will stick around to retirement because it has changed so much. My personal issue with the hardships we have had through the last 20 years are the nonretroactive, limited cost-of-living increases which have recently been zeroed out. In my case, I have seen a decrease in my net take-home pay because of the increase in the amount of contribution required from us for our PERS and PEBP programs.

On top of that, our longevity pay was permanently eliminated. It was taken out of law. We were forced by mandate to take six years of unpaid furlough time that originally did not affect our PERS benefits, but all of a sudden it did. All the while, State employees are being required to work on capital assets that are so out-of-date that employees are unable to, in my case, communicate properly with the largest taxpayers in the State of Nevada and in the United States.

A question has to be answered by this Committee and the Legislature. Does the Legislative Body make its employees whole for the brave and uncomfortable sacrifices they have made to support you, or does it continue with the same attitude toward employees it currently has and the employees are seen as nothing more than human chattel?

Senator Parks, the answer to that question is that it is time to make the State of Nevada employees whole again by giving us the opportunity to collective bargain and, maybe, be able to bargain within the realm of the legislative fiscal possibilities to bring back some of those nine talking points. I ask that every member of this Committee join with me in support of State employees by passing S.B. 135 and providing the guidelines for collective bargaining. I would be honored to participate in work sessions, amendment drafting or any other assignments that would be needed to bring the legislative process to fruition for S.B. 135.

TRISHA LINDOWER:

I have worked for the State for just under ten years. When I was first hired, I worked for the Department of Employment, Training and Rehabilitation (DETR). For the first six months after I was hired, I did not have to take furloughs because DETR was fully federally funded. After that, I had to take them.

Between increases in PERS, insurance costs and the lack of cost of living increases, it took me seven years working for the State to receive the same amount I did in that first six months—seven years before I was back at that pay rate.

A year ago I was classified as disabled. I lost all feeling in my leg and have spent the last year learning how to walk again. Over 20 percent of my gross income goes straight to medical expenses; it does not go toward food, housing or clothes. It goes to pay for the medication I need to survive and to learn to walk again. I have actually maxed out my out-of-pocket expense for the last four years.

I have worked for the State for so long, I cannot stop working for the State and begin collecting social security disability because I have paid into PERS. If I had to stop working because of a disability, which was a possibility a year ago, I would only receive \$600 a month to live on. After ten years, that is what I have, and it is heartbreaking because I am stuck in a position where I have no choice. If I did that, I would lose my house.

I have been a single parent for 21 years. I was very proud of myself that I never had to collect any form of government assistance. But the last ten years working for the State have been some of the hardest years to do that. Collective bargaining might overturn some of that and give us a voice so we have a chance to not worry about where money for our lights are going to come from or how we are going to be able to pick up that next prescription that we need to have. I am also Type 1 diabetic, so without my insulin, I am dead. I wish I did not have to worry about how I am going to pay for that every month. After ten years with the State, it would be nice if we could have a say in what we would like to prioritize. Please pass S.B. 135.

AUTUMN ZEMKE:

I will read the written testimony of Michelle Tedrowe ([Exhibit P](#)), who is in support of S.B. 135. She had to leave because she was in too much pain.

KEN EDMONDS:

I support S.B. 135 and I have submitted my written testimony ([Exhibit Q](#)).

FABIOLA CHAVEZ:

I am a workforce service representative at Nevada Job Connect. I help individuals seek employment and overcome their barriers every day. I support S.B. 135. I have submitted my written testimony ([Exhibit R](#)).

I worked in the private sector for a long time, but I love helping people, so I got into public service. The change that affected me the most was health care. My daughter and I suffer from chronic conditions which require \$310 in medication per month. Unexpected medical emergencies over the last two years landed us both in the hospital. I have incurred over \$5,000 in debt because my deductible is \$2,700 for each individual.

Collective bargaining would be beneficial for me and my coworkers. I urge you to consider S.B. 135.

JOHN LUM:

I am a Quality Assurance Specialist with the State of Nevada and a proud resident of Senator Park's District 7. I support S.B. 135 and I have submitted my written testimony ([Exhibit S](#)).

JOHN TSARPALAS (President, Nevada Policy Research Institute):

I am here to speak on behalf of the taxpayers of Nevada, people who also went through a recession and have struggles with their healthcare bills and insurance. We oppose S.B. 135, and I have submitted my written testimony ([Exhibit T](#)).

I hope you keep the taxpayer in mind when you vote on S.B. 135.

ED ULEY:

I am not sure whether I should be testifying against S.B. 135 or in neutral. I agree with the pathetic income of workers in the United States. Prior to the 1970s, there was a correlation between productivity and wages. They moved together. Since 1970, they have moved totally apart. Productivity has increased tremendously and wages have remained stagnant. Wages in the United States have not gone up since 1972. Someone talked about a wage differential of 35 percent; the real wage differential between productivity and salaries is 100 percent. The wages of workers in the United States should be double what

they are today if they had only kept pace. For that reason, I understand why people are concerned.

The reason I may take a neutral position with regard to this bill are the comments made by testifiers about the incompetence of the governance of this State. They have told us how bad conditions are in working for the State of Nevada and what a bad job you are doing, and I do not see any reaction from the Committee.

It is interesting to hear the people who are supporting this, including some on the Committee, talk about how the State employees are really the bottom of the barrel workers and competent people work for local government when they can.

SENATOR PARKS:

We are talking about S.B. 135. If you would like to make comments relative to this bill, we are happy to hear those comments.

MR. ULEY:

It is irresponsible to propose a bill without telling us where you are going to get the money.

SENATOR PARKS:

We are a policy committee. That issue will be dealt with in the Finance and Ways and Means Committees.

RANDY POPE (Executive Director, Western States Right To Work Committee, Inc.):

We support S.B. 135, and I have submitted written testimony ([Exhibit U](#)).

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce; Reno Sparks Chamber of Commerce):

We appreciate the thoughtful comments we have heard today, and we appreciate the bill as it has been brought forth for discussion. However, regarding S.B. 135, the Las Vegas Metro Chamber of Commerce is concerned about the authorization, potential adoption and implementation of collective bargaining for State employees.

The Chamber believes that State employees should be paid a fair and sustainable wage, but there are more effective mechanisms that should be explored to accomplish this goal.

The Chamber's concerns on this public policy discussion are from the taxpayers' perspective and the importance of fully understanding what the cost of full implementation that State collective bargaining would have on the State's fiscal budget. We have many competing priorities for our limited State resources, such as education, public safety, health care, Medicaid and infrastructure. We need to be careful about making decisions that can negatively impact current funding levels for our State and for the future.

Adopting this measure would have a significant shift of decades of public policy in Nevada. The impact of S.B. 135 on the long-term stability of our State's budget is a concern. Research has shown that collective bargaining powers tend to increase total government expenditures. If collective bargaining is extended to State employees, Nevada's expenditures will see a significant rise in budgetary costs.

From the fiscal policy side, policymakers will need to determine the costs, how those costs will be paid and how those dollars will impact other State spending priorities and services such as education, public safety and health care.

In regard to fiscal notes that have been submitted, the Chamber's leadership is concerned about the additional fiscal impact of collective bargaining and State contracts may have on salary and benefits, including changes to public wages, public employee retirement benefits, human resource processes, quality of services, economic impacts on the private sector and impacts on the overall labor market in Nevada.

All of these factors must be fully considered and determined before moving forward with this bill. For those reasons, the Chamber is opposed to S.B. 135.

ANN SILVER (Chief Executive Officer, Reno Sparks Chamber of Commerce):
I appreciate Mr. Moradkhan including us in his comments.

On May 15, 2009, Senator Bill Raggio addressed this issue, and the following remarks are still relevant today:

Collective bargaining is not new. In 1991, collective bargaining was passed by the Legislature but was vetoed by a Democratic governor. Collective bargaining was not supported because 90 percent of our State's budget is salaries. If we allow collective bargaining on fiscal matters to occur, making these decisions binding before the Legislature meets, the Legislature might as well not meet on a budget because it is foreordained.

We oppose S.B. 135.

MICHAEL PELHAM (Nevada Taxpayers Association):
I second Ms. Silver's and Mr. Moradkhan's comments. We oppose S.B. 135.

MR. BUNDY:

You have heard a lot of powerful testimony from State employees about the need, not just for better compensation and benefits, but for safer workplaces and the ability to deliver better services to the Nevadans they take care of every day, many of whom are our most vulnerable citizens. Having a voice in the workplace is one the best ways imaginable to increase the quality of services and to continue to have the same people treating people—you heard about turnover. Those are powerful issues that have nothing to do with funding.

I do want to address funding. The Legislature retains full control over the budget. There is nothing binding on the State before the Legislature meets.

Finally, you have heard some very scary numbers. The back-of-the-envelope math on this indicates they are outlandish. If taxpayers were really spending \$3,000 per family or \$750 per capita extra on State employees, it would translate into somewhere between \$75,000 and \$112,000 extra per State employee. I do not think anybody on the planet believes this Legislature is about to give an extra \$112,000 for every State employee. The numbers do not check out, and there are studies that will show the opposite.

SENATOR PARKS:

I will close the hearing on S.B. 135 and open the hearing on S.B. 459.

SENATE BILL 459: Provides for collective bargaining by certain state employees.
(BDR 23-536)

KENT M. ERVIN (Nevada Faculty Alliance):

We work to empower faculty to become fully engaged in our mission to help students succeed. The Nevada Faculty Alliance (NFA) was founded in 1984 and has active chapters at all eight NSHE institutions. We promote advocacy, access, inclusion and diversity for faculty, staff and students at NSHE.

We are the collective bargaining agent for faculty at the College of Southern Nevada (CSN), Truckee Meadows Community College (TMCC) and Western Nevada College (WNC). We recently submitted an application for a bargaining unit recognition at Nevada State College with the support of 75 percent of faculty to hold an election.

We heard these bills are to provide for collective bargaining for State employees. Well, the Board of Regents, through their authority under NRS 396.110, have set their own regulations for collective bargaining. What that means is that one party, the NSHE administration, writes and largely determines the interpretation and implementation of collective bargaining rules. Senate Bill 459 seeks to put the rules in statute so there is a level playing field and rules are not set by just one party.

Collective bargaining provides a collaborative opportunity and framework for higher education faculty to work with their administrations to achieve institutional goals. Research suggests that collaboration between faculty unions and college administrations can increase student success and retention and increase institutional efficiency, even after offset differences in wage costs.

Senate Bill 459 would establish statutory collective bargaining rights for Nevada State professional employees similar to S.B. 135, which covers classified employees. It will create a separate section of NRS 288 that is applicable to State professional employees, including NSHE faculty, but is designed not to interfere with the statute for local government, unions or for the classified staff we have just heard about.

Although it covers all other State employees, most unclassified employees in other State agencies are excluded in the definition as at-will, political or managerial employees not subject to collective bargaining. They would not be included in this legislation.

Nevada is a right-to-work State, and public employees are not permitted to strike. That would not change with this bill. Senate Bill 459 has an additional goal. It is intended to uphold and be compatible with the academic traditions of academic freedom and the meaningful participation in shared institutional governance.

Regarding the details of the bill's language, almost every section is either straight out of NRS 288 for local government employees or S.B. 135 in regard to collective bargaining procedures. There are a few clarifications and additions needed for higher education purposes.

In our proposed conceptual amendment ([Exhibit V](#)), which is what I will follow, the mediation and arbitration processes for both grievances and negotiations will follow the language in S.B. 135. This will provide consistency for State government employees with collective bargaining.

One difference between S.B. 135 and this bill is that we have used the NRS 288 definition of bargaining units as based on community of interest. That is the standard, and it is meant to be flexible so that employees and administrators of each NSHE institution can negotiate the composition of bargaining units according to local needs. For us, that might mean all faculty, or it might be academic and administrative faculty in separate bargaining units depending on local desires.

Senate Bill 459 gives employees access to the Government Employee-Management Relations Board and, over time, that method for conflict resolution would decrease the cost of both time and money.

Finally, S.B. 459 would grandfather the existing bargaining units at NSHE and their contracts. That is especially important if Assembly Joint Resolution (A.J.R.) 5 of the 79th Session is enacted by voters in 2020.

ASSEMBLY JOINT RESOLUTION 5 OF THE 79TH SESSION: Proposes to amend the Nevada Constitution to remove the constitutional provisions governing the election and duties of the Board of Regents of the State University and to authorize the Legislature to provide by statute for the governance, control and management of the State University and for the reasonable protection of individual academic freedom. (BDR C-60)

Because NSHE already has collective bargaining, there should be no fiscal impact with S.B. 459 for administration beyond the nominal assessment for the Board. As mentioned on the other bill, future contract agreements do not have a fiscal cost for this biennium and only have a cost if all parties agree and a future Legislature approves funding.

Better defined, collective bargaining processes will enable both parties to expeditiously bargain in the best interest of our institutions and higher education stakeholders, provide better mediums for dispute resolution and can build the trust necessary for all of us to collectively pursue our students' success agenda.

SENATOR KIECKHEFER:

How many different collective bargaining units are there within the system?

DR. ERVIN:

We have three collective bargaining units. Truckee Meadows Community College, the oldest, and WNC both have agreements. The College of Southern Nevada voted to establish a bargaining unit under the Board of Regents two years ago and are still in contract negotiations.

SENATOR KIECKHEFER:

You have indicated collective bargaining units are created school by school. Is there only one classification or unit for all employees within each institution?

DR. ERVIN:

Under current NSHE Code ([Exhibit W](#)), each community college has its own bargaining unit. In the past, they were considered one bargaining unit, but that changed recently.

SENATOR KIECKHEFER:

No universities have bargaining units, correct? Are they allowed by policy?

DR. ERVIN:

Yes, collective bargaining is allowed, but university faculty have chosen not to go down that route as yet.

SENATOR KIECKHEFER:

In the previous bill, we talked about lateral collective bargaining units—similar job descriptions and such. This sounds a lot more like vertically structured bargaining units. What is the benefit of one versus the other?

DR. ERVIN:

I cannot speak for the sponsors of the other bill, but because our classified staff have specific job specifications, there is the opportunity to set those different bargaining units. We chose to go the more flexible route that easily fit in with the bargaining units we already have, which are both academic and administrative faculty at the three institutions. At Nevada State College, which just requested an election from the Board of Regents and is on the agenda for next week, only the academic faculty asked for a bargaining unit.

SENATOR KIECKHEFER:

You included a list of subjects for mandatory bargaining. Is there a reason you chose to go that route rather than the more flexible one described in S.B. 135?

DR. ERVIN:

We debated that. One reason was the current bargaining units have a set of mandatory negotiation items; it is out of NRS 288. We largely followed NRS 288. We did not want to ask for the world, just whatever public employees have in the State. It is a little different philosophy, and there is no one best answer. Having specific mandatory negotiating items will not preclude other items being discussed—that is included in one of the subsections of the bill. It does mean you do not have to spend time at the outset deciding what is being bargained over.

SENATOR KIECKHEFER:

Nevada System of Higher Education budgets are prepared by the system and flown up to the Governor's Office where the Governor's Office can adjust and make recommendations to the State. Who is burdened by following the budgetary provisions of collective bargaining units within NSHE?

DR. ERVIN:

In the proposed amendment, we followed the stricter guidelines from S.B. 135. At the outset, any fiscal impact requiring legislative funding would go to the Legislature for approval.

I am not a labor law expert, I am a faculty member and a chemist, so I will do my best to explain my understanding of this and we will try to get other answers for you. Say campus administration and faculty agree through the Board of Regents to a collective bargaining contract. The administration is obligated to put any budgetary requirements into its regular budgeting process in a timely manner.

SENATOR KIECKHEFER:

Is there anything that encumbers the Governor to forward that recommendation from NSHE to the Legislature? Does the Governor still have the discretion to change that recommendation before including it in the Governor's recommended budget?

DR. ERVIN:

That is covered in section 40, subsection 2 of the amendment, [Exhibit V](#). The language is similar to the other bill.

SENATOR KIECKHEFER:

That is a significant deviation from the current practice where the Governor has discretion over how his or her recommendation is submitted to the Legislature.

DR. ERVIN:

The Nevada System of Higher Education is different than the rest of State government. Faculty work under both State funds and self-supporting budgets. If they collective bargain together, the funding for faculty who are not funded by the State would have to come from those other budgets.

SENATOR KIECKHEFER:

Is there any language in the amendment that differentiates between those different funding sources? We spend a lot of time talking about them from a budget perspective. Student-generated funds account for about a third of total operating budgets, correct? Is there any discussion of the fees that are separate and distinct from State general funds that are contributed to the system?

DR. ERVIN:

It is my understanding that State-appropriated funds and student fees and tuitions, although separate revenues, are State-allocated into the same budgets, so payments out—expenditures—are from the same accounts. I imagine the sources of funds would be a matter of some negotiation.

SENATOR OHRENSCHALL:

Please clarify the new language in section 21, subsection 3, paragraph (c) of the amendment, "the grievance handling procedures that are not addressed in the parties' collective bargaining agreement."

DR. ERVIN:

Subsection 3 is not in other bills for State employees because it applies to higher education. The NFA is a strong proponent of shared governance and academic freedom, so we put those in as mandatory negotiation items. Our expectation is that all of our normal senate-shared governance will still take effect. This language was added in response to concerns from faculty senates who want to make sure those grievance procedures are in place and remain in effect as long as any collective bargaining agreement exists. This really pertains later on when there is a full impasse and binding arbitration starts kicking in, that the normal processes would be exhausted before going there. That is the intent.

CHAIR PARKS:

Please comment on your experience with the positive correlation between organized faculty and the effectiveness of the university or college itself.

DR. ERVIN:

There was a national econometrics study of public universities that looked at publicly available data on student success, costs for students and other factors. They found that the presence of a faculty union was significantly and positively correlated with an increase in student completions by a difference of 1.2 degrees or certificates per 100 students. That is not 1.2 percent, not 1.2 out of however many. The national average is around 22. So that is about a 5 percent increase in the level of student completions. The same study looked at costs and found something on the order of \$12,000 to \$13,000 less per student completion and costs associated with a faculty union ([Exhibit X](#)).

CHAIR PARKS:

Would that also carry over as far as retention rates amongst faculty is concerned? Is there any documentation that would show that?

DR. ERVIN:

Studies are not as extensive as what is available for the K through 12 community. Regarding higher education, what has been found is that a

strong marker of student retention is contact with full-time, experienced faculty in their first couple of years. Having a union helps faculty retention which helps student retention.

We have some wonderful adjunct faculty that teach our courses for almost nothing. They do a great job with their courses but are paid only to do those courses and have neither the time nor the facilities to meet with students. Therefore, if those are the instructors that students mainly see early on, they do not have that extra community. I have been at University of Nevada, Reno (UNR), going on 30 years, and some our success is just knowing who to call or to whom to write the memo to fix a problem with a particular student. Those are the kind of faculty members that we want to retain in the system.

We have heard a lot in other venues about salary compression and retention and recruitment problems with faculty. Because they see greener pastures, faculty are accepting offers from other institutions or going on the interview circuit in academia, which takes a long time. They are not using that time to be productive in research, teach or take care of their students.

DOUG UNGER (Chair, Council of Faculty Senate Chairs, Nevada System of Higher Education):

We support S.B. 459. Our community colleges and Nevada State College already engage in collective bargaining, but that process is now insecure due to A.J.R. 5 of the 79th Session and the uncertain reorganization initiative that may bring unanticipated changes to rules and rights.

I have submitted my written testimony ([Exhibit Y](#)). All of our schools are united on this, some more than others. The community colleges are passionately so. Our universities are in support of S.B. 459.

SENATOR KIECKHEFER:

Are full university faculties organized in other states? Is this common?

MR. UNGER:

New Hampshire operates under a collective bargaining and union agreement. So does California, but New Hampshire is the best example that I know of. It is small and manageable. My wife used to teach there under that system so I have seen it operate well up close. It provides a much more stable, regularized kind of faculty system for retention and hiring. Faculty know where they stand. They

are hired at one level, and they know if things go badly with a contract the collective bargaining will step in. Once the contract is negotiated, there are no real difficulties. And New Hampshire is a laissez-faire state, so it is interesting to see how that works.

SENATOR KIECKHEFER:

I am curious as to the salary, performance pay, etc., that go into collective bargaining agreements. Would you envision including a performance pay system in this bill? How does it work when a university tries to recruit a rock star and he or she has to be paid a ton of money?

MR. UNGER:

Under collective bargaining states, there is usually a step system. California and New Hampshire have a step system. It is similar to what we are asking for in S.B. 214, which was recently heard by the Finance Committee.

SENATE BILL 214: Authorizes the Nevada System of Higher Education to create a faculty compensation system that includes regular in-rank salary increases. (BDR 34-382)

Nevada is in a crisis for salaries right now. We have not had a raise, other than cost-of-living increases, in ten years—and we are losing faculty. I just found out this week that the College of Liberal Arts at the University of Nevada, Las Vegas (UNLV), is losing two crucial faculty members. A step system is the other way to go other than what Nevada used to do which was to supply the 2 percent or 2.5 percent merit pay increase into the system for all of the years that I enjoyed.

How you pay a rock star? That is up to a dean to find the money under our system. Salary savings and extra salaries from the retirement of full professors can be added to a deal for a professor coming in. I did that as a chair for the Department of English a couple of times. So there is money from salary savings and other kinds of salary lines within a university budget to be able to make that kind of big hire in the humanities.

In the sciences, rock stars come with price tags around their necks from the grants they are raising. Most of their salaries are divided between a base faculty salary and their own self-funded salaries from grants.

SENATOR KIECKHEFER:

Do collective bargaining agreements become so rigid that it would preclude schools or colleges from hiring people at steps far above what other faculty are making? Do you put so much structure in place that you eliminate the flexibility to bring in new talent?

MR. UNGER:

I do not think so. I am thinking about shared professorships that are set up. We have a couple at UNLV, but not as many as we would like. In this case, a professor is hired at a particular step and one would add a chair's add-on to hire a real rock star.

I am thinking back when we hired the first Nobel Laureate ever to be hired in the Nevada education system, Wole Soyinka. His salary was huge, and he taught 32 hours per semester in terms of class contact hours, which is a full load. He did it by roving around into various classes, but his was half base salary and half add-on donation from Glenn Schaeffer, Chief Financial Officer of Mandalay Resort Group at the time. Mr. Soyinka kept that salary going for about six years.

Collective bargaining agreements would not preclude a school or university from hiring the best and the brightest or a professor of excellence.

SENATOR OHRENSCHALL:

If this bill passes, how would it affect adjunct faculty and part-time instructors? Do you foresee those instructors as being eligible to be part of these collective bargaining units and to negotiate for better pay and benefits?

MR. UNGER:

Absolutely, though I can speak only as Chair of the Faculty Senate at UNLV; I do not know what is going on at the other institutions in this regard. Our Faculty Senate has worked to establish a step system for faculty and residents who are untenured, better-paid lecturers. Now we are working on our part-time instructors and adjunct faculties to allow them to have a career pathway.

We have a shortage of part-time instructors in the State of Nevada. They are leaving for California because that state made the decision to have only 20 percent part-time instructors—the rest will have some kind of permanent position. Our part-time instructors are fleeing in this tight labor market. Nevada

is different from other states in that it moves back and forth between different labor markets. Our labor market gets tight and stays tight longer. When we crash, we endure the crash longer.

We have a shortage of part-time instructors and, unless we provide them with a career pathway that can be achieved through collective bargaining, we will not have enough part-time instructors to staff our 100 and 200 level classes throughout the system.

JENNIFER NELSON:

I support S.B. 459. I am a tenured professor at the College of Southern Nevada and the Nevada Faculty Alliance Chapter President at CSN where, since April 2016, we have been organized under rules for collective bargaining as established by NSHE Board of Regents Code.

Since November 2016, we have pursued contract negotiations to solve significant and long-unresolved problems affecting our working lives at CSN. As it turns out, the academic tradition of shared governance only works when faculty voices are truly listened to and respected, and only when faculty can trust that administrators are going to enforce the policies they themselves have approved on a consistent basis.

Over the 20 months that we bargained—from November 2016 until we hit impasse in July 2018—we achieved tentative agreements on 17 topics to be included in a final contract. When we hit the impasse, negotiations broke down in other ways. We discovered the administration was starting to engage in unfair labor practices such as regressive bargaining or pulling tentatively agreed-upon topics out of the tentative agreement category and saying they no longer counted. The work we had done to finalize language on a binding arbitration provision was taken off the table.

Yes, it is nice to have collective bargaining rights articulated for us in NSHE Code, but that is only as good as the people who interpret the code. Grievance arbitration is listed in the Code as a mandatory subject of bargaining and we can talk about it all we want, but the chancellor and chief counsel for NSHE have made plain their intent to never allow their determination of what our final contract might mean or how it should be enforced to be overruled.

Since the NSHE chancellor has said we will not get binding grievance arbitration into a contract without a change to NRS, I am here to beg you to change Nevada law.

Senate Bill 459 makes the changes to State law we need to negotiate, ratify and work under an impartially enforceable contract that binds NSHE and our college administration just the same as us.

Nevada System of Higher Education faculty really are State employees. We want our collective bargaining rights enshrined in State law and governed by a neutral State labor board that is not our employer.

KAREN HYMAN:

I am a professor of English at CSN. I have been there for 12 years. I have earned a doctorate in my subject and have almost 30 years of experience in higher education. I support S.B. 459 and have provided my written testimony ([Exhibit Z](#)).

MR. BUNDY:

We support S.B. 459 for reasons previously stated.

JIM STRANGE:

I am a math professor at WNC, past State president of the NFA and an NFA bargaining team member for the WNC unit. I have submitted my written testimony ([Exhibit AA](#)).

I will abbreviate my remarks to say that, while we do have collective bargaining, the system in NSHE is flawed. We bargain with our individual administrations, but those administrations are acting as agents for the Board. I refer you to NSHE Code Title 4, chapter 4, sections 10, 11 and 14.

Also, the Board of Regents is the arbiter of process disputes. If we have a claim that bargaining is not going well or there is some violation, we have to go to the Board of Regents which is the group we are effectively bargaining with. We are told all the time, like on the topic of mandatory arbitration, that the Board of Regents will not approve a contract that contains mandatory arbitration.

This is coming to us from our administration, so they are acting as an agent of the Board of Regents which has authority to interpret. That is a system which is not functional in my view.

I support S.B. 459 to clear these things up.

AARON HILL:

I support S.B. 459 and have provided my written testimony ([Exhibit AB](#)).

SCOTT HUBER:

I am the TMCC NFA campus president. I have been at TMCC for 20 years, and we have had collective bargaining there for the entire time I have been at the campus. I have been involved in renegotiation of these collective bargaining agreements and, I must say, they are a positive for the college. Collective bargaining agreements establish boundaries for both faculty and administration. It allows us to establish rules of engagement, build good faith and trust. When that happens, you end up with a college that is healthy and headed in the direction of institutional integrity.

I encourage you to look favorably on S.B. 459 because collective bargaining is important at the institutional level, and it needs to be strengthened for all of the reasons that have been noted. There are problems with the way it is constructed through NSHE, but I feel positive about collective bargaining and I think it favorably serves both administration and faculty. It keeps us going in the right direction.

Regarding Chair Parks' earlier comment, faculty are able to go back in the class and work with students in an institution that is safe from duress, and that is where retention comes from.

SENATOR KIECKHEFER:

Truckee Meadows Community College has had the longest experience with collective bargaining with NSHE. Are issues institution-specific or job classification-specific? Getting back to the question about how, in the previous bill, we heard people across the State, regardless of location, would be classified in the same bargaining units. But everyone at TMCC, regardless of position, is bargained together. Is that a system that should be maintained, sort of siloed vertically or should it be more horizontal?

MR. HUBER:

They need to be in silos because each of these institutions has its own dynamic, and the individuals within those institutions know best how to manage their own issues. Every institution has strengths and weaknesses, but these are self-contained within that institution, and each institution should handle its own affairs. We do not see problems within the institutions that are spread throughout the State, but we do see problems specific to each of the institutions.

SENATOR KIECKHEFER:

Mr. Huber, please send a copy of the current TMCC collective bargaining agreement to me for my review.

JASON ELIAS (Western Regional Coordinator, American Association of University Professors):

I can speak to some of Senator Kieckhefer's questions in regard to other states. We represent thousands of faculty throughout the United States, including the University of Vermont, University of Oregon and Oregon State.

We stand with the NFA in support of S.B. 459.

I am also the chief negotiator at CSN where I helped the faculty organize their union in 2016, and while it has been contentious, we are trying to work the kinks out with system counsel. We hope to get to resolution before we have to go to fact-finding, which is set for after this Session. That fact-finding is only advisory. It will still leave us, at the end of the process, with unresolved issues between the parties. And that is precisely why we want to change our authority for collective bargaining from NSHE to State legislation and join other State employees who have the protections of going to fact-finding and binding arbitration as well as a neutral labor board to adjudicate disputes between parties.

While we are working with NSHE to get to resolution, we have been at an impasse for about a year now. The change in legislation will help us get to yes.

CHRIS DALY (Nevada State Education Association):

We have been the voice of Nevada K through 12 educators for over 100 years. We support S.B. 459 and S.B. 135 to extend collective bargaining rights to State and higher education employees in Nevada.

Nevada K through 12 teachers are the beneficiaries of collective bargaining. That process is the most proven system for improving labor standards and quality of life for working people, and we are here in solidarity with AFSCME and NFA and want to make sure these bills move forward.

JOHN ALIANO:

I am a program director and instructor at CSN. I support S.B. 459. A market hire, a position specialized in the field that you are hired for, is paid more like a roadie than a rock star.

Over the years, many people have been hired and told, "This is your only choice. This is how you come on board." This is a violation of NSHE Code Title 2, chapter 4, section 4.2.3, which requires that all faculty are given a choice in terms of being a market hire or tenure track. Proof of that was presented to the administration and to the chancellor's council. They have known for two decades now, which is an incredible amount of time to hire people in ways that violate NSHE Code.

I was hired that way, too. I was supposed to be hired on as a tenure track faculty member. The price negotiated with my chair was changed at the last minute by human resources that said they could not pay that amount. They offered instead to hire me as a market hire and stated I would not get a pay increase from that point on. I was not going to move from California unless I was compensated accordingly, but soon I found out there is no ability to change that. One does not get sabbaticals which are needed to keep one's career going and to learn new technologies.

Part of NSHE Code Title 2, chapter 4, section 4.2.3 states that someone can be a market hire and become tenure track after three years of continuous service. The college only recognized the first paragraph of a two-paragraph section regarding market hires, which is you will never become tenure track. That has been the primary problem for years.

We negotiated in February 2017, and after seven months we came to a market hire tentative agreement with the administration. We felt a lot of the issues that plagued us for ages had been resolved, but almost a year later we were told the chancellor did not want to have that in and it would be taken out. I do not know why. That is regressive bargaining and unfortunate. We were told the issue was that we were changing NSHE Code, which we never wanted to do. Nevada

System of Higher Education Code is perfect because, if followed, it benefits faculty and administrators.

Additionally, people interpret NSHE Code left and right. We cannot get them to change it, and it is only getting worse by not resolving these issues. I want to have a system whereby people do not make arbitrary decisions and issues are handled in a way that is fair, just and follows NSHE Code. I support what should be given to all individuals, not just to a select few at certain times.

TICK SEGERBLOM:

I am here as outside counsel for NFA. I support S.B. 459.

STEVE SOLTZ:

I am a tenured faculty member at CSN. You have heard about our delays. The issues delaying our settlement are the reasons I support S.B. 459. Legislation is 99 percent reactive, and this is no different. We have to keep driving the point home that we do have collective bargaining—we are not asking for that right. The problem is that the system is broken. The way it is situated now, the system does not address many of the issues we have come up against. Hopefully, this bill will correct those issues and put into legislative law the proper way to handle collective bargaining between faculty and administration.

One of the Committee members asked if there were a lot of institutions with collective bargaining. The simple answer is yes, and NFA can give you lists of universities and colleges across the Country that have collective bargaining. In fact, we had to research those institutions to try to come up with a negotiation standpoint, so collective bargaining is alive and well at many institutions. But Nevada is not like the rest of the Country.

Finally, morale is a big thing and was expressed by the testifiers of S.B. 135. If S.B. 459 passes, higher education faculty will finally get some peace of mind in regard to their rights and treatment as members of faculty and collective bargaining.

As well as we are believed to be paid, everybody feels they could be better compensated. One of the reasons we are at this juncture is due to compensation, but that was a small part of it.

MARLENE LOCKARD (Service Employees International Union Local 1107; Las Vegas Police Protective Association Civilian Employees):

We support S.B. 459 and S.B. 135. I have said for many years, once having been a State employee for a considerable amount of time, not all public employees are created equal. You have seen that tonight in testimony. These are important measures to adopt.

THOMAS DUNN (Professional Fire Fighters of Nevada):

I am a public employee who has a collective bargaining agreement from local government. We support S.B. 459.

Collective bargaining is a collaborative process that requires trust. If you start out in good faith, you get a good-faith product. If you start out in bad faith, you can get a bad-faith product, a long process, and hopefully a neutral party to cut through the mud to get to the heart of the issue, foster compromise and settle the contract when warranted.

A collective bargaining agreement and the collective bargaining process allows for the peaceful resolution of differences by using a grievance and arbitration process. It allows for workers to address staffing, safety and occupational health issues that impact the workplace. It provides a level playing field and a neutral third party to help referee differences.

Literature from the opposition of S.B. 135 calls the collective bargaining process for government workers "corrosion of the democratic process." That is a complete miscalculation of what collective bargaining is. Collective bargaining is one of the most democratic processes a public employee can have. The employee has the option of voting for whether to organize. They have the democratic process to vote for who represents them. It is a well-regulated process. Federal and State laws must be followed. Federal campaign laws must be followed. There are ordinances and State statutes that collective bargaining units must follow.

I would like to read a quote by John F. Kennedy:

Those who would destroy or further limit the rights of organized labor, those who would cripple collective bargaining or prevent organization of the unorganized, do a disservice to the cause of democracy.

Employees, represented by free and democratic trade unions of their own choosing, participate actively in determining their wages, hours and working conditions. Their living standards are the highest in the world. Their job rights are protected by collective bargaining agreements. They have fringe benefits that were unheard of less than a generation ago.

Our labor unions are not narrow, self-seeking groups. They have raised wages, shortened hours and provided supplemental benefits. Through collective bargaining and grievance procedures, they have brought justice and democracy to the shop floor. But their work goes beyond their own jobs, and even beyond our borders.

Our unions have fought for aid to education, for better housing, for development of our national resources and for saving the family-sized farms. They have spoken, not for narrow self-interest, but for the public interest and for the people.

MR. MCCANN:
We support S.B. 459.

RAY RICHARDS:
I have been an adjunct professor for 11 years and I love it. As I tell my students, it is not for the money. Transparency allowed me to realize that we make about 30 percent of what a full-time instructor makes, and we have absolutely no rights. This bill would help fix that. I am at retirement age, so I am here to help the people coming after me get representation. I support S.B. 459.

JAMES MCPARLAND:
I am an adjunct professor at CSN. I support S.B. 459. We mentor and help our students, but we have no support.

MR. MORADKHAN (Las Vegas Metro Chamber of Commerce):
We are concerned about the adoption and implementation of collective bargaining for NHSE employees. Because of the late hour, I will just say our concerns are similar to S.B. 135. For those reasons, we oppose S.B. 459.

MR. POPE:

Due to the late hour, I would refer the Committee to my comments concerning S.B. 135. We oppose S.B. 459.

MR. PELHAM:

We oppose S.B. 459. In the interest of time, I second Mr. Moradkhan's testimony.

JOE REYNOLDS (Chief Legal Counsel, Nevada System of Higher Education):

We appreciate the NFA for their cooperation, communication and respect. We also appreciate the faculty senate chairs, the chancellor and the Board of Regents. Our relationships have been improving and is a priority for the chancellor.

We are neutral for S.B. 459. We have collective bargaining. The Board of Regents, the chancellor and the entire system value collective bargaining as a principle and a value. It is in our handbook, which is 574 pages of regulations developed over decades that govern the entire system throughout the State. We have three community colleges, TMCC, WNC and CSN that have collective bargaining units. The Board of Regents, at their meeting next week, will review a request by faculty at Nevada State College to hold an election to form a collective bargaining unit at that institution. The University of Nevada, Las Vegas, and UNR do not have collective bargaining units. The Board of Regents' regulations contemplates that there is no one-size-fits-all approach to this issue and believe in allowing each institution and the members of those institutions the ability to make decisions regarding how they are organized.

There are some concerns that I would like to put on the record. The binding arbitration provision is something of a concern to the chancellor and to the system. A binding arbitrator is a third person who is not elected and not accountable to the public to have policy and financial authority over decisions that govern the system. When there is no appeals process associated with that, it is a concern. There is a tremendous amount of power that can be put into a single individual, and that is a concern.

The other concern is the \$10 fee imposed by this legislation. This would require money to be transmitted from an institution or the Board of Regents to the Government Employee-Management Relations Board. So you are requiring a

publicly elected body to take funds that could be used for students, education, and faculty to financially support an unelected body.

Additionally, there is a tremendous amount of activity going on with respect to NSHE and the Board of Regents. There is A.J.R. 5 of the 79th Session. There is S.B. 214, which mandates a comprehensive pay study, and there is legislation proposed to reconstitute the number of the Board of Regents. There are several bills involving our scholarship programs. The landscape is moving quite a bit right now.

Senate Bill 459 is 30 pages of single-spaced, new law. The mechanics of it are uncertain. I have read it many times and do not fully understand how it may work, so that is also a concern. Senator Kieckhefer raised issues with respect to the funding formula mechanisms used by the Board of Regents and the system to fund the institutions. It is complex, and there are concerns about the mechanics of how this particular bill may impact that.

DR. ERVIN:

You heard a lot of frustration among various groups of State employees. What we are trying to do is create processes that work with respect and lead to rapid resolution of issues so we can do our jobs, teach students and watch them graduate.

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CHAIR PARKS:

I will close the hearing on S.B. 459. This meeting is adjourned at 11:05 p.m.

RESPECTFULLY SUBMITTED:

Jenny Harbor,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	23		Attendance Roster
S.B. 135	C	24	Senator David R. Parks	Proposed Amendment 5542
S.B. 135	D	1	Jeana James	Written Testimony
S.B. 135	E	1	Timothy Provost	Written Testimony
S.B. 135	F	1	Deborah Hinds	Written Testimony
S.B. 135	G	1	Veronica Brown-Davis	Written Testimony
S.B. 135	H	1	Annita Martinez	Written Testimony
S.B. 135	I	1	Richard Zemke	Written Testimony
S.B. 135	J	1	Elizabeth Crumrine	Written Testimony
S.B. 135	K	4	Amber Fryer	Written Testimony
S.B. 135	L	2	Lanyne Russie	Written Testimony
S.B. 135	M	1	Victor Avena	Written Testimony
S.B. 135	N	1	Larry Coffey	Written Testimony
S.B. 135	O	1	Keenan Korth	Written Testimony
S.B. 135	P	1	Autumn Zemke / Michelle Tedrowe	Written Testimony
S.B. 135	Q	1	Ken Edmonds	Written Testimony
S.B. 135	R	1	Fabiola Chavez	Written Testimony
S.B. 135	S	1	John Lum	Written Testimony
S.B. 135	T	2	John Tsarpalas / Nevada Policy Research Institute	Written Testimony
S.B. 135 S.B. 459	U	2	Randy Pope / Western States Right To Work Committee, Inc.	Written Testimony
S.B. 459	V	22	Kent M. Ervin / Nevada Faculty Alliance	Conceptual Amendment

S.B. 459	W	16	Kent M. Ervin / Nevada Faculty Alliance	NSHE Code Handbook Professional Staff Collective Bargaining Regulations
S.B. 459	X	2	Kent M. Ervin / Nevada Faculty Alliance	Faculty Unionism
S.B. 459	Y	1	Doug Unger / Nevada System of Higher Education	Testimony in Support
S.B. 459	Z	1	Karen Hyman	Written Testimony
S.B. 459	AA	1	Jim Strange	Written Testimony
S.B. 459	AB	1	Aaron Hill	Written Testimony