JOINT GOVERNMENT AFFAIRS COMMITTEES

SPECIAL MEETING - April 8, 1975

EMPLOYEE MANAGEMENT NEGOTIATION BILLS

Present:
Chairman Dini
Vice Chairman Murphy
Assemblyman Craddock
Assemblyman Harmon
Assemblyman May
Assemblyman Moody
Assemblyman Schofield
Assemblyman Ford
Assemblyman Young
Senator Gibson
Senator Walker
Senator Dodge
Senator Foote
Senator Hilbrecht
Senator Gojack
Senator Schofield

Also Present:
Mr. Pat Beaulieu, Dr. McQueen, Mr. Cox, Ken Haugen
Mr. Grotegut, Nancy Gomez, Mr. Ed Psaltes, Mr. Maples
Mr. Bean, Mr. Bob Best, Miss Joyce Woodhouse
Mr. Glen Atkinson, President of the University of Nevada, Reno
Miss Mary Wardlaw, Mr. R. Ashelman
Mr. Kenneth V. Hill, Clark County Community College
Mr. Gerald Peterson
Mr. Buchanan
Chancellor Humphrey
Miss Patricia Harris
Mr. Martinez
Mr. Dick Morgan

Chairman Dini called the meeting to order at 5:10 P.M. with a quorum present. The following bills were discussed during that meeting.

S.B. 256 — Includes faculty of University of Nevada System within scope of Local Government Employee-Management Relations Act. (BDR 23-512).

S.B. 325 — Amends Local Government Employee- Management Relations Act. (BDR 23-436).

S.B. 361 — Requires negotiations under Local Government Employee-Management Relations Act to be open to public. (BDR 23-1334).

Senator Gibson stated that there would be four bills added to the agenda for the Joint Hearings scheduled for Thursday, April 10, 1975 at 5:00 P.M. The bills were: S.B. 452, S.B. 456, S.B. 457 and a bill in the assembly.

Senator Gibson stated that the general rules will be that the person speaking will go to the rostrum. There will be no questions from the floor.

Chairman Dini announced that the first bill to be heard was S.B. 256. Dr. Charles Levinson of the National Society of Professors. Dr. Levinson presented a copy of his testimony to the secretary, which is attached hereto and made a part hereof.

Chairman Dini then introduced the members of the Government Affairs Committee of the Assembly. Senator Gibson introduced the members of the Government Affairs Committee of the Senate.

Mr. Pat Beaulieu of the University testified next. A copy of his testimony is attached to the minutes of this meeting and made a part hereof.

Mr. Grotegut testified next. He stated that he expresses strong support. He is vice-chairman of the Board. He stated that there is frustration by the faculty in its attempts to work with university administration. He has made significant progress upon initiatives to work together cooperatively to enhance higher education. They have prepared studies in addition to submitting the budget. He would like to see the faculty come before them in support of the university budget, and hopes that they could express some kind of support for some kind of collective bargaining legislation. These were shattered with the collective bargaining document and adoption by the Board of Regents. It is unfortunate for the University. It destroys a high degree of morale. They feel that it is absolutely essential that this be adopted in order that they may have an opportunity to turn to collective bargaining.

Mr. Bean testified next. He stated that the most urgent question is the opportunity to participate freely in making desicision that have direct power upon the policies of the university. The faculty feels that it must have some perogatives in areas.

Mr. Dini asked if he had prepared any type of amendment along the lines of limiting the scope of bargaining. Mr. Bean replied that he had not.

Senator Hilbrecht asked if he would admit that an inconsistency exists under the Dodge Act and what he had just testified to.

Mr. Bean stated that he would say that we have to weigh the limitations as opposed to the ongoing circumstances under which we must operate.

Mr. Glen Atkinson, President of the University of Nevada, Reno, National Society of Professors. At the present time they have 137 members in their chapter. He indicated that he would try to make his remarks brief. He stated that the presence of the faculty represented at this meeting represents that there is something wrong at the University. Our present system was designed when we had a one campus university. The present system is not working very well. They feel that their voice

is ineffective. Collective bargaining with binding arbitration is the next best step. One of the problems is the numerous amount of court cases. That is an indication that something is wrong when you have to resort to court. They feel that the bargaining process would make the decision making structure more understandable to the faculty. It would also be more understandable to the legislature and to the public. There is some concern as to how a budget is constructed and spent. Their aim is for more openness. The Board of Regents adopted a regulation independent of the legislature. There is a problem. For those reasons he supports S.B. 256. It will strengthen the decision making.

Senator Gibson stated that he would be interested in how he would feel that this process might work. For example, through negotiation you would arrive at a participation of the faculty. If you reach an impasse on budget matters and you are asking for binding arbitration you exercise this procedure as an impasse resolution and you come up with this budget. It then goes to the Governor. Are you suggesting that the binding arbitration bind the Governor? We have discussed this in the past and I cannot see how binding arbitration can be effective because of the nature of our political structure.

Mr. Atkinson stated that binding arbitration is only a part of the collective bargaining process. Collective bargaining is an on-going discussion. As to whether or not it would bind the Governor, I don't think so. We are not talking about the size of the appropriation. We are talking about distribution of the funds after they are appropriated

Senator Dodge stated that in city government, county government and in school districts, money is allocated out of your salaries, but the university system is unique. More money is allocated to research and community relations besides faculty salaries. His concern is that we have a safeguard. What would prevent an arbitrator who is looking to be able to make that finding in order to increase salaries in accordance with the request of the staff, by saying that the money is available by cutting down research. If he could make that finding and make money available what do you think that does to the process that has been historical within the university structure. Do you think that there is a danger of a serious upset.

Mr. Atkinson stated that he believed that Senator Dodge just stated their concern with the present system. They are concerned as to how that process is arrived at. They would be hurt if research is cut. This is one of their primary concerns. How do we arrive at this allocation of this total power.

Senator Dodge stated that if we cut down research in the budget, they are hurting themselves.

Senator Gibson stated that he still have a problem because of the sequence of these things. The University prepares their budget for submission to the Governor in the Spring of the year. Your answer was that binding arbitration would take place after appropriation. There would be some conflicts there.

Senator Gibson further stated that the budget is drawn up and there are certain decision made in it as to how much money should go to each part of the university and even which college. When that gets through the process of the governor's review in the fall and becomes a part of his budget and then is reviewed by the legislature. The legislature considers the establishment of the salary schedule. We then act on that. He does not see how it would fit into the schedule.

Mr. Atkinson stated that all faculty representatives argued that the units should be separated. He indicated that they recognize the need to look at the campuses separately. He stated that Senator Gibson had described the process that we have now. Their budget is formulated by the system and presented to the governor. They need collective bargaining. If they have collective bargaining, they have binding arbitration. Senator Gibson stated that it looks like decisions made in the budget are made prior to the time they come to the legislature. He stated that if this is a part of their negotiation and if they should reach an impasse, they could not bind what happens in the legislature, if it takes place after.

Miss Mary Wardlaw testified next. A copy of her testimony is attached to the minutes of this joint meeting and made a part hereof.

Mr. Kenneth V. Hill of Clark County Community College testified next. He stated that he represents over 70% of the full time faculty and that they fully support S.B. 256. The Clark County Community College also endorses this legislation.

Mr. Gerald Peterson, American Association of University Professors spoke next. He spoke in support of the bill on collective bargaining which would include the University of Nevada. He believes that there is a substantial number of faculty members who are still not ready for collective bargaining and who would like to see the present system function more effectively. Many of them are experiencing increasing frustration. The major sense of frustration comes from lack of true recognition. The Board of Regents Resolution on collective bargaining is one more step in the long trail of administration taking initiatives. The Resolution adopted by the Board of Regents is not acceptable by the faculty

The American Association of University Professors has long fought for the principles that are embraced by all institutions in this country. Several areas are seriously threatened in the Board of Regents Resolution and would be unacceptable. The university professors feel that they should have no less than other public employees in the State of Nevada and that they have every bit as much right.

Mr. Dini asked if they had ever discussed the unlimited scope of bargaining.

Mr. Peterson stated not necesarily unlimited. They believe

that faculty ought to have some voice as to class size, hours of work, class load, etc.

Mr. Dini asked if they had ever discussed the mechanical aspects concerning the route they would have to go to binding arbitration.

Mr. Peterson stated no, they did not discuss that in detail.

Mr. Young questioned what the resolution of the Board of Regents was and Mr. Peterson stated that at the Friday meeting, a resolution was adopted in resolution form which in effect is a collective bargaining agreement and which was drafted up by the regents and that after it was drafted up, it was presented to the faculty. There were several hearings and they almost unanimously expressed displeasure.

Senator Gojack asked what the membership was on the University of Nevada Reno Campus.

Mr. Peterson stated it was about 70.

Mr. Buchanan testified next. He stated that he would like the committee not to pass this bill. He stated that the Board of Regents stands as a great wall. The arbitration powers that they have now have been gone through time and time again. He stated that they do not have an appointed board.

Mr. Hilbrecht stated that this is a very broad scope of negotiation with the exception of the budget. You have no procedure for impasse in the event of an impasse.

Mr. Buchanan stated that the Board is not a one way street.

Chancellor Humphrey of the University testified next. He stated that it is impossible to recognize that collective bargaining is a decision making process. It replaces an existing decision making process. Chancellor Humphrey referred to Coficiation of Board Policy Statements which he passed out to the committee, a copy of which is attached to the minutes of this meeting and made a part hereof. He particularly referred to Section 28. He stated that the university code is system wide. He stated that binding arbitration cannot be truly effective unless the legislature itself is bound. At the present time, the Board of Regents have asked for a compensation increase for faculty which would average 12.1% per year. The last request of the system salary committee was for a 21% increase the first year and 12% the second year. The difference in their budget would be in excess of $5,000,000. The Board would have no alternative but to find $5,000,000 within its programs. It would then have to reduce their programs.

Miss Patricia Harris, Chairman of the Desert Research Institute Faculty testified next. A copy of her testimony is attached to the minutes of this meeting and made a part hereof.

Mr. Martinez testified next. He stated that he opposes S.B. 256.

Mr. Dick Morgan testified next. He stated that this bill has gaps in it, but if amended it could be made to work.

Chancellor stated that if there is an impasse in negotiations it provides for mediation if that is unsuccessful there is a fact finding process.

Mr. Morgan stated that the Board of Regents had ignored his offer

Dr. McQueen testified next. A copy of his testimony is attached hereto and made a part hereof. He testified on S.B. 325.

Nancy Gomes testified. She stated that she is in favor of the bill. The collective bargaining process is a very helpful one. She stated that at this time of the year, she is forced to look at the budget. It gives her a chance to hear from the people that are dealing with the charter every day. It is helpful to her that she knows what the time schedule is. It retains the essence of collective bargaining. She stated that it seems that S.B. 325 assures that she will know what the input is. She feels that this bill would be most useful to school boards.

Mr. Bob Best testified next. He stated that they are opposed to S.B. 325. There are two weaknesses in this bill from the standpoint of school boards. The first is the terminal proceedures of binding arbitration and the second is that it does not limit the scope of negotiations. The last best offer procedure is offered as a second terminal procedure. It is not a suitable procedure for solving disputes. They believe that the bill must contain a provision to limit the scope of negotiations. He stated that the Supreme Court has stated that everything is negotiable.

Miss Joyce Woodhouse testified next. She indicated that they do support passage of S.B. 325. They believe that it would provide for easonable and responsible negotiations.

Senator Gibson asked if Mr. Ashelman was her attorney. She replied no.

Mr. Ed Psaltes testified next. They support this bill. This is probably an overall improvement in the fact that the employee will not have to go through a double process. The last best offer will try to get people to try to solve a problem as quickly as possible.

Mr. Cox of the Washoe County School District testified next. All but one member objects to this bill. He stated that binding arbitration has thwarted negotiating processes. It has prevented good faith bargaining. He stated that they were opposed to binding arbitration, in any form. He stated that attorney's fees should not be mandatory. It should be a discretionary idea. The EMRB is given the power to make the decision. There is no attorney on the board. To give the board the power to make a legal decision when that decision should be made in a court is going too far.

Senator Hilbrecht stated that his objective was to make it so that both parties have something to lose. The purpose of this bill

was to put both parties to risk, and to try and get them closer together rather than farther apart.

Mr. Ken Haugen testified next. He stated that they support this bill. The last best offer concept will solve many problems.

Mr. Dick Morgan testified again. He stated that we need a system which forces unreasonable people to sit down and solve problems. He stated that there will be unreasonable people. This is why you have the Dodge law today because there are unreasonable people

Mr. Cox then stated that this bill causes people who have represented organizations some real problems.

Mr. Bob Petroni stated that this bill causes some mixed emotions. Negotiable items are a problem. The last best offer has good merit if you can control it. He stated that strikes should not be made illegal.

Mr. Ashelman testified next. He stated that in Iowa they use this. There are three entities that use it regularly. Senator Hilbrecht asked if he had any results. Mr. Ashelman stated that there were mixed results. The people that he has met seemed pretty happy with it.

Senator Gibson stated that the committee should have some way of finding out as to how it is working. Mr. Ashelman stated that he woul try to make a survey.

The testimony was now concluded on S.B. 325.

Dr. McQueen read the testimony of Mrs. Elizabeth Levy, President of the Washoe County School Board, a copy of which is attached hereto and made a part hereof, on S.B. 361.

Mr. Bob Maples testified and stated that he is presently the spokesman for the School District and that the School District is presently the only agency that is negotiating in public. S.B. 361 provides that negotiations shall be conducted in public.

Senator Gibson asked him where he was in the negotiations.

Mr. Maples stated that they were about to enter into mediation and that they were hoping for some assistance. Senator Gibson asked if they had experienced any public input. Mr. Maples stated that they had had a few members of the public attend from time to time. They have had the press there too.

Senator Gibson asked if there had been proper coverage of their negotiations to which Mr. Maples replied yes.

Mr. Morgan stated that they have no objection to public negotiations whatsoever. The groups he represents say that they do not want to give the appearance of saying that they have something to hide.

Mr. Morgan stated that he endorses this bill.

Mr. Ashelman stated that he opposes this bill. He further stated that Washoe County is miserable. This does not prove that private negotiations are bad. He stated that mediation works well in private and that this would be devastating.

There being no further business to come before the meeting, the meeting adjourned at 8:45 P.M.

Respectfully submitted,

Barbara Gomez

BARBARA GOMEZ,
COMMITTEE SECRETARY

TESTIMONY OF CHARLES LEVINSON
JOINT COMMITTEES MEETING ON COLLECTIVE BARGAINING
STATE LEGISLATURE
APRIL 8, 1975

May I express my thanks to this committee for the privilege of testifying before it. Two years ago I had the same privilege and testified on the same issues. As you know legislation was not passed. However, perhaps some of the information brought out at that hearing might be enlightening for this committee.

In 1973 the number of professors at UNLV belonging to the National Society of Professors was approximately 30-40 or about 15% of the faculty. At this time UNLV has approximately 160 members which represent I believe a majority of those eligible for the collective bargaining unit.

At the hearing in 1973 the committee tried to obtain input regarding the feelings of professors at UNLV. At that time no statistical data was really available. However, I believe this committee has available a questionnaire initiated by Dr. Joseph McCullough, the Senate Chairman at UNLV, dated 1/29/75. This questionnaire from an impartial body clearly indicates that faculty at UNLV overwhelmingly favor the adoption of legislation that would provide for collective bargaining. In fact, many of them agree, again overwhelmingly, that they would vote for collective bargaining now.

A further study of the data indicates some dichotomy regarding those items that should be included under collective bargaining. This dichotomy may be attributed in part to their unfamiliarity with provisions of collective bargaining contracts, should a particular item not be included. Perhaps the best example of that would be item E Academic Freedom in which there is an almost 50-50 split on this issue. Those that voted "no" I'm almost positive take it for granted that if this is not a negotiable item then the current policy could not be changed. I think this committee is aware that most items that are not negotiable then become a management prerogative. Thus, in effect, the faculty have voted against one of their basic rights and probably one of the most outstanding issues on which they would defend themselves.

In 1973 proposals by the Chancellor indicated provisions for strikes, combining of units and other non-acceptable conditions. I have not seen any major changes in his present position and the rules adopted by the Regents.

The Ad-Hoc Committee appointed by the Senate this year and the UNLV Senate itself voted overwhelmingly against the Chancellor's proposal, 74-2, and yet it was this same proposal, which was rejected by our Senate and I believe by the senate at UNR, that was then adopted by the Board of Regents.

On December 16, 1974 a memo to Dr. Humphrey regarding a legal

opinion by Proctor Hug stated that:

1. It is unconstitutional for the legislature to compel the regents to submit disputes to binding arbitration.
2. The regents however, could by resolution or contract use binding arbitration as a method of settling grievances.
3. This binding arbitration however, could not be used for interest disputes.

As a result of this memo and input from remarks made at regents meetings, members of the faculty have interpreted these remarks, in fact, to indicate that neither the Chancellor nor the regents believe that they would be forced to comply with any kind of legislation the legislature may adopt.

Since the last hearing in 1973 Dr. Humphrey has earned his doctorate and in fact specialized in collective bargaining in higher education. His dissertation was based on the study of 27 contracts in higher education.

I might note that in his proposal to the regents which was adopted, he has ignored many of the facts brought out by his own studies. For example, on page 22 of his dissertation he indicates that because of increases in unionization, changes in social structure, budgeting, etc., there is a need for <u>appropriate legislation</u>. Yet he has advised the regents and they have adopted their own resolutions and circumvented the legislative process.

By so doing they have retained the right to change the rules and regulations anytime they wish.

He quotes from a learned authority, Channin, who states that seven basic categories should be included in regulations; namely, a) rights and obligations of employers and employees, b) structure of a negotiation unit, c) type of recognition, that is, exclusive bargaining unit, d) the method of ascertaining employees' choices, e) scope of the negotiations, f) impasse resolutions procedures and, g) penalties for violations. Yet on one of the most critical issues, the impasse resolution machinery has been largely omitted in his own resolution that was adopted by the regents. The method of resolving impasses by the regents in effect does not resolve them.

On page 28 of his dissertation he has indicated that statutes usually provide for two or three steps for impasse resolution namely, 1) mediation, 2) fact finding or advisory arbitration, 3) binding arbitration. Of the 25 contracts which had grievance procedure mechanism, 22 had either binding or advisory arbitration. Of those 25 contracts actually 20 of these had binding arbitration.

In 1973 I believe he indicated that the department chairmen were not eligible for the bargaining unit. However, I believe he has changed his position since then to some extent. Under most

of the contracts that he has examined department chairmen are eligible for membership in the collective bargaining unit.

Of those contracts examined, 17 also have a saving provision so that if the legislature does not approve the budget, the contract does not take affect.

Finally from his own findings on page 113-114 of his dissertation may I quote or paraphrase.

1. Basic provisions - Contracts had up to 32 and a total of over 42 were listed.
2. Membership of a unit - Depends upon "a community of interest". In effect the interest of UNLV may differ from UNR, DRI or community colleges. Yet the regents' proposal includes many of these units in the same bargaining unit despite the wishes of the particular unit or their community of interest. May I point out that the faculty of UNLV and the faculty at UNR are substantially different in their make-up and composition.
3. In 1940 AAUP made a stand or published a white paper on academic freedom and tenure and this has generally been accepted in all the contracts.
4. Finally binding arbitration is the preferred method for settling grievance contracts.

I conclude therefore and feel that this committee must also agree that the need for legislation is apparent. The overwhelming

majority of faculty want the right to bargain collectively, even should they not choose to exercise that right. From the survey taken and by the fact that NSP has a majority membership of the faculty at UNLV, the faculty do want collective bargaining and they want it now. The regents' rules not only are not acceptable but in fact have no legislative base and can be changed at the whim of the regents.

Lastly, the basic provisions of the Dodge Act are acceptable with perhaps one or two modifications which may or may not be done by legislation but certainly could be done in the contract. Namely the UNLV Senate has indicated that at UNLV faculty wish to vote on recognition of a particular agent. Secondly the faculty wish the right to ratify any contract rather than simply having a negotiating committee agree to their contract.

Thank you again, gentlemen, I would be happy to answer any questions at this time.

UNIVERSITY OF NEVADA
RENO 89507

FACULTY SENATE
CLARK ADMINISTRATION BUILDING

(702) 784-6527

April 9, 1975

TESTIMONY FOR THE JOINT GOVERNMENT AFFAIRS COMMITTEE AT HEARINGS - APRIL 8, 1975

Honorable Assemblymen and Senators:

I am Dr. Patrick Beaulieu, Chairman of the Faculty Senate at the University of Nevada, Reno. The Faculty Senate is a body of faculty elected to advise the University administration on matters of concern to the faculty, and, especially, to speak for the faculty as a whole.

In order to elicit opinion on the thinking of the faculty, to guide the Senate in its consideration of the issue of collective bargaining, the Faculty Senate distributed a poll, to which, in spite of an extreme time bind, more than 225 faculty responded. I forwarded a copy of the poll and results to Senator Gibson.

Of those who responded, 70% indicated that although they were not currently interested in collective bargaining, they were six to one in favor of having legislation or regulation passed which would enable the right to bargain some time in the future, should the faculty so choose.

I referred the regulations since adopted by the Board of Regents to Paul Bible, a Reno attorney who has served as an adviser to the Governor under the Dodge Act, on whether individual disputes should go to binding arbitration or not. Based on his experience, it was his opinion that the regulations adopted by the Board of Regents were an invitation not to collective bargaining, but to collective frustration.

The main failing he saw, and the Senate saw also, was the absence of <u>binding arbitration</u>. The faculty response was three to one--that is, there was a 75% majority against being covered by regulations which did not include binding arbitration. It is considered an essential. Despite repeated requests, binding arbitration was not included in the Board of Regents regulation.

As you know, the legislature passed the original Dodge Act in 1969. But in negotiations between local governments and what I believe were the White Pine County School Teachers and also the Clark County School Teachers, the recommendations of the advisory factfinder were ignored. To correct this tendency of local governments to ignore the factfinding, the legislature in 1971 saw fit to pass NRS 288 as it stands now, and included binding arbitration.

Paul Bible also, as attorney retained by the faculty, recognized the possibility that Procter Hug's opinion that binding arbitration would be unconstitutional might be well reasoned, but said only the Supreme Court of the State of Nevada can decide that for sure.

I have been directed by the Faculty Senate of UNR to request of you and, subsequently. of the Governor, that you include us under the Dodge Act so that, if the court agrees it is constitutional, and if the faculty some day chooses to bargain collectively, it can benefit from the wisdom which is accumulated each year that experience is gained with the unique piece of legislation which is now Nevada Statute 288.

Patrick L. Beaulieu,
Senate Chairman.

PLB:eck

TESTIMONY OF MARY WARDLAW

HEARING ON SENATE BILL 256

STATE LEGISLATURE

APRIL 8, 1975

My name is Mary Wardlaw. I am president of the Western Nevada Community College Chapter of National Society of Professors, an affiliate of the Nevada State Education Association. I have been teaching at the community college level for eight years. Some of my students are corrections officers; some are employees of the government, and some are employees of local businesses and industries; others are full time students pursuing business, law enforcement, health occupations or liberal arts programs. Together we are working to improve reading, writing and thinking abilities in the classroom and on the job. One student who has been studying how to write a business letter wrote a letter setting forth reasons why his company's insurance classification ought to be changed. His arguments were persuasive; the classification was changed; he saved his company $20,000 in insurance costs. This indicates the caliber of my students and the challenge they represent.

I speak in support of Senate Bill 256 because I am convinced that negotiation will diffuse the present concentration of power; negotiation will give faculty a meaningful voice in policy to implement goals; most important, negotiation will make Western Nevada Community College more responsive to student needs.

Let me explain. The Community College, its faculty and its administrators have a philosophical commitment to serve all students,

to assist them in determining their potential, to provide some with the knowledge and skills necessary to obtain a job, to keep pace with technological changes, to advance on the job, and to provide others with the knowledge and skills necessary to complete an academic or occupational program in preparation for entrance into the world of work. Faculty concern is that this philosophical commitment be matched by a commitment to allocate available resources, money and personnel to accomplish these ends. Instead Western Nevada Community College employs approximately 32 full time instructors and 22 full time administrators. The Developmental Program designated in the Catalog as one of the five primary missions of the comprehensive community college, is allocated approximately 2 full time instructors.

Collective bargaining with provision for binding arbitration will subject the allocation of money and personnel to closer scrutiny. The positive outcome of such scrutiny, I am convinced, will be a greater commitment to a student-centered community college; that is a community college staffed by full time teachers wherever possible, teachers whose total energies are focused on students not dissipated by a major commitment to another job; that is a community college where both teachers and administrators are hired by a screening committee of faculty, administrators, and students to ensure the quality of those hired; that is a college in which the schedule of classes is published at least a year in advance so teachers can meet their classes fully prepared and so students can plan a program with some assurance that the required courses will be offered; that is a college in which quality is ensured because there are limits placed on class size, on number of hours and number of classes a teacher can be required to teach, on number of miles a teacher

can be required to drive to meet classes.

As a teacher, I work with students every day; they express expectations of the College, their academic needs, their frustrations. Collective bargaining with provision for binding arbitration will give the faculty at Western Nevada Community College a real opportunity to see that the College is responsive to students.

Thank you for the opportunity to testify on behalf of this bill. I will be happy to answer any questions you may have.

Title 4 - Codification of Board Policy Statements

Chapter 6

UNIVERSITY OF NEVADA SYSTEM PROFESSIONAL EMPLOYEE COLLECTIVE BARGAINING REGULATIONS

Title 4 of the Board of Regents Handbook is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 1 to 40, inclusive, of this resolution.

Section 1. This chapter shall be known and may be cited as the University of Nevada System Professional Employee Collective Bargaining Regulations.

Section 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in section 3 to 16, inclusive, of this chapter have be meanings ascribed to them in such sections.

Section 3. "Adjunct faculty member" means any individual holding a professional contract with the university, except as a clinical faculty member, for which he receives no salary.

Section 4. "Administrator" means any director, assistant dean, associate dean, dean, vice president, president or chancellor.

Section 5. "Board of Regents" means the board specified in section 4 of article 11 of the Nevada constitution, and constituted pursuant to NRS 396.040, which controls the University of Nevada System.

Section 6. "Chancellor" means the chancellor of the University of Nevada System.

Section 7. "Clinical faculty member" means any individual holding a professional contract with the School of Medical Sciences or the Orvis School of Nursing, University of Nevada, Reno, for which he or she would usually not receive a salary.

Section 8. "Confidential employee" means any employee who works in a personnel office or has access to management information or personnel information affecting employee relations, or any employee in the offices of the chancellor or the presidents.

Section 9. "Division of the university" means the University of Nevada, Reno; the University of Nevada, Las Vegas; the Desert Research Institute; or the Community College Division.

Section 10. "Senate" shall mean that group provided for in Section 1.3.5 of the University Code.

Section 11. "Graduate assistant" or"graduate fellow" means any employee of the University issued a contract by the university for full-time or part-time employment as a graduate assistant or a graduate fellow for a period exceeding one month, and is limited to persons who are graduate students of the university during the period of their employment.

Section 12. "President" means the chief administrative officer of a division of the university.

Section 13. "Professional employee" means any employee issued a contract or letter of appointment by the university for employment in the professional service of the university for a period exceeding six months at .50 FTE or more.

Section 14. "Strike" means any concerted action of the following types:

1. Stoppage of work, slowdown or interruption of operations by employees of the university;

2. Absence from work by employees of the university upon any pretext or excuse, such as illness, which is not founded in fact; or

3. Interruption of the operations of the university by an employee organization.

Section 15. "Supervisor" means any person having the authority in the interest of the university to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

Section 16. "University" means the University of Nevada System.

Section 17. It is the right of every professional employee, graduate assistant, and graduate fellow at the university who is not specifically excluded by this chapter, to join any employee organization of his choice or to refrain from joining any such organization. The university shall not discriminate in any way among its employees on account of advocacy of membership or nonmembership in any such organization.

Section 18.

1. An employee organization seeking to represent university employees in their employment relationship must submit an application in writing to the chancellor and include the following:

   (a) A copy of its articles of incorporation;

   (b) A copy of its bylaws;

   (c) A roster of its officers and representatives, including name, address, and official function or title;

   (d) Identification of the unit sought for representation; and

   (e) Signed evidence of interest in being so represented from no less than 30 percent of the eligible employees contained in the unit sought.

2. Any revision or changes as to paragraphs (a), (b), and (c) of subsection 1 shall be furnished to the chancellor and to each member of the employee organization.

Section 19. Upon verification by the chancellor that the above requirements have been met, the application for recognition shall be placed on the agenda for the next regularly scheduled meeting of the Board of Regents. The Board of Regents shall at that meeting provide for the American Arbitration Association or the Federal Mediation and Conciliation Service to hold an election concerning representation within the unit concerned. The election by secret ballot among the employees for whom representation is sought shall be held no sooner than 30 calendar days and no longer than 45 calendar days from the date of the Board of Regents meeting at which the request was presented. Ballots shall be cast during a nine-hour period on a regular university working day at a specific polling location (or locations, if more than one division is involved) with appropriate safeguards to ensure the secrecy and the integrity of the election.

Section 20. The ballot shall be worded as follows: A recognized employee organization has applied to represent all the eligible employees in this unit for purposes of collective bargaining with the administration. If a majority of those voting specify "yes," then a second election shall be held to designate an organization to serve as the employees' agent.

Vote for one alternative: _____ Yes, I want an employee organization designated as my agent for collective bargaining purposes.

_____ No, I do not want collective bargaining.

Section 21.

1. If a majority of the employees casting ballots vote "yes," a second election shall be held no sooner than 30 calendar days and no longer than 45 calendar days from the date of the first election. The second ballot shall be worded as follows: A majority of those employees voting on the issue of collective bargaining favored designation of an agent for collective bargaining purposes. One of the following organizations shall be so designated. Regardless of how you voted in the first election, vote either for one of the organizations listed below to serve as agent for collective bargaining purposes, or you may vote for "no agent."

   _____ (organization)

   _____ (organization)

   _____ (no agent)

   etc.

2. After the Board of Regents has set the date of the election, additional employee organizations seeking to represent the eligible employees of the unit may file an application with the chancellor. The application shall contain the information specified in section 18, subsections (a) through (d) of this chapter. If such organization also submits, no later than ten calendar days prior to the election, signed evidence of interest in being so represented from no less than ten percent of the eligible employees contained in the unit, the organization shall be included on the ballot of the second election.

3. The results of these elections shall be binding on all parties as of the date certified by the organization conducting the election, and no other application or elections involving the same employee unit shall be accepted or permitted for a period of one calendar year from the date of the certification, with the exception of a runoff election which might be necessitated where more than two employee organizations participated in the second election and no organization received a majority of the votes cast. Runoff elections shall be held no sooner than five calendar days and no longer than ten calendar days after the second election.

Section 22. Except during the calendar year specified in section 21 of this chapter, the university may withdraw recognition of an employee organization if the subject organization no longer has the support of a majority of the eligible employees of the employee unit represented.

1. Employees seeking to decertify a recognized employee organization must submit notice of intent to decertify in writing to the chancellor and the employee organization and include signed evidence of intent to decertify from no less than 30 percent of the eligible employees in the unit represented by the recognized employee organization.

2. Upon verification by the chancellor that the above requirements have been met, an election shall be scheduled in a manner consistent with the procedures specified for elections in section 19 of these regulations.

Section 23.

1. For purposes of this chapter the following five employee groupings are deemed to have a substantial community of interest and are the only appropriate negotiating units:

   (a) One unit of professional employees holding a valid contract or letter of appointment for the current fiscal or academic year within the University of Nevada, Reno, or the University of Nevada, Las Vegas.

   (b) One unit of professional employees holding a valid contract or letter of appointment for the current fiscal or academic year within those special or service units not a part of a division of the university.

   (c) One unit of professional employees holding a valid contract or letter of appointment for the current fiscal or academic year within the Desert Research Institute of the university.

   (d) One unit of professional employees holding a valid contract or letter of appointment for the current fiscal or academic year within the Community College Division of the university.

   (e) One unit of graduate assistants or graduate fellows in any division of the university.

2. Administrators, confidential employees, and adjunct and clinical faculty members shall not be included in any negotiating unit.

3. A member of a negotiating unit shall not be a supervisor of persons who are members of the same negotiating unit. If a majority of the department chairmen in a college specify that they wish to be included in the negotiating unit, department chairmen in that college shall be included in the negotiating unit. Department chairmen will notify the dean of the college of their preference as to inclusion or exclusion from the negotiating unit at least ten calendar days prior to any election specified in section 19 of these regulations.

Section 24. The university is constrained by funding resources external to its control and subject to approval by bodies not participant in negotiations such as are provided by these regulations. It is therefore imperative that the negotiating parties function in a spirit of mutual respect and cooperation toward the achievement of their common, as well as individual, objectives.

Section 25.

1. It is the duty of the university and the employee organization designated as the bargaining agent for a unit to negotiate in good faith through their chosen representatives.

2. All agreements reached shall be reduced to writing and submitted for ratification to the employees represented by an agent and to the Board of Regents. If the agreement is ratified by both parties, then it shall be signed by legally empowered representatives.

Section 26. Whenever a recognized employee organization or the Board of Regents desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall provide written notice to the other party. Collective bargaining agreements resulting from such negotiations shall be for a duration of not less than two years, with this agreement duration to be congruent with the fiscal biennium concept used within the university system. The minimum duration required by this section does not preclude agreements for more than two fiscal years, nor does the minimum duration apply to the initial agreement negotiated between the university and the employee organization.

Section 27. These regulations neither preclude nor require informal discussion between an employee organization and the university of any matter which is not subject to negotiation or contract under this chapter. Any such informal discussion is exempt from all requirements of notice or time schedule.

Section 28. Negotiations under this chapter shall be concerned with compensation, hours, and conditions of employment, and the contract shall replace the division bylaws and the university Code as applicable to the bargaining unit.

Section 29. The recognized employee organization and the negotiating representatives for the Board of Regents shall promptly commence negotiation upon receipt of notice as specified in section 25 of this chapter.

Section 30. During the course of negotiations, the parties may mutually agree to utilize the services of a mediator to assist them in resolving their dispute. If the parties are unable to agree on a mediator, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential mediators. The parties shall, within three days, select their mediator from this list by alternately striking one name until the name of only one mediator remains, who will be the mediator to consider the dispute in question. The employee organization shall strike the first name. The university and the employee organization each shall pay one half the cost of mediation; however, each party shall pay its own costs incurred in the preparation and presentation of its case.

Section 31.

1. If after 60 calendar days following receipt of notice of desire to negotiate, the parties have not reached agreement, and mediation, if undertaken, has been unproductive, either party may submit the dispute to an impartial factfinder for his findings and recommendations. These findings and recommendations are not binding on the parties.

2. If the parties are unable to agree on an impartial factfinder within five calendar days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential factfinders. The parties shall, within three calendar days, select their factfinder from this list by alternately striking one name until the name of only one factfinder remains, who will be the factfinder to hear the dispute in question. The employee organization shall strike the first name.

3. The university and the employee organization shall each pay one half of the cost of factfinding, but each party shall pay its own costs incurred in the preparation and presentation of its own case in factfinding.

4. The powers of the factfinder selected are limited exclusively to an examination, report, and recommendations pertaining to the disputed subjects jointly submitted by the university and employee organization.

5. The factfinder shall report his findings and recommendations only to the parties joining in submittal of the dispute. These findings and recommendations shall be in writing and shall be delivered within 30 calendar days after the conclusion of the factfinding hearing. The factfinder is prohibited from disclosing his findings and recommendations, including public media disclosure, without the prior written consent of the parties originally submitting the dispute to his jurisdiction.

6. If, during the course of a factfinding hearing,

   (a) It appears that the financial ability of the university to comply with a request is a substantial issue; and

   (b) The legislature is then in a session at which appropriation of money for the support of the university or authorization of expenditures by the university may be made, the hearing shall be stayed until the expiration of ten days after the adjournment sine die of the legislature.

Section 32.

1. Any factfinder shall base his recommendation on the following criteria:

   (a) A preliminary determination shall be made as to the financial ability of the university, based on existing available revenues, to comply with the request of the employees' agent, and the reasonableness of such request, and with due regard for the obligation of the university to provide instruction, research and public services at a university level and instruction at a community college level;

   (b) Once the factfinder has determined in accordance with paragraph (a) that there is current financial ability to grant monetary benefits, he shall use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to an issue in dispute;

   (c) The impact on and consistency of treatment of other employees of the university must be given consideration; and

   (d) The salaries and benefits received by other employees in similar positions in both the public and private sector of employment shall be considered.

2. The factfinder's written report shall state the facts upon which he based his recommendation.

Section 33. If the parties have negotiated in good faith and have been unable to reach an agreement, and have utilized the factfinding procedure and are still unable to resolve their differences and negotiate a settlement within 45 calendar days of receipt of the factfinder's report, a negotiation deadlock shall be considered to exist.

1. When a negotiation deadlock exists, the report of the factfinder shall be made public along with any statements issued by the employee organization or the Board of Regents.

2. Within ten calendar days of release of the factfinder's report, the parties shall again meet and attempt to reach an agreement.

3. Nothing in this chapter shall be interpreted as requiring either the employee organization or the Board of Regents to agree to a settlement; however, it is declared to be in the public interest for a settlement to be reached.

Section 34. The following proceedings, which by action of the State Legislature are not subject to any provision of chapter 241 of NRS during local government bargaining, are considered to be executive in nature and attendance limited to representatives of the parties involved:

1. Any negotiations or informal discussion between the university and an employee organization or employees as individuals, whether conducted by the Board of Regents or through a representative or representatives.

2. Any meeting of a mediator with either party or both parties to a negotiation.

3. Any meeting or investigation conducted by a factfinder.

4. Any meeting of the Board of Regents with its management representatives pertaining to collective bargaining matters.

Section 35.

1. The Board of Regents finds as facts:

   (a) That some of the services provided by the university are of such nature that they are not and cannot be duplicated from other sources and are essential to the health, safety, and welfare of the people of the State of Nevada;

   (b) That the continuity of such services is likewise essential, and their disruption incompatible with the responsibility of the state to its people; and

   (c) That every person who enters or remains in the employment of the university accepts the facts stated in paragraphs (a) and (b) as an essential and nonnegotiable condition of his employment.

2. The Board of Regents therefore declares it to be the public policy of the University of Nevada that strikes against the university are contrary to these regulations.

3. The Board of Regents acknowledges that the facts noted above must also lead to the conclusion that it would be contrary to public policy for the Board of Regents to prohibit its employees to work by virtue of a "lockout" and pledges that no "lockout" shall occur. However, if any employee is unable to work because equipment or facilities are not available due to a strike, work stoppage, or slowdown by any other employees, such inability to work shall not be deemed a lockout under the provisions of this section. In the event of a lockout the university shall be liable to the employee organization for reasonable damages. In no event shall these damages exceed the wages which would have been earned had the employees not been locked out.

Section 36. If a strike occurs against the university, the university shall, and if a strike is threatened against the university, the university may, apply to a court of competent jurisdiction to enjoin such strike. The application shall set forth the facts constituting the strike or threat to strike.

Section 37. If a strike or violation is commenced or continued in violation of a court order issued pursuant to section 36, the university may, in conformity with due process as specified in a contract, if such contract exists, or in conformity with the Code if a contract is not in existence

1. Dismiss all or any of the employees who participate in such strike or violation;

2. Cancel the contracts of employment of all or any of the employees who participate in such strike or violation;

3. Cancel any existing contract with the employee organization participating, or whose members are participating, in such strike or violation and refuse to bargain or negotiate with such organization until a new election has been held in conformity with this chapter.

4. In the case of any strike, slowdown, or other suspension of work not authorized by the employee organization, its officers or agents, the Board of Regents declares that such violation shall not cause the employee organization, its officers or agents, to be liable for damages; provided the employee organization complies fully with the following:

   (a) The employee organization's obligation to take action shall commence immediately upon receipt of notice from the chancellor that a violation has occurred.

   (b) Immediately upon receipt of such notice the responsible employee organization representative shall immediately notify in writing those employees responsible for or participating in such violation, and also talk with those same employees, stating to them that

      (1) their action in in violation of these regulations, subjecting them to discharge or discipline;

      (2) the employee organization will not oppose their discharge or discipline;

      (3) the employee organization has not authorized the strike, slowdown, or suspension of work and does not approve or condone it;

      (4) the employee organization instructs the employees to return to work immediately.

Section 38. If a strike occurs in violation of this chapter, the university shall immediately suspend from its payroll all participating employees. Such suspension shall be in conformity with due process. Such payroll moneys shall not be recoverable by the employees involved but shall revert to the governmental fund or accounts from which they are derived.

Section 39. It is prohibited for the university or its designated representatives to

1. Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter;

2. Dominate, interfere or assist in the formation or administration of any employee organization;

3. Discriminate in regard to hiring or any term or condition of employment in order to encourage or discourage membership in any employee organization;

4. Discharge or otherwise discriminate against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because he has formed, joined or chosen to be represented by any employee organization;

5. Refuse to bargain collectively in good faith with an employee organization as required by this chapter.

Section 40. It is prohibited for an employee of the university, or for an employee organization or its designated agents to

1. Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter;

2. Cause or attempt to cause the university or any of its representatives to discriminate in regard to hiring or any term or condition of employment in order to encourage or discourage membership in any employee organization;

3. Refuse to bargain collectively in good faith with the university, as required by this chapter if the employee organization is designated as the bargaining agent for a unit.

(B/R 2/21-22/75)

DESERT RESEARCH INSTITUTE
University of Nevada System

Faculty Senate

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Reno, Nevada 89507
(702) 972-0271

April 10, 1975

M E M O R A N D U M

To: Secretary to Joint Committee on Government Affairs

From: Patricia F. Harris, Chairman PH
DRI Faculty Senate

Re: Statement on S.B.256 on Local Government Employee-Management Relations Act, Tuesday, April 8, 1975

Please find attached the statement I presented representing the Desert Research Institute Faculty Senate's position on collective bargaining. Also included is a copy of the general faculty resolution of April 3, 1973 for your reference.

PFH:dm
cc: John Doherty,
Ass't to the President

J. Leland,
Secretary

Mr. Chairman and Members of the Committee:

I am Pat Harris, Chairman of the DRI Faculty Senate. As the elected faculty representative of the DRI, I would like to relate the following positions of the DRI Faculty for your consideration.

The Senate reaffirmed the General Faculty Resolution of 1973 stating that:

> "The primary position of the faculty of the Desert Research Institute is that it is opposed to any arrangement which would provide for collective bargaining for the reason that collective bargaining is fundamentally in conflict with the professional needs of this (DRI) faculty,"

and further:

> "The DRI Faculty Senate resolves that in the event of enactment of any collective bargaining policy or legislation, the Institute employees shall be considered as a separate, independent unit."

These positions were taken partially in view of the fact that the general funding base of the DRI is different from the teaching units, that base being supported from 75-90% by federal grants and projects. I would submit that the Collective Bargaining Policy adopted by the Board of Regents provides flexibility and allows for the smaller divisions and their community of interests within the University of Nevada System, to retain their integrity in a collective bargaining situation.

RESOLUTION PASSED UNANIMOUSLY BY THE FACULTY OF THE DESERT RESEARCH INSTITUTE - April 3, 1973.

WHEREAS the Faculty of the Desert Research Institute is mindful of activities in the Nevada State Legislature pertaining to collective bargaining for State employees and University System Faculty.

AND WHEREAS the Faculty of the Desert Research Institute is unanimously of the opinion that they should be on record before the Joint Committee on Collective Bargaining on the subject issues,

NOW THEREFORE BE IT RESOLVED as follows:

1. The primary position of the Faculty of the Desert Research Institute is that it is opposed to any arrangement which would provide for collective bargaining for the reason that collective bargaining is fundamentally in conflict with the professional needs of this faculty.

2. Having stated a general position, the Faculty of the Desert Research Institute furthermore desires to record a position with respect to specific bills introduced in the legislature on these matters. In that regard, Senate Bill 453 is the least objectionable of all bills introduced to date.

Speaking For S.B. 361 April 8, 1975

TESTIMONY OF MRS. ELIZABETH LEVY, PRESIDENT, WASHOE COUNTY SCHOOL BOARD

I have been a member of the Washoe County School Board for eight years. During that time I have seen our relationship with our employees go from a "meet and confer situation," to "mandatory negotiations" to the present situation in which unresolved issues are subject to "binding arbitration." During that time also the scope of the negotiations has tremendously increased because of interpretations by the EMR Board and court decisions. The result has been that large sums of public money are being spent with the public having no knowledge and no control over the way in which they are spent. As an elected official I feel they entrusted me to spend that money in the best way I could--to set the priorities and to follow through. We are not discussing a mean amount. $1.50 of every $5.00 raised by local taxes goes to the schools, as well as the huge sums the legislature earmarks for education. Look at what has happened under the present law. Approximately 83% of those funds goes to salaries. In Washoe County last year that amounted to: $24 Million, but negotiations for those salaries were conducted in secret. The public did not know the kinds of demands the employees made, they were not aware of the offers the School Board made, they did not know why we reached an impasse--all they knew was the final decision made by an arbitrator from California who left town immediately thereafter. It has been argued that negotiations cannot take place in public--that there will be no give and take. I maintain that secret negotiations have been a failure. The number of requests for Binding Arbitration has increased from 11 in 1972 to 41 this year. I also maintain that public pressures are not only valid, but necessary in the spending of public funds. We need to have the input of the man who foots the bill.

Speaking Against S.B. 325 April 8, 1975

TESTIMONY OF BOB MC QUEEN, MEMBER, WASHOE COUNTY SCHOOL BOARD

My name is Bob McQueen, Member, Washoe County School Board and I should like to speak against S. B. 325. We feel this bill suffers from two major shortcomings. First, it fails to narrow the scope of negotiable items. School trustees are elected by the people to guide and administer the public schools in the best interests of children and the taxpayers within the community. Presently, however, there is virtually no sector within the arena of public education that is not open to negotiations. The consequence of this has been that, one-by-one the prerogatives of local school boards are being bargained away through annual negotiations. It follows that when basic decisions concerning public education are taken away from the elected school boards, it is tantamount to taking control of the schools out of the hands of the people. We feel very strongly that, unless the areas of negotiation are specifically delimited by legislative action, the real command of schools will shift into the hands of special interest groups.

The second major shortcoming of S. B. 325 is its continued use of an arbitrator to settle unresolved disputes. In recent years the members of the Washoe County School Board have been particularly disappointed with the decisions of arbitrators. Each year, following months of painstaking preparation and using the best expertise we can obtain, the School District shapes both an educational program and a balanced budget for the next academic year. We build into that program and budget everything we can responsibly muster, first, to foster the education of our children and, second, for the benefit of all those who work for the District. In doing this we employ local experts, long acquainted with both local problems and local resources who, together, are working to achieve our local educational objectives. Yet, when we reach an impasse with an employee group we are forced to watch the resolution of that impasse handled by an arbitrator who enters the scene often for little more than two days time, and usually from out-of-state. The arbitrator then hands down a decision to which there is only limited appeal and with that he scurries back to his out-of-state sanctuary. If, in his haste, as happened once, the arbitrator bases his judgment on erroneous information, his decision nevertheless stands. Because employee groups have consistently made substantial gains via binding arbitration in recent years, we feel they hurry through preliminary bargaining procedures in order to reach the arbitration stage and, hence, do not always negotiate in good faith. While we are aware that S. B. 325 restricts the arbitrator to choosing the "last best offer" of one of the parties, we continue to believe that this not only places an unwarranted amount of the public trust into the hands of one person, but that it makes it entirely possible for an out-of-state referee to deal a devastating blow to local education. For these reasons we urge rejection of S. B. 325. Thank you.