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Senate Labor, Public Employment and Retirement Committee



SENATOR CORTESE: Coming back to Senator Becker. I thought I saw him come in. Senator Becker, you may present SB 1248 if you are ready to go.

SENATOR BECKER: Thank you. Good morning, members. I stand here as a baseball fan presenting SB 1248 for the Minor League Baseball Players' Bill of Rights. This is a bipartisan measure which will improve player treatment by their Major League owner/employers.

Currently most Minor Leaguers make less than \$12,000 per year. For the 2019 season, MLB's gross revenue, \$11 billion, marking the 17th consecutive year of growth and 9000% increase since 1975, but in the same time period Minor League players' income increased just 75% over the same 45-year period.

The work conditions of Minor Leaguers have been well documented, and this bill, nor the players, are asking that much -- only a level playing field, fair treatment, and decent conditions. Fans agree. When asked about what they were most concerned about, over 70% of fans said Minor League player treatment and compensation.

This bill does a few important things, focused on the UPC, the Uniform Player Contract, that all players must sign as drafted by their owners.

First, it defines a Minor League player. To be clear, prior to this bill, the state of California has always considered baseball player employees, regardless of immigration status. Now, understand that this fact is now being disputed in ongoing litigation, and so I have committed to the Chair that we will amend the bill moving forward to not comment on this litigation around employee classifications. We're taking out that part of the bill.

Remaining, secondly, it reduces the maximum number of years a player can be on contract by the MLB owners from seven years to four years. If a player at the end of a four-year period wants to stay on as a free agent, they can do so at a livable wage. Altering this overly restrictive contract will reduce the time spent receiving the wages that I mentioned earlier. Four years is more than enough time to evaluate a player.

Third, barring the great work of our colleague Senator Skinner relating to name, image, and likeness, this bill will ensure that players will be able to be compensated for opportunities outside of their responsibilities as a Minor League player. For example, the video game "MLB: The Show" is selling for \$70 each, and players have not seen a penny from that.

We are focused on this issue. Not one worker in California should be mistreated by their employers, and the MLB is no exception. As so often is the case, California can lead the way here. We have strong support from players, fans, player advocates, labor. It's not a partisan issue. Fans from all part of California agree that the status quo in this situation cannot go on.

I also want to stay that we have been in regular contact with MLB teams, and there have been many times before around unionization, around free agency, even recently with the Save America's Pastime Act, where baseball said certain things can't be done, it will destroy the league. We manage to keep going.

With tumultuous history, I think now is the time to step up and do what's best for players and really -- and our ball clubs. I just want to reiterate because it's important that in light of ongoing litigation related to recognizing Minor Leaguers as employees, I will work with the opposition to address these concerns and have been in discussion with both labor and judiciary committees on amendments. I will commit to ensuring this bill does not get in the way of ongoing litigation, and I accept committee amendments on this legislation.

I extend gratitude to the California Labor Federation, my co-author in the Assembly, Assembly member Voepel, and the hard-working players that should not be punished for trying to make their dreams come true. We have a number of witnesses to testify. Thank you.

SENATOR CORTESE: Thank you, Senator Becker. We'll start calling upon the witnesses. And let me say, I may get called out because of committee assignments here, and I just want to make sure -- I appreciated very much your statement with regard to future amendments to be taken.

To be clear, there's no amendments on the table today or

. . . when all is said, we're done.®

nothing really to accept today, per se, but your commitment that you're going to take amendments going forward. And part of the problem is the double referral deadline really didn't allow us to create time to take those amendments here.

My understanding -- and I heard you speak specifically to the litigation, but I want to say it in different words, but make sure that we're clear, one is to remove the bill's provisions from the labor code to address questions about SB 1248's effect on current application of labor protections, and two is to ensure that SB 1248's scope remains limited to Minor League contracts, the length of those contracts, and granting players more flexibility to receive compensation for the use of their image and likeness within those employment contracts.

Those are what our staff understands and I understand at this time to be the amendments that you would be proceeding with in judiciary. Is that correct?

SENATOR BECKER: Yes, that's correct.

SENATOR CORTESE: The committee reserves the right to rehear the bill if those amendments aren't completed. Not that I expect that to happen, but I just want to make sure that that's on the record.

Time permitting, I'll make some other comments later. Didn't want to have people cooling their heels here in terms of testimony, but I wanted to make sure why I was here as a Chair that's been working with committee staff, to make sure to get the record straight.

SENATOR BECKER: Thank you very much.

SENATOR CORTESE: Thank you, Senator. We're going to go to lead witness Eduardo Martinez. Thank you for your patience.

MR. MARTINEZ: Do you mind, Mr. Chair, if we start with the witness on the phone?

SENATOR CORTESE: That's fine. That would be Trevor Hildenberger. You can proceed. I think we can hear you already.

TREVOR HILDENBERGER: Good afternoon, everyone. My name is Trevor Hildenberger. I was born and raised in San Jose, California, before being drafted in 2014 out of UC Berkeley where I had just graduated. Go Bears.

It's a common myth that all MLB draft picks are rewarded with hefty signing bonuses. My bonus was a mere \$571 after taxes. The monthly rate for your first year is \$1,100.

My team required all players at the lowest level to live in their team dormitory. The dorms were \$17 a day, taken out of our paychecks. And at the end of every two weeks, my pay stub read \$185.

Despite having to train year-round, these tiny paychecks stop in September. I found a job at a sporting goods store in order to fund my training, gym fees, cleats, baseballs, and protein supplements. I still couldn't afford rent in the Bay Area, so I moved back in with my parents. A luxury not many players have.

Finding affordable short-term housing is difficult. For many of my international teammates, who were young and English was their second language, leases can be especially intimidating and tricky.

To save on costs in 2016, I lived on a pull-out couch in a cockroach-infested apartment where if you turned the oven on, it would trip the breaker, and all the lights would go out. The choice was simple. Bake dinner in the dark or eat Wendy's in the light.

After three years in the Minors of living paycheck to paycheck, watching my student loans accrue interest faster than I could pay it down, and feeling like a burden on my parents and girlfriend at age 26, I started having anxiety attacks. I was living my childhood dream, but it felt like a nightmare.

When I reached the highest level of the Minor Leagues, I was paid \$2,300 a month. A couple of years later I was released into free agency in a competitive market with the ability to sign with any team, not just the one that drafted me, and I signed a contract for \$29,000 a month. From \$2,300 to \$29,000 for the same job at the same level. I was making 12.5 times more.

Reaching free agency after four years instead of seven would allow players to be fairly compensated for their talents and relieve some of the incredible strain Minor League players and families have felt for decades. For this reason I strongly support SB 1248. Thank you for your time.

SENATOR CORTESE: Thank you for your testimony. Now we'll come back to Eduardo Martinez.

MR. MARTINEZ: Eduardo Martinez with the California Labor Federation. I proudly stand in support of SB 1248.

For going on 100 years, Major League Baseball has taken advantage of federal anti-trust exemptions, allowing MLB owners to collude on Minor League salaries in a manner like no other major employer.

This exemption has allowed the league to pay most Minor Leaguers less than \$12,000 a year. And for the committee's reference, an individual cannot meet basic needs anywhere in the country earning less than \$26,000. This disparity is especially problematic for the nearly half of Minor Leaguers who are people of color or immigrants who often don't have the social or familial network to lean on.

There's no justification for this type of treatment of workers of any type, let alone from an industry with resources such as Major League Baseball.

SB 1248 would go a long way to correcting these long-standing injustices that most athletes, including recently student-athletes, currently enjoy.

In anticipation from arguments from the opposition, if I could leave you with a quote from Supreme Court Justice Brett Kavanaugh who ruled against the NCAA who made similar arguments on their business model.

Quote, Nowhere else in America can businesses get away with agreeing not to pay their workers a fair market rate on the theory that their product is defined by not paying their workers a fair market rate.

Kavanaugh went on to say the NCAA model, very similar to MLB's, is, quote, suppressing the pay of student-athletes who collectively generate billions of dollars in revenues for colleges every year. Those enormous sums of money flow to seemingly everyone except the student-athletes. But the student-athletes who generate the revenues, many of whom are African-American and of lower income backgrounds, end up with little or nothing.

We couldn't have said it better. We ask for your aye vote.

SENATOR CORTESE: Thank you for your testimony. Is there anyone here in the committee room who wishes to express a support position on SB 1248? If so, please step forward.

Seeing none, we'll go to the moderator. Moderator, if you would please cue up any support witnesses on SB 1248. Let me know the number of witnesses, and then you may proceed. Thank you.

THE MODERATOR: For those in support of SB 1248, please press 1-0 at this time. 1-0 for support.

At this time we do not have anyone in cue.

SENATOR CORTESE: Thank you for checking. We're going to come back now to the opposition side of the

ledger, and we do have two lead opposition witnesses listed. One is Sam Fernandez, and the other is Jack Bair.

Sam Fernandez, if you want to come forward, please, you may present your testimony.

MR. FERNANDEZ: Thank you, Mr. Chair, committee members. On behalf of Major League Baseball and the Major League clubs, I thank you for this opportunity to speak in opposition of Senate Bill 1248.

Given Senator Becker's commitment to withdraw the comments regarding the bill's impact on the classification of Minor League players in California, I'm not going to dwell on that as I had intended to, but I will reemphasize that the bill with those comments has the danger of impacting current litigation that has been ongoing for eight years and deals with exactly the types of issues that would be raised by this bill.

One of them is that the treatment of Minor League players as non-exempt employees in California would bring into play all sorts of things that teams and players normally do not do. For example, taking rest breaks and meal breaks during the course of a game. Those are just one of the very many things that would come into play if this bill were enacted to make players exempt players.

I'm going to focus on the NIL provision. This bill would void any provision in a Minor League contract that could interfere with the player's right to use the player's name, image, or likeness, also known as NIL rights. This, too, is unnecessary because there is nothing in a Minor League contract that deprives a player of his NIL rights.

The Minor League contract grants each player's club the rights it needs in order to promote the team and the player. The contract also grants the club the right to review and approve a player's use of his NIL rights.

This approval process is needed to ensure that a player will not authorize the use of these rights in connection with a product, group, or activity that could be embarrassing or detrimental to the player or the club. That's why even Major League players have agreed in collective bargaining that clubs should have a right to review and approve the player's use of NIL rights.

For the reasons I've just cited, we oppose Senate Bill 1248. Now I would like to turn it over to my colleague, Jack Bair. Thank you.

MR. BAIR: Thank you, Sam. My name is Jack Bair. I'm executive vice president of the San Francisco Giants. And I'm going to focus on the four-year nature of the contract

proposal.

Obviously, there's a lot of complexities to this litigation -- to this legislation, and they're being played out in litigation right now with respect to Minor League compensation and benefits.

So the issue of moving from a seven- to a four-year contract. This provision would be very harmful to California-based clubs and California-based players in many respects. It creates a different set of rules for California-based clubs and for California residents and for players that play for California teams.

It's difficult to operate a league with different rules of engagement between the different clubs. For example, seven-year contract versus four-year contract. Many Minor League players do not make the Major Leagues within the four-year time frame. This is particularly true with players that are international, chosen from international locations, or have not attended college in the United States where it's customary for players to spend more than four years in the Minor League system before they make the Majors.

If you are a California-based club and you are trying to recruit players, it creates a huge disadvantage because signing a foreign-born player or signing a high school player that is likely not to make the Majors within four years means that you would probably focus your energies on signing college players, who are more likely to make the Majors within the four-year time frame.

Therefore, California-based players who do not have college baseball experience will be greatly disadvantaged because no club will want to sign that player to a four-year contract knowing that the player is not likely to make the Majors within four years.

Likewise, California clubs would not want to sign foreign-born players from the Dominican Republic and other locations at age 17, which is the current rules, knowing that they are unlikely to make the Majors in time as well.

If you are a California-based player and you can only sign a four-year contract, other teams outside of California are going to be reluctant to sign you as well because they're not sure whether you'll make it within four years, and your signing bonuses will be affected.

Right now the average Major League player has a signing bonus of \$324,000 when they sign the initial contract with Major League Baseball, and that dollar can be affected by the length of the contract.

With respect to a California club, we want to be competitive with our teams from other states. We want to put a winning team on the field. And if we can only sign college players, then the 40% of the Minor League players that are foreign-born and many players who play in high school and don't play in college would be somewhat off limits to us in that we can't be sure they could make it in time. So we would be signing from a limited pool of players in California, putting us at a huge competitive disadvantage vis-à-vis the other teams, and the California-based players would also face that disadvantage in that they would be less marketable.

Finally, we would have a very difficult time trading a player that's a Minor League player, which happens all the time, if they have a limited contract left because that player would be of less value than a player that plays for a team outside of California which has a longer contract length.

To sum up, obviously, this is in litigation. This is complicated, and we believe that that process should be respected, and I appreciate the author's amendments in that regard.

VICE CHAIR: We'll now move on to any witnesses here in Room 2200 in opposition of 1248.

STUDENT-ATHLETE: I'm Oscar Soriano, and as a college student-athlete, I strongly oppose this bill.

VICE CHAIR: Thank you very much. Seeing no other witnesses in opposition to SB-1248, we will now move on to witnesses waiting to testify via the teleconference service.

Moderator, if you would please prompt the individuals waiting to testify in opposition of SB 1248. We will begin.

THE MODERATOR: Ladies and gentlemen on the phone line, if you would like to speak in opposition to SB 1248, please press 1-0. Again, 1-0 for opposition.

At this time we have no one in our cue. Please continue.

VICE CHAIR: Thank you very much. If you would, please check the lines one more time just to make sure that we have heard from any witnesses in opposition to 1248.

THE MODERATOR: Absolutely. Once again, in opposition to SB 1248, please press 1-0. Again, 1-0 for opposition.

At this time we do not have anyone in our cue.

VICE CHAIR: Thank you, Mr. Moderator. Thank you to all

our support and opposition witnesses here today. We will now bring the discussion back to our members. Do any of our members have any questions or comments?

SENATOR DURAZO: I have some questions. As much as I adore and love baseball, obviously I don't know all the rules and all the dynamics that happen all the time. I just like to go to the stadium and cheer for my team. I do have some questions because of that. I have some real basic questions.

On the litigation that's been referred to, does the litigation cover all of the issues that are in play here with this legislation, or was it just on the issue of employee status or labor code?

SENATOR BECKER: So litigation is just on the employee status and the compensation piece. That's why we've taken that part out. It doesn't refer to the length of the contract or the NIL portion.

SENATOR DURAZO: Okay. So does that mean that we're taking that --

SENATOR BECKER: We're taking that part of it out, but we're keeping in the length of the contract and the NIL.

SENATOR DURAZO: Okay. That was raised by the opposition. The litigation issue is not an issue anymore if that works out.

SENATOR BECKER: Yes.

SENATOR DURAZO: The second thing is if -- I'm trying to understand the four-year and the length of the contract, the four-year and the seventh year. Some reference was made by Mr. Bair as to the disadvantages to foreign-born and the high school -- I guess high school players or recently graduated high school players. Why is that a disadvantage for those groups, and they add up to 40% of the players?

SENATOR BECKER: The reference was really to the disadvantage to teams in recruiting those players because they're often at a younger age. You might have a high schooler who is 17 or 18 or a kid from another country who is that age, and, therefore, they're saying that four years is not enough to evaluate someone that young. Whereas I think anyone would agree that someone coming out of college, four years is probably plenty appropriate time at 21, 22.

I don't think he is saying it's a disadvantage to those foreign-born players. I think the argument is -- if I can characterize it, the argument is it's a disadvantage to

California teams because they would only have four years to evaluate those players that they sign at a young age, whereas other teams would have seven years to evaluate those teams at a younger age.

I guess just to cut to the chase, our position on that issue is just that we're just saying we believe four years is long enough to evaluate a player, certainly particularly those coming out of college. But we believe, in general, four years is long enough. They can then always sign somebody to an additional contract. There are even other leagues that have a right of first refusal. You can put in a right of first refusal. If somebody offers that player big salary, you can still match it and retain their rights.

Nobody is saying -- you could still sign someone to seven years, but after -- to another three years, but after four years they would then be a free agent, just as our witness was a free agent after seven years and was able to sign a much better contract while still occupying the same role in the Minor Leagues.

SENATOR DURAZO: So are contracts exactly for seven years, or is it up to seven years? Can it be less than seven years in terms of what's actually signed in the real world?

SENATOR BECKER: If you want to go ahead and speak.

MR. BAIR: I just wanted clarify one point. It's not only a disadvantage to the clubs that would only be able to sign players for four years and, therefore, might not want to invest in a player that might not make it within four years, be it a foreign-born player or high school player, but it's also a disadvantage to those players themselves who can only sign a four-year contract.

If you are the Arizona Diamondbacks or the New York Yankees and you have a choice between a player that you can sign for seven years or a player you could only sign for four years, you are going to choose the player that you can sign for seven years.

The players will have less opportunity if they come from California than they would if they come from other states. This would disadvantage not only the club's ability to compete with teams out of California, but all the players who stand to be signed that live in California who want to play professional baseball will be at a disadvantage vis-à-vis all their peers from other states.

SENATOR BECKER: I'll give a chance to clarify. Obviously, we believe that would not be the case if a player has promise and they have four years to lock them up, and maybe a right of refusal after that. We think teams would still go ahead and sign those players.

MR. BAIR: The problem is 40% of the Minor League players are foreign-born -- sorry.

VICE CHAIR: That's okay, Mr. Bair. I understand. Most of us are very new to the rules and regulations here in the committee. But give me one second.

Senator Durazo, did you have any other questions or concerns?

SENATOR DURAZO: Well, I was just trying to get clarity. I'm sorry. I didn't mean to take over the conversation here, but just to get clarity as to who is disadvantaged and why they are disadvantaged and how the four-year and seven-year fit into that.

That's the main question because, obviously, we don't want to disadvantage players. We want to give them the most leverage they can use based on their skills. We want them to get the best deal. We want them to -- sooner than later, right? -- make more money as well as love their career.

I'm trying to understand this dynamic here --

SENATOR BECKER: It's the contention of this bill and all the supporters of this bill that having a four-year contract rather than seven would give that leverage. If you think about the witness who testified, that was -- he had to wait until after seven years, then performing the same job to get a 12 times higher salary; and so presumably after four years that our witness, being a Minor League free agent, could have gotten a much higher salary at that time.

I think clearly -- I mean, the whole premise of free agency is that it's in the best interest of the player to have that ability to go and negotiate, and that's really the premise. The contention is that that would make you a team less likely to sign a young player because they only have them for four years, and, therefore, they might not sign them.

We have to believe that players with promise are going to get signed. Again, you have four years to evaluate, and after that you can still sign them. If our bill passes, you have four years to evaluate; and if they're great and you want to sign them longer, then you can sign them longer. Right? Again, MLB could even put in a provision that you have the right of first refusal. If somebody offers them a bigger deal, you could match that.

SENATOR DURAZO: I'm sorry. Why being foreign-born, why is that a disadvantage?

SENATOR BECKER: I don't think it's particularly a

disadvantage. The scouting in these countries is quite advanced and developed. I think the contention would be if you only have four years, you are less likely to sign a foreign-born younger -- generally younger player than you would, say, a kid coming out of college in the U.S. That's the contention.

SENATOR DURAZO: Because they've already shown -- the kid out of college has already shown their skills, or what --

SENATOR BECKER: Just because you can -- yeah, that they're older and you have more -- a more body of work to evaluate them on. The contention would be that, again, you might be less likely to sign someone -- a foreign-born player that you have less time to evaluate them.

VICE CHAIR: Senator Durazo, would it be helpful to hear from the witness? Mr. Bair, would you like to have an opportunity to expand?

MR. BAIR: Yes, foreign-born players are signed and start playing at age 17. They typically play three years overseas in the academies in the Dominican Republic, and then they matriculate to the United States, and they begin their career in the United States.

It's rare for a foreign-born player to make the Majors within four years. The issue is if you're unlikely to get the benefit of the player making the Majors within four years, would you sign and invest in that player? All other teams outside of California, the 25 other Major League clubs would have the ability to sign a player for seven years, and, therefore, they're going to sign players that are foreign-born at a higher clip than we would.

With 40% of the Minor Leaguers being foreign-born, if we cannot compete in that marketplace, California clubs are extremely disadvantaged.

SENATOR DURAZO: (Off microphone.)

MR. BAIR: I would have to look to see how many years he played in the Minors.

VICE CHAIR: Go ahead, Senator Laird.

SENATOR LAIRD: I'm going to follow up on this with a question. First, can I just ask, you know, these amendments dropped out of the sky today, so let me be really clear. It takes everything out of your bill but the contract length and the name, image, and likeness. Those are the only two things left in the bill now.

SENATOR BECKER: Yes.

SENATOR LAIRD: Okay. I want to continue the questioning from Senator Durazo because your presumption is that if somebody's contract ends in four years, then they're negotiating from strength. That was the presumption. Why is that the presumption?

SENATOR BECKER: Well, currently if they don't want -- a team doesn't want that player, they'll just cut them, right? The whole premise is that after four years that you are seen as having promise somewhere. If you're not seen as having promise somewhere, they're probably not going to keep you around anyway. If you are seen as having promise somewhere, then somebody could sign you.

SENATOR LAIRD: But it forces that issue in a way that somebody could continue playing up until seven years and not have the issue forced and make it, and this forces a team to decide after four, when they might still have the potential to do it, right?

SENATOR BECKER: I think if the contention is somehow this harms players because they have the right at four years, I just don't think -- if you think about it, I just don't think that contention holds up.

SENATOR LAIRD: Let me ask Mr. Bair because somebody told me the name of somebody that fits this, and so -- and it's somebody you would know. If Pablo Sandoval came up to the Majors after four years, which I think he was in the Minors for longer than that, how would he fit in this discussion we're talking about?

MR. BAIR: Under this situation, the Giants would be reluctant to sign him in the first place to a four-year contract because he was a 17-year-old player internationally. He didn't make it to the Majors. He signed in 2002. He made the Majors in 2008. So after four years, then he would be a free agent, and any team could sign him. So we'd be competing against the 29 other clubs for his services.

In that situation, Pablo Sandoval might not have been a Giant if this legislation passed.

SENATOR LAIRD: The other piece is with what you know about him, would he have the leverage to have continued after four years? See, because it seems to me this moves it ahead and sets a more arbitrary thing, and I haven't determined that that's to the advantage of the players, and I'm trying to get at that with this. I mean, you're saying that it's quite possible he never would have been signed in the first place for the Minors. Is that your contention?

SENATOR LAIRD: My contention is he would have been

signed by a team outside of California to a seven-year contract, which fits the development cycle better for an international player.

If forced to sign a player for a four-year contract, it makes it harder to sign international players. And depending on where that player is at the end of four years, whether they're a prospect or not, they may well be a prospect, they would have the ability to go sign with another team and not the Giants.

SENATOR LAIRD: Then a related question that I thought you might be better situated to answer is if we have different roles for California than the other 49 states, is there pressure on other teams to take advantage of California's rules if they're different and disadvantage either players or teams, and if -- because originally, when I read the analysis, it says any -- this applies to any team that plays in California. This would apply to any team from another state that would just play here, right? Is that correct, then? That said that somewhere in the analysis.

SENATOR BECKER: I think that was pertaining more towards the compensation pieces. In terms of the contracts, it would be players living here or teams based here.

SENATOR LAIRD: I was trying to determine if this disadvantages California.

SENATOR BECKER: I think certainly the contention would be, yeah, that was the contention made, and I think it's a situation where we really have to say and say what do we believe? Do we believe that we should say, yeah, we're going to keep paying these poverty wages because of the chance that that could possibly happen?

And, again, when we say disadvantage, it's not like you can't sign these players for three more years. Our point is you can sign those players for three more years. You may have to pay them a higher salary, but if you want to lock someone up for seven years, you can still do that. You just might have to pay a higher salary.

SENATOR LAIRD: Then why do a contract for four years if you can still do that?

SENATOR BECKER: Because the point is after four years -- again, the whole reason we're doing this is -- you heard from the witness -- the wages that are being paid right now. After four years -- again, you heard the witness. In year eight he was doing the exact same job and making 12 times as much. Our point is, yeah, after five years you could be doing the exact same job and making 12 times as much.

SENATOR LAIRD: That presumes that there's advantage to the player, that the player is good enough in every instance for that to happen, as opposed to moving it up and being more arbitrary and moving it up forces people out of the system when they would not have been forced out of the system another way. And if it is, in fact, foreign-born players that are disproportionately in that category, that's not a good thing.

SENATOR BECKER: I think if you think about it, this notion that somehow somebody is going to be forced out, it just doesn't make sense.

SENATOR LAIRD: No, but I mean --

SENATOR BECKER: Can I finish? I'm a player after four years, right? Right now, if I'm making \$1,000 a week, I keep making \$1,000 a week. In our legislation, you would be able to negotiate with a whole bunch of teams. If nobody wants to sign me and my best option is to stay for the current team making \$1,000 a week, I'm going to stay for the current team making \$1,000 a week.

Nobody is being forced out. It just gives me the option now to negotiate a higher salary if people want me.

SENATOR LAIRD: Would you comment on that? That is not the read that I got of the situation, if it's enacted.

MR. BAIR: My understanding is the bill provides that there can't be a contract more than four years so that we would have to make a decision whether to bring a player to the Major Leagues within four years regardless of their status and whether they're ready to be matriculated to the Big Leagues.

So it affects high school players, foreign-born players that are signed at a younger age. College players that are signed older that have more baseball experience are more likely to be able to be evaluated within that time frame.

Under this scenario, 25 Major League clubs outside of California would sign players to seven years and have that opportunity to evaluate players and trade players and be more competitive than the California-based clubs that would have to make a decision on players in many cases well before that decision is ripe.

SENATOR BECKER: I want to clarify. That's not correct. Right now there are Minor League free agents or people who last in the Minor Leagues more than seven years. We're not saying you have to make the Majors in four years or bust. You can still be a Minor League free agent, just as there are Minor League free agents today. But

Minor League free agents would be after four years rather than Minor League free agency after seven years.

We're not saying you have to make a decision, cut Pablo Sandoval or promote him to the Majors. We're saying, hey, if the Mariners have been watching him for four years and they want to offer him a higher deal, they can do that. The Giants could still match that or beat that deal. We aren't saying you have to promote somebody.

SENATOR LAIRD: I was still looking -- the reason, I apologize, for trying to interrupt you is I was still going back to the premise, and I think you were addressing something else, because the premise is -- there's two here.

One is whether or not they would be signed in California in the first place. The conversation has been about what happens at four years or seven years. But if they're not signed in California in the first place, there is no four years or there is no seven years.

But the real thing is there's a presumption that Pablo Sandoval or the witness that testified would at four years be entitled that -- recognized as a good player and be entitled that better salary, and the thing I'm trying to get at is whether moving to free agency moves them out of the system because they don't have enough leverage or aren't perceived to be good enough to be kept, and this forces that issue sooner in a way that is not to the advantage of the players.

SENATOR BECKER: I understand what you are saying. I'm trying to answer it, which is to say that you would be saying let's lock every player into poverty wages for an extra three years because of the possible edge case of somebody being the borderline who is possibly disadvantaged.

I'm saying that person wouldn't be disadvantaged. After four years, you're a free agent. If somebody wants to offer you more money, then you can decide whether you go. You might say, hey, I want to stay with this organization for the same amount; but if no one offers you more money, then you're no worse off. You can still stay with the current organization that you are with, presuming they want to pay you.

SENATOR LAIRD: If they're signed in the first place?

SENATOR BECKER: If they're signed in the first place, yeah. Again, then you're not disadvantaging any players. The question is are you disadvantaging California teams?

SENATOR LAIRD: Well, what made -- in crafting the bill, what made you choose seven years -- four years as

opposed to seven? What was the benchmark for doing that?

SENATOR BECKER: Well, because we believe that -- we had to make a call, but we believe four years is sufficient to evaluate a player. And seven years is obviously the current length right now.

But, again, just because you signed a player to seven years, they're not obligated to keep that player for seven years. Players get cut all the time. That's why there is a notion of this edge case where somebody is disadvantaged. I just don't think that exists. Yeah, they're not committed to keep someone for seven years. They're not -- it's not a guaranteed, say, seven-year employment.

Again, I don't think there's any way we would be disadvantaging players. The question, are you disadvantaging California teams, and here I think it's upon us to sort of make the decision. Are we going to stand up for workers and have California lead the way?

I think if California leads the way, I think the Major League Baseball is going to have to adjust. Just as it looks like they're having to adjust around compensation and other things. Just as we said in many other places where California has moved first and we've made -- the rest of the country has caught up to us, fuel economy waivers or other things. I think that we're big enough that a solution will be found.

I don't know. I'm not negotiating. Maybe it's a two-tier solution. Maybe they want to come up with something, a shorter-term contract for players coming out of college, but the reality is right now you can be coming out of college at 21, 22. You are locked up for seven years at the wages that we identified. I'll just read those to you just to be --

SENATOR LAIRD: It's on the record. If I can do one follow-up on this subject. Just give you a chance to comment on what was just said.

MR. BAIR: There is another factor here. There's a Rule 5 draft for players with four years of Minor League service that another team can select them and take them on to their team if they are at the Major League level.

If a player is -- has the ability to jump to the Major Leagues, there's another opportunity for them. If their club is holding them back, if you will. I thought it was worth mentioning that.

Then just to emphasize the point that Major League Baseball and players in the litigation that's ongoing are addressing compensation issues and benefit issues, and

we're hopeful that that will be productive and that Minor League players and the leagues will have modified regime.

SENATOR LAIRD: If there is the compensation issues and benefits addressed in this litigation, it would affect what they're paid, whether it's four years or seven?

MR. BAIR: Yes. It's ongoing litigation. There are discussions happening now. I don't want to prejudge them, but we believe that those should be given the opportunity to succeed, and so I am thankful that the author has nodded to that.

SENATOR LAIRD: One follow-up question because in reading the analysis and talking to people on the way here, it seemed -- and the witness even mentioned it, whether it's housing or transportation or other things that are part of the job that are not directly included in compensation, is that something that should be addressed by organized baseball, that the compensation and the benefits should be really clear rather than it be off to the side in some way? Is that something that's in the middle of the lawsuit?

MR. BAIR: Minor League Baseball has -- Major League Baseball has addressed the housing issue, so there's now housing subsidies for the players, and there's food, transportation, and so forth that's all part of the benefit package that the players have as well as health insurance. But all of these items are part of the litigation, yes.

SENATOR LAIRD: Okay. I was going to change the subject.

SENATOR BECKER: Just to give our witness -- could we have Trevor speak on some of these questions too about four years versus seven years, if he thinks he would have been disadvantaged by --

SENATOR LAIRD: I think -- I'm not sure that's -- we could have every single player testify. I think it's a more generic question than the individual one. I want to change the subject briefly, and I know I've been asking questions. The other one is the name, image, and likeness.

The thing that was raised in different places, and I want you to speak to it, is that a team loses control of what a player might say about the club or the game if it's independent. How would this bill address that or not address that?

SENATOR BECKER: I guess we feel that's pretty clear that agreements can be reached with players and owners via the UPC in terms of what types of products can be endorsed. Just as with the NCAA, right? Players have name, image, and likeness. We don't let players go and

endorse cigarettes or other things, right?

I'm not sure what your question is.

SENATOR LAIRD: It's sort of like I think what I heard is that the teams feel like they lose control of the message. Is there a way within your bill that that is not true, but they still get rewarded for name, image, and likeness?

SENATOR BECKER: Yes. So, again, we believe that this is documented and that they can continue to negotiate, just as in other places, right, they can be able to negotiate that there's nothing that harms Major League Baseball.

SENATOR LAIRD: You mean it's not required? It's something that they would negotiate on every situation?

SENATOR BECKER: Yes. I can refer to --

SENATOR LAIRD: I'm just trying to understand what's in the bill.

SENATOR BECKER: Yeah. According to the people that we've talked to around this, it's really about making -- so we talked about the video game example where they currently do not get compensated for that, but the other piece is -- I don't know what the exact mechanics -- I can't share the exact mechanics here for the purpose of this discussion, but there are mechanics to make sure that you can't, say, negotiate for cigarettes or you can't do sports gambling. That's something --

SENATOR LAIRD: I just don't understand what you are saying. Are you saying that's prohibited now? That's just prohibited now regardless of what happens in this --

SENATOR BECKER: Ours would not change that.

SENATOR LAIRD: But is it prohibited now, and you are saying that this bill would not change that? Is that what you are saying?

SENATOR BECKER: I believe it is prohibited now, and I don't believe our bill would change it, yes.

SENATOR LAIRD: Well, since you're walking to the mic, I'll ask you to comment.

MR. FERNANDEZ: Senator, I'm Sam Fernandez, executive vice president and general counsel for the Dodgers. And the thing about this bill --

SENATOR LAIRD: And just -- who? Who?

MR. FERNANDEZ: The Dodgers.

SENATOR LAIRD: I was asking on behalf of Senator Durazo.

(Laughter.)

MR. FERNANDEZ: The thing about the bill that's interesting is that it has one provision that is all-encompassing and uses the word "interferes."

A contract -- the bill actually says: A contract cannot have a provision that interferes with a player's name, image, and likeness rights.

There's no definition of what "interferes" means.

The bill then purports to go on to give the club some sort of right that isn't very specific about conflicts between what the players are trying to do and what the club is trying to do.

That is, by the way, a much broader, way much broader standard, the "interferes" standard, than what's in the Major League Uniform Player Contract, which specifically gives the right -- the clubs the right to review and approve the use of name, image, and likeness under certain circumstances.

That's why we oppose the language in the bill as it is today. I should point out, as I did earlier, the current Minor League Uniform Player Contract does not deprive a player of his NIL rights. It simply requires that the club review and approve that so that they're properly used.

SENATOR LAIRD: Obviously, you're proposing something -- one last question. You're proposing something different, so you don't think that works?

SENATOR BECKER: This is exactly the NCAA situation. This is really well documented, very easy to figure out. If there's any -- certainly, we're not going to do anything. We made it very clear that would give --

SENATOR LAIRD: But I asked a different question. They stated the way it's operating, and your bill changes the way it's operating. Why do you think that the way it's operating now needs to be changed?

SENATOR BECKER: Why do we think it needs to be changed?

SENATOR LAIRD: Your bill changes from what he said.

SENATOR BECKER: The clause regarding -- it states players will not make public appearances, participate in

radio or television or online computer forums or any other public conferences or any sport. We believe it bars them from profiting from video games and other items outside their job responsibilities. And, yeah, that's what we're trying to change. That's what the bill is about.

MR. FERNANDEZ: Senator, I would ask Senator Becker to finish reading the paragraph from the Uniform Player Contract.

SENATOR BECKER: I don't have that piece here. But the point is this is exactly the NCAA situation. We're not going to do anything that -- this is a sort of well-documented piece, and we can -- if there's any clarifying amendments that need to be taken, we can take them.

The reality is we have players --

SENATOR LAIRD: I'm still trying to understand why that doesn't work and why you feel like it has to change.

SENATOR BECKER: Because the video game --

SENATOR LAIRD: You just read what's in there, and I was trying to understand why you think it needs to change.

SENATOR BECKER: Because there's a video game right now, \$70 video game. The Minor League players are in there, and they're not benefitting a penny. That's what needs to change. And we're happy to clarify amendments going forward in judiciary if we need to clarify this other piece. We believe that that part is very clear and that any other concerns are unwarranted. The players just want a piece of that revenue.

SENATOR LAIRD: Thank you. I'm sorry. I went on longer than I had intended, but this -- I have to tell you, I'm not sure this is totally clear or totally together or totally understandable, the reason for it, and I am really struggling with that because normally I give -- let me finish. Normally I give the author a chance to work it out, and I'm trying to understand whether there's something here that can be worked out, and that's what's sort of unclear.

SENATOR BECKER: Just to answer, we wouldn't be doing the bill if everything was copacetic. The reality is --

SENATOR LAIRD: I understand. The point I'm trying to make is that we do bills all the time. Just look at the energy deregulation, it was sort of clear: Here's our values, here's what we have to do. The consequences were so unintended that we dealt with them for years.

I get what our values are. Our values are really clear. You're acting out of the values. But I can't tell if what the

bill does matches that and doesn't have unintended consequences and isn't much broader than it should be. That's what I'm struggling with. You can deal with it in the close. But thank you.

VICE CHAIR: Thank you very much, both of you. What a robust conversation. Senator Newman, do you have any comments or questions?

SENATOR NEWMAN: I do. I applaud you. If any of this is duplicative, I apologize in advance. I want to come back to this discussion of seven years versus four years of player control, I think, from Mr. Bair. Good to see you, Mr. Bair. I don't know if you mentioned or talked about signing bonuses and their impact on not only the business model generally, but on how you think about those -- the difference between those four and seven and how it might influence your treatment of talent if that were to change?

SENATOR BECKER: I would like to have our witness address it afterwards because he was not here.

MR. BAIR: I can tell you in 2001 the average signing bonus was \$324,000 per player. But that doesn't apply to all players. It's a range from a fairly low figure to a very, very high figure. That's the average signing bonus for a player. That's, obviously, part of the consideration the players are earning.

SENATOR NEWMAN: To be clear, on average, a player, a generic player is getting a signing bonus, and that's being amortized across the length of team control, right? To some extent they may be taking a chance on their own talent, but they received some compensation in advance, and that is the basis for some of the talent evaluation decisions you make, correct?

MR. BAIR: Yes. Obviously, the players that are perceived as more talented receive higher signing bonuses. That's not necessarily always across the board. It depends on, you know, are they a college player or high school player, and there's a lot of variables at play.

SENATOR NEWMAN: If the duration of your control was limited to four years, would that change how you would approach signing bonuses, if you had less time to evaluate talent less time to realize that investment?

MR. BAIR: I think clubs would be loathe to sign players for high signing bonuses if they didn't believe that player would be ready to play in the Majors within the four-year time frame, which would mean that international, foreign-born players or high school players would be less likely to be signed and less likely to be signed for higher signing bonuses.

SENATOR NEWMAN: Thank you for clarifying. Coming back to the NIL discussion, hopefully briefly --

SENATOR BECKER: Can I --

SENATOR NEWMAN: Go ahead, Senator Becker.

SENATOR BECKER: You didn't hear our witness. I think it would be good to hear our witness. For the length of the UPC, players are paid \$400 per week at the complex league level; \$500 per week at the single A level, \$600 at AA level; \$700 per week at the AAA level.

These are not people who are getting big signing bonuses. I just wouldn't expect that -- averages can be misleading. I want to make that point. It would be good to hear from our witness.

VICE CHAIR: Would you like to address those issues at the closing?

SENATOR BECKER: I think since Senator Newman just got here.

SENATOR NEWMAN: I think you made it clear. I don't know that your witness would add too much more. I think Senator Laird covered a lot of this.

The question around NIL issues, this question, is this truly like the NCAA, from Mr. Fernandez? It may -- as I understand it, and it may be true for video games, but it's certainly not true for other applications or opportunities that might present themselves to players for name, image, and likeness deals.

MR. FERNANDEZ: The issue with NIL, the NCAA issue was the players had no rights. As I have indicated under the Uniform Player Contract, the Minor League Uniform Player Contract, the player does -- there are three parts to that provision. The first part grants the club the rights that it's going to need in order to do everything from promote the team, make bobbleheads, do broadcasts, et cetera, et cetera. That's -- there's a grant of rights there.

The second part is the part that explains -- that basically gives the club the right to review and approve the use of the player's NIL rights. The provision itself preserves the player's NIL rights because it doesn't prevent the player from exercising independent NIL -- independently exercising the NIL rights and doing the deal provided it's approved by the club.

SENATOR NEWMAN: It's got to be super clear. The NCAA did, in fact, prohibit --

MR. FERNANDEZ: My understanding is that the NCAA prohibited players from doing that, and it was required that they -- that that prohibition be lifted, in essence. By the way, the use of NIL rights is also, as I indicated, subject to review and approval under the specific terms of the Major League Uniform Player Contract.

SENATOR NEWMAN: Appreciate it. That's all I have. Thank you, Madam Chair.

VICE CHAIR: Thank you very much. Just to be fair, I know there's a lot of back and forth. Normally there's a little more caution about who speaks at what time. I want to be fair, Senator Becker, would you like your witness to address one last question? I'll give him one minute to address, and then we'll have you do your closing statement, please.

SENATOR BECKER: I would like the witness, Trevor, just to address if he thought he would be disadvantaged by being a free agent after four years, and if he has any other comment about any of the other discussions he could share.

VICE CHAIR: Okay. You have one minute, Trevor.

TREVOR HILDENBERGER: Yes. I don't think I would be disadvantaged if I had my contract -- my initial contract was only four years. Even if your initial contract is seven years like mine was, that doesn't guarantee you seven years of playing Minor League Baseball. They can cut you your first Spring Training, which I have seen, and they can keep you in the Minor Leagues all seven years. They don't have to pull you up before your contract is up either.

I have seen guys re-sign Minor League contracts for the eighth, ninth, and tenth years. To say someone is undesirable because they can't be controlled or you have to pay them a livable wage in their fifth year of the Minor League Baseball, that's not fair to me.

No, I don't think it will -- I think it can only help players if guys can get higher salaries starting their fifth year in Minor Leagues or encouraged to be in the Big Leagues sooner, then that's good.

SENATOR BECKER: Maybe he can address the signing bonus. What was your signing bonus out of Cal Berkeley?

TREVOR HILDENBERGER: It was \$1,000. \$1,000 at 23, and then \$573 after taxes.

VICE CHAIR: Thank you very much, Trevor.

Senator Becker, would you like to close?

SENATOR BECKER: I appreciate the robust discussion and engagement and our Chair here, I appreciate his engagement with our team.

I think the question is if we believe in any way that forcing control of players to be controlled for seven years is somehow in their best interest, I think that is kind of clearly a laughable proposition.

I think the question here -- obviously, the teams are concerned for their competitiveness. I think that, again, this is an opportunity for California to lead, and I think the right thing will follow.

If that were to somehow not happen, this passed and we have a four-year contract and such, again, teams here can still sign someone for an additional three years if they liked.

I just think any proposition that somehow changing this -- I mean, again, I'm sure I was not around for free agency, but I'm sure the exact same arguments were made, how this free agency was going to be in detriment to the players. Luckily, I think prevailed, and we have the Curt Flood case and free agency.

I think that's really the key point here is do we believe that allowing players to be controlled in seven years at the salaries that we all know with a signing bonus that we heard that's probably on average is in the player's best interest? No. Clearly it's not.

I think the question is are we willing to step forward? If there's issues around NIL, we're happy to look at them. We know there's this game, for example. They don't get paid for it. We're not going to allow them to go out and sign. I just know that there are ways to ensure, and I don't think our bill changes that, where teams can consent to again make sure there's no damage to the brand of the team.

I think that's not an issue. Again, I appreciate the witness. I appreciate the discussion, and I would ask for an aye vote to we can move forward and continue these discussions.

VICE CHAIR: Thank you very much. Do we have a motion on SB 1248?

SENATOR DURAZO: Can I make another comment, or is that out of --

VICE CHAIR: Certainly.

SENATOR DURAZO: I want to thank the author. I know

where his heart is. It's where my heart is as far as making sure that working people regardless of their career get a fair shake. Sometimes it takes legislation. Sometimes it takes litigation. Sometimes it happens for all the right reasons.

I am concerned about a number of issues that have been brought up, and I'm hoping that somehow the combination of different language amendments, maybe it's litigation, I'm not exactly sure, the combination of all those, both address a change for the players, for the good of the players.

But there's still a lot more to be worked out. I'm supporting your bill, but a lot more work needs to be done, I think, in order for this to get anywhere if that's what we're trying to do.

I really appreciate the management coming in and addressing these questions. This is not an easy thing to do.

SENATOR CORTESE: I want to thank vice chair for presiding, and she just handed the gavel back to me as I return from another committee. I know the author is closed, and I didn't have a chance to make comments. I'm not going to make extensive comments because essentially of the etiquette of the committee proceeding.

I do want to associate what comments I would have made with what Senator Durazo just said, and I appreciate the author working with the committee, working with me, but I do agree with Senator Durazo that there's -- I didn't hear the rest of the commentary by the committee, but there's an enormous amount of trip-wires here going forward that need to be resolved.

I'm going to stop there, and I'm going to ask the consultant to call the roll call, please. Thank you.

CONSULTANT: (ROLL CALL TAKEN)

SENATOR CORTESE: So the bill fails with two aye votes. Is that correct, Consultant?

CONSULTANT: 2-1.

SENATOR CORTESE: 2-1, with the rest of the committee not voting.

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