

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

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

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:08 p.m. on Wednesday, March 25, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pete Goicoechea, Chair  
Senator Joe P. Hardy, Vice Chair  
Senator Mark Lipparelli  
Senator David R. Parks  
Senator Kelvin Atkinson

**GUEST LEGISLATORS PRESENT:**

Senator Moises (Mo) Denis, Senatorial District No. 2  
Senator Tick Segerblom, Senatorial District No. 3  
Senator Pat Spearman, Senatorial District No. 1  
Senator Joyce Woodhouse, Senatorial District No. 5  
Assemblyman Edgar Flores, Assembly District No. 28

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Policy Analyst  
Heidi Chlarson, Counsel  
Nate Hauger, Committee Secretary

**OTHERS PRESENT:**

Tamela Ketchmore  
Tony Yarbrough, Veterans of Foreign Wars Department of Nevada; United  
Veterans Legislative Council  
Kristy Oriol, Nevada Network Against Domestic Violence

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Kat Miller, Director, Department of Veterans Services  
Kathy Flanagan, Las Vegas Valley Water District  
Tom McCoy, American Cancer Society Cancer Action Network  
Veneta Lepera, Dignity Health  
Brian Bertram, Executive Director, Nevada Palliative Care  
Kim Anderson, Implementation Specialist, Nevada Palliative Care  
Kelle Brogan, St. Mary's Hospice; Renown Palliative Care  
Mike Dyer, Director, Nevada Catholic Conference  
Grayson Wilt, Nevada State Medical Association  
Laura Freed, Deputy Administrator of Regulatory and Planning Services, Division  
of Public and Behavioral Health, Department of Health and Human  
Services  
Kyle Devine, Chief, Bureau of Health Care Quality and Compliance, Department  
of Health and Human Services  
Susan L. Myers, Legal Aid Center of Southern Nevada  
Scott Anderson, Chief Deputy, Office of the Secretary of State  
Michael Jack

**Chair Goicoechea:**

We will start the hearing with Senate Bill (S.B.) 268.

**SENATE BILL 268**: Provides certain services for veterans. (BDR 37-1042)

**Senator Joyce Woodhouse (Senatorial District No. 5):**

I am here to introduce S.B. 268. Although I am not a veteran, this is an issue that I care a great deal about. The Website for the U.S. Department of Veterans Affairs (VA) defines military sexual trauma (MST) as "sexual assault or repeated, threatening sexual harassment that occurred while the Veteran was in the military." It includes any sexual activity where someone is involved against his or her will. Other experiences that fall into the category of MST include unwanted sexual touching or grabbing; threatening, offensive remarks about a person's body or sexual activities; and/or threatening or unwelcome sexual advances. Men and women can experience MST during their service.

Section 1 of the bill requires the director and deputy director of the Department of Veterans Services to develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training. Section 2 of the bill establishes an interim study committee composed of six Legislators to research issues related to three things: First is veteran

homelessness in our State; second is the rate of unemployment of homeless veterans in our State; third is veterans who have suffered sexual trauma while on active duty or during their military training.

In order to emphasize the importance of counseling and services to military sexual trauma survivors, I want to share some information and statistics. The VA has a national screening program in which every veteran seen for health care is asked whether he or she has experienced MST. This data provides the following statistics: About 1 in 4 women and 1 in 100 men respond that they experienced MST. Although rates of MST are higher among women, there are so many more men than women in the military; significant numbers of men and women are seen by the VA who have experienced MST. It is important to note that this data only speaks to the rate of MST among veterans who have chosen to seek VA health care. Nevada's VA representatives, who will be testifying, have sent over the following information: The State of Nevada has a higher percentage of veterans who have experienced MST than the national average, which is 20 percent in women and 2 percent in men. The percentage of female veterans in Nevada is 27.7 percent, and for Nevada's male veterans, it is 1.3 percent.

There are a variety of impacts on veterans who experience MST. Military sexual trauma is an experience, not a diagnosis or mental health condition. As with other forms of trauma, veterans can have a variety of reactions in response to MST. The type, severity and duration of veterans' difficulties with MST vary based upon a number of factors, but all have a better chance of recovery with professional help. I am suggesting that we offer that professional help with this bill. According to the VA, MST can lead to the following: depression and other mood disorders, difficulty in relationships, physical health problems, substance abuse disorders and posttraumatic stress disorder (PTSD). According to the Nevada Veterans Comprehensive Legislative Reform Report, the State's veteran population is close to 300,000. While the primary goal of this legislation is to help veterans who are survivors of MST, there is also an opportunity to address the many other issues that Nevada veterans are facing.

The Nevada Veterans Comprehensive Legislative Reform Report notes that veterans have high rates of PTSD, traumatic brain injury and sexual assault, all of which increased their risk of homelessness. Approximately 50 percent of veterans experiencing homelessness have serious mental illness, a history with the criminal justice system and even more have substance abuse disorders.

Many are also coping with physical injuries sustained during active service. We still have a long way to go to provide our veterans with the services they need, but S.B. 268 will help.

**Senator Pat Spearman (Senatorial District No. 1):**

As a 29.5-year veteran, I support this bill. Recently, there has been a movement around the Country to bring attention to the critical issue of MST.

The National Conference of State Legislatures reports that at least 11 states have considered legislation relating to MST in recent years. Of these states, four have enacted legislation, including: California, Iowa, Maine and Vermont. Bills which address this issue are pending in the seven other states. As Senator Woodhouse mentioned, this should be of particular concern to all of us since Nevada has one of the highest rates in the Country of veterans who have experienced MST. Today, we have an opportunity to be at the forefront of addressing this issue by passing S.B. 268.

**Tamela Ketchmore:**

I am a retired captain, combat military veteran, having served in the Persian Gulf War from 1990 to 1991 as a social work officer. During my tour of duty, it was my responsibility to counsel soldiers who had been sexually abused, raped or found to be pregnant during the war.

One night, I was sexually assaulted by a colleague from the Air Force. I was sleeping in my tent with a loaded M16. A commander came to my tent, was rubbing my behind and my breasts. I turned around and saw he was standing there wearing only underwear. To this day, I continue to suffer from being sexually assaulted by a colleague. My commander at that time in the 24th Infantry Division was General Barry McCaffrey.

As a professional, it is hard to tell anyone that you have been sexually abused. During that time, I told my husband and he was not supportive. He was a commander and he felt that I brought the assault on myself. As a result, we divorced. I have been a patient with the VA for over 12 years. As a result of my trauma, I have been diagnosed with bipolar disorder.

When I tell my friends about the incident, many of them say that I do not look like I have suffered sexual assault. Sexual trauma cannot be observed in a person. Sexual trauma is only something you can experience. If you have not

experienced it, you have no idea what it is like to live with it. That is why I support S.B. 268. This bill will help all soldiers, male and female, receive the services to help them deal with MST.

**Tony Yarbrough (Veterans of Foreign Wars Department of Nevada; United Veterans Legislative Council):**

In the civilian world, sexual harassment is a big issue. In the military, MST is the same type of event. Military sexual trauma is a major violation of the chain of command. It destroys trust and camaraderie within ranks. The order in between ranks is reduced to fear and terrorism. If reported, MST often damages the career of the victim because perceptions about the victim remain even after the victim is vindicated. This issue affects members of both sexes.

I encourage you to pass this bill. From the people I speak to within the State and the research I have done, I have found that the reporting in this State is limited. This bill will assist us in obtaining better information, which will give us the avenue to provide better treatment and help the Veterans Administration.

**Kristy Oriol (Nevada Network Against Domestic Violence):**

We support this bill.

**Kat Miller (Director, Department of Veterans Services):**

My agency was tasked to review this bill for fiscal impact. It creates a responsibility for the director and deputy director to develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training. I will address only the portion of the fiscal note that impacts my agency. My agency does not have assigned staff for this or other special wellness program planning and development. In the past, these programs were accomplished by the agency director or the deputy director. Mission expansion has made it difficult for the agency to absorb new missions; however, Governor Brian Sandoval's proposed budget includes a new agency deputy director for veterans' wellness. The new deputy director would oversee Nevada's State veterans' homes, suicide prevention and homelessness programs. If this position were approved, we would have the capacity to begin addressing MST. There would be no fiscal impact on this agency; but until we know the results of that budget brief, I cannot provide any more information. We would also then be able to contribute research on MST and veteran homelessness to the interim study committee proposed in section 2 of this bill.

This new responsibility in the proposed language would fit well with the focused responsibilities of the proposed deputy director.

In addition to reviewing the fiscal note, we reviewed this bill for other impacts on veteran services. The review revealed that while the VA has programs and services available for treatment, many of Nevada's veterans either do not realize they are eligible for these benefits, are reluctant to access these services or are located in rural areas where access to care is a challenge.

*Nevada Revised Statutes* (NRS) 417 does not specifically designate any area of focus. Rather, the duties of the director and deputy director include the requirement to give aid, assistance and counsel to every problem, question and situation. The specific delineation of duties would be a departure from a more general categorization used in the statute. I do not raise this as a specific concern but merely as an observation. I have submitted written testimony ([Exhibit C](#)).

**Senator Woodhouse:**

It is paramount that we provide veterans with the services they need, especially for MST.

**Senator Spearman:**

It was difficult to listen to Ms. Ketchmore's testimony, because I know of several women in Nevada who have similar experiences. The trauma is beyond explanation. I urge you to pass this bill.

**Chair Goicoechea:**

This bill proposes paying each county that creates an office of coordinator of services for veterans. That seems like it would exceed the fiscal note presented. Also, if the proposed interim study committee is not included in the five interim committees, it may not be covered under the fiscal note.

**Senator Woodhouse:**

I share your concerns, Mr. Chair. We will examine our priorities, and make sure those are at the top of the list.

**Senator Hardy:**

Can you accept gifts, grants or donations?

**Senator Woodhouse:**

We did not include that in the bill, but I would happily create an amendment to allow that.

**Chair Goicoechea:**

I will close the hearing on S.B. 268 and open the hearing on S.B. 166.

**SENATE BILL 166:** Proposes to revise provisions relating to the preservation and promotion of the arts and museums in this State. (BDR 18-424)

**Senator Tick Segerblom (Senatorial District No. 3):**

Senate Bill 166 proposes to provide \$100 million for local museums. There are about 100 local museums throughout Nevada. Fifty million tourists come here each year; most of them know nothing about Nevada, and most Nevadans know nothing about Nevada either. These museums help educate people about our State. I provided a handout ([Exhibit D](#)), which has a picture of a museum in the Chair's district, on page 1. The Pony Express cabin shown was relocated from the southern end of the Ruby Valley, where my ancestors were from. They were Pony Express riders. Our history is important. These small museums are always scraping by, trying to make a living and stay open. This bill does not authorize \$100 million; it merely gives the people of Nevada a chance to vote on it. The vote would be to authorize up to \$10 million in bonds since we do not have any bonding capacity at this time; it would be for the future. It is something we should eventually consider.

I brought this bill in honor of my parents; my mother died 2 years ago.

**Senator Hardy:**

You asked for \$100 million with no fiscal note.

**Senator Segerblom:**

I brought this bill because I thought eventually the Legislature would give in. There are many museums that would love for this bill to pass even though their staffs are not here to testify.

**Kathy Flanagan (Las Vegas Valley Water District):**

We support this bill.

**Chair Goicoechea:**

I will close the hearing on S.B. 166 and open the hearing on S.B. 265.

**SENATE BILL 265:** Makes various changes concerning health care. (BDR 18-94)

**Senator Joyce Woodhouse (Senatorial District No. 5:**

Palliative care is specialized medical care for people facing serious and chronic illness. It focuses on providing patients with relief from the symptoms, pain and stress, regardless of the diagnosis. I submitted written testimony ([Exhibit E](#)).

**Chair Goicoechea:**

You are only going to contract for 40 hours per year at \$38 per hour?

**Senator Woodhouse:**

I do not know.

**Tom McCoy (American Cancer Society Cancer Action Network):**

I do not have the fiscal information. The intent of this bill is to minimally impact the State's finances.

The American Cancer Society is trying to increase knowledge of palliative care with the public and health care community. This is not just for cancer; it benefits all people with chronic illnesses. Shelby Adams has breast cancer and has been receiving palliative care. She has submitted written testimony ([Exhibit F](#)).

I have a close friend whose wife was diagnosed with stage-4 breast cancer. She was told to go home and die. I have advised her what she can and cannot do and what she should ask for. Now, her outlook is far different from when she was first diagnosed due to palliative care. I submitted written testimony included in [Exhibit F](#).

**Veneta Lepera (Dignity Health):**

I support S.B. 265. Pope Francis demonstrated an understanding of palliative care in his statement to the public in January. Palliative care offers a unique and essential element in the medical field that recognizes the value of the person. Palliative care is the clinical specialty for individuals with chronic or life-limiting illnesses. These illnesses increase the risk for unintended suffering, burdensome



care needs, family distress and revolving-door hospitalizations that often focus on short-term fixes rather than on a coordinated effort with patient-centered goals. It is an approach to serious illness that focuses on quality of life. Palliative care sees the person beyond the disease. It represents a paradigm shift in health care delivery. It is about rekindling the roots of the healing professions, placing the patient, family and what matters most to them at the center of what we do. Clinical experts certified in palliative care are the masters of managing distressing symptoms, communication, compassion and advocacy. Palliative care programs help acute hospitals and health care systems within the community achieve the ultimate win-win health care scenario of patient- and family-centered, high-quality, well-coordinated medical care at a lower cost.

Palliative care is often mistaken for hospice care. Every hospice patient is a palliative care patient, but not every palliative care patient is a hospice patient. Education about palliative care for the citizens of Nevada is imperative. Many do not understand the role of palliative care teams, and those who do find it difficult to locate providers. Palliative care is an uncompensated extra, governed by standards rather than regulations; the consumer has no guarantee of consistency of care.

To illustrate what palliative care can provide for a patient and family, I will share John's story. I met and cared for John and his wife Tina as a certified hospice and palliative care nurse in early 2010. John, who was 74-years old at the time, had been diagnosed with stage-III prostate cancer which metastasized to his lower back and pelvis. He was a retired university professor, who while serving in the military met his wife Tina in the Philippines. When I walked into their dark, 1,800-square-foot apartment in Las Vegas, I found a kind man who was longing to go home to the Philippines, but had accepted the medical prognosis that his disease was terminal; he was waiting for the end. The cancer and chemotherapy had weakened his body; he had pain in his back and had lost over 50 pounds. We discussed his prognosis, but we focused on his wishes and what would provide him quality of life and peace.

John's goal was to go back to the Philippines, stick his feet in the China Sea and be with his family when the end of his life arrived. The physician and I skillfully managed his pain; the team helped him build his strength from bed-bound to sitting in a wheelchair for 14 hours at a time so that he could tolerate the 12-hour flight to Manila. This goal took 9 weeks to achieve. During those 9 weeks, the social worker reached out to the community agencies to

assist in the airline tickets to Manila. John and Tina did not have much money left as their savings was spent on medical treatments over the last 2 years. Donations were collected and two open, one-way tickets were purchased. At that moment, the dream became reality for John and Tina. It was no longer just his wish and a goal of well-meaning clinicians.

John was stronger now and able to tolerate the flight. It took everyone on the team working together, along with a great deal of communicating, caring, problem solving and hope. They boarded the plane in Las Vegas and landed in Manila without incident. I received a letter from them about 8 months after they arrived, thanking the team and me for making his dream come true. He spoke of the peace and joy he was experiencing, and how truly alive he felt even though he knew he was dying. The palliative care goal had been achieved. In July 2012, I received a final letter from John. He wrote it before he passed in October that year, 28 months since we had first met. In John's own words:

Here I am in the Philippines at 77 years of age, still alive. Family has been good for me. We have a house here on the rice field; it is a good life. I am better but cannot walk on my own any longer. I have a TV in an air-conditioned room with a big window, and I can even see the ocean and beach. I went with much help yesterday and put my feet in the China Sea again. Everything is very green, and the rainy season is here now. Don't worry about me. I have lived a good life. I thank each of you for all you did for me, and I will send this to you to share with everyone.

John's journey illustrates what palliative care can achieve, even during the hospice care phase. Senate Bill 265 promotes further education of clinicians and Nevada citizens on palliative care, increasing the understanding of the shift to quality-of-life, goal-directed care for individuals with a life-limiting illness.

I submitted written testimony ([Exhibit G](#)).

**Brian Bertram (Executive Director, Nevada Palliative Care):**

I support S.B. 265. Unless you have experienced palliative care for yourself or a loved one, it is difficult to understand its effect. Palliative care teams help define care goals for patients and their families by listening to their priorities. We ask questions such as: Are you feeling sad? Are you feeling symptomatic? Is there anything that you would like to change about your treatment? Do you feel

useful to your family? By asking these questions, the team is able to help provide a plan of care for patients that applies their beliefs, goals and hopes to the treatment they receive. Palliative care supports families by providing education and clarity in knowing what to expect as symptoms continue to change. This is important to our frail, elderly and chronically ill population because family members and caregivers are often unprepared when a crisis arrives, or when a patient becomes symptomatic.

I will tell a story of a patient who I will refer to as Mr. B. He was an 88-year-old man with mild dementia, admitted through the emergency department for management of back pain due to spinal stenosis and arthritis. Upon admission, he described his pain as 8 on a scale of 10. He was taking 5 grams of acetaminophen per day to alleviate the pain. He was admitted three times in the last 2 months for pain, weight loss and falls due to altered mental state, confusion and constipation. Mrs. B, aged 83, is overwhelmed. Upon his last admission, Mr. B said, "Please do not take me there, I do not want to go back." Mrs. B said, "He hates being in a hospital, but what could I do? The pain was so terrible, and I could not reach the doctor. I could not even move him myself. I called the ambulance; it was all that I could do."

Unfortunately, it is a fact with our current medical system that when patients show acute exacerbations or become very symptomatic, their loved ones call the doctor's office to hear a recording which says, "If this is an emergency, please dial 911." If family members had better support, education, advice and a safety-net program, they would respond more appropriately to these crises. The Affordable Care Act has brought new penalties as well as new innovations. Networking in the community and the continuum of care is the way forward for health care systems, both in and out of the hospital. As we look now to expand our Medicaid population, 20 percent of Medicare beneficiaries have five or more comorbidities or comorbid conditions. Two-thirds of all Medicare spending goes to cover the costs of their care. These are also the people who benefit most from palliative care. Senate Bill 265 gives us an opportunity to have patients ask for high-quality, palliative care. This bill would help create an Internet forum for people to use to learn about symptom management, care coordination and finding a team to help guide them through this changing time in the illness. Our organization works in numerous different models of palliative care throughout northern and southern Nevada. We work with hospitals, community-based programs, oncology clinics and rehabilitation facilities, and we partner to reduce

unnecessary readmissions. I urge you to pass S.B. 265. I would be happy to serve on the advisory council that is created under the bill.

I submitted written testimony ([Exhibit H](#)).

**Kim Anderson (Implementation Specialist, Nevada Palliative Care):**

I support S.B. 265. I am a mother. Women are essential to the stability of a family unit from birth to adulthood. As children age, women continue to play an essential and pivotal role in caring for the family. Since mothers are so essential, when they are stricken with a serious illness, like pain, nausea or vomiting, it rocks the whole family.

I will share a story about a mother of three named Susan. She was diagnosed with breast cancer and treated. A year later, she discovered a mass in her abdomen; her oncologist said it had metastasized to her bone and prescribed radiation therapy. The treatment left her reeling in pain and with no energy. Rather than helping her children get dressed for school in the morning, she could only lie on the couch. Unable to work, Susan went to the emergency room three times during 1 week. She left the emergency room with a 1-day supply of Tylenol 3. On Sunday, she lay in bed and wondered if the radiation was worth the pain and functional decline it was causing. On Monday, upon recognizing her symptoms, Susan's radiation therapist referred her to a palliative care on-site clinic. A palliative care doctor administered break-through pain medications with round-the-clock rescue doses. He followed up with Susan the next day at her home, and the pain was reduced to 3 on a scale of 10. Susan was now able to return to her duties of being a mom and continue with her radiation therapy while maintaining hope.

It is clear with Susan's story that when quality of life changes, everything changes. This bill creates a forum to provide recommendations and education tools for health care providers. As a Nevada native and a mother, I urge you to pass S.B. 265.

**Kelle Brogan (St. Mary's Hospice; Renown Palliative Care):**

I am impressed with the level of knowledge about palliative care demonstrated by the other testifiers today. Many of the physicians, nurses and staff who I work with know little about palliative care. The burden of medical care is horrendous for our hospitalists and subspecialists, which may be part of the problem. One of the most common comments I receive from patients is: They

wish they had received palliative medicine sooner so they could tolerate their therapy better. I like that this bill provides education for medical providers in addition to medical consumers. The impetus for growth in hospice over the last 25 years has not been the medical community, it has been the general public. Similarly it is the consumer who will make palliative medicine more effective. Therefore, the education for the general public is crucial. Please pass S.B. 265.

I have submitted written testimony ([Exhibit I](#)).

**Mike Dyer (Director, Nevada Catholic Conference):**

We support this bill for the reasons stated in previous testimony.

**Grayson Wilt (Nevada State Medical Association):**

We support this bill.

**Chair Goicoechea:**

Can Laura Freed testify on the mechanics of how this bill will work?

**Laura Freed (Deputy Administrator of Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services):**

I cannot provide many details.

**Kyle Devine (Chief, Bureau of Health Care Quality and Compliance, Department of Health and Human Services):**

The fiscal note has two phases: The first phase is the development of the education program, which requires more time. We will use a contract registered nurse to develop that system and education. The second year and beyond, we are only looking at approximately 40 hours per year for a nurse to provide training to those agencies that will be assisting with and administering the education.

**Senator Woodhouse:**

We need to address this in order to provide the services for individuals in our community who are experiencing serious illnesses. Two years ago, my husband received a sad diagnosis. At the time, I knew nothing about palliative care. Had I known more, we would have taken advantage of the information, and it could have helped us through that time. The testimony today shows there are many

people in our community who do not know about palliative care, and we should make it available for them.

**Chair Goicoechea:**

I will close the hearing on S.B. 265 and open the hearing on S.B. 401.

**SENATE BILL 401**: Revises provisions relating to notaries public and document preparation services. (BDR 19-895)

**Senator Moises (Mo) Denis (Senatorial District No. 2):**

Assemblyman Edgar Flores is here with me. He introduced a similar bill and we decided to combine them into one bill.

I will begin by giving a background on an ongoing issue of individuals performing legal work unlawfully. The word "notary" translates to *notario* in Spanish. The word *notario* means different things in different countries; for instance, in Peru a *notario* is a malpractice attorney, and in Mexico it is a regular attorney. This causes confusion for many immigrants who assume that people with the title of *notario* are lawyers. There are people who are aware of this confusion and take advantage of it by providing legal work without acquiring the necessary qualifications. In 1983, then-Assemblywoman Shelley Berkley sponsored a bill which was enacted to require all notaries public who are not attorneys to include the following notice in any advertisement, "I am not an attorney in the State of Nevada, I am not licensed to give legal advice, I may not accept fees for giving legal advice."

In 2005, I introduced a bill to prohibit a notary public who is not an attorney licensed to practice law in Nevada from using the term *notario*, *notario publico* or any other equivalent non-English term in any communication that advertises notary services. In Mexico, *notario publico* is the equivalent of a high-ranking government attorney, so use of that term in Nevada is misleading.

Unfortunately, criminals tend to stay one step ahead of the law. This bill is important for consumer protection. The bill authorizes the Secretary of State to adopt regulations and accept applications for the formation of consumer protection associations to assist with the reporting of violations of statute governing notaries public and document preparation services. These associations will be comprised of volunteers.

One of the biggest issues regarding the *notario* issue is that victims of these crimes are often afraid to come forward, perhaps because of their immigration status. We used volunteer firefighters as a model for these consumer protection associations. The Secretary of State's Office may set up the program for members of these associations to train. If the Latino Bar Association wants to do this, they could apply through the Secretary of State. There are other organizations that have volunteers who would be willing to do this.

Section 7 of the bill authorizes the Secretary of State to enter into cooperative agreements with other governmental entities to manage activities of consumer protection associations. Sections 8 and 13 of the bill authorize any person who is aware of a violation of statute governing notaries public and document preparation services to file a complaint with the Secretary of State.

Sections 9 and 11 of this bill require an applicant for appointment as a notary public or registration as a document preparation service to provide with his or her application any address where the applicant has resided during the previous 5 years. It also requires an affidavit stating that the applicant has never had an appointment as a notary public or certificate license as a document preparation service, as applicable, revoked or suspended in this State or any other state or territory. There are individuals who go from state to state conducting this scam.

Section 10 of the bill adds the term *licenciado* to the list of terms prohibited from use in an advertisement if a notary public is not also an attorney licensed in this State.

Since I introduced the bill in 2005, you can drive down the street and when you see these multiservice businesses that offer notary public services, they no longer use the word *notario*, they have changed to say notary. Nevertheless, the problem persists.

Section 12 of the bill prohibits document preparation services from using terms that may mislead a consumer into believing that a document preparation service is a licensed attorney if that is not the case.

There were two fiscal notes submitted for the bill from the Department of Public Safety's General Services Division and the Secretary of State. Both fiscal notes show zero, but that may change.

**Chair Goicoechea:**

Section 5 of the bill says, "The Secretary of State shall adopt regulations relating to consumer protection associations in this State." Did you intend that to say may instead of shall?

**Senator Denis:**

Yes. We will correct that.

**Chair Goicoechea:**

And all the other similar language that follows will be corrected also?

**Senator Denis:**

We will make it consistent with the other sections that say "may."

**Assemblyman Edgar Flores (Assembly District No. 28):**

Some of the hardest-working people in my district are in need of the protections this bill would provide. I have performed work against *notario publicos*. They take a predatory role against our community. Also, it is important to include the term *licenciado* because in most Latin American countries, all lawyers are *licenciados*, but not all *licenciados* are lawyers. A *licenciado* is the equivalent of a person with a bachelor's degree. In Mexico, all it takes to become a lawyer is a bachelor's degree. Sometimes the term *licenciado* is used interchangeably with the term lawyer. However, a *licenciado* can also be a social worker or somebody with a degree in math or science. Also, many lawyers call themselves *licenciados*. Many people from other countries say they are *licenciados*, and that is true, but that does not mean they are lawyers so it is intentionally deceiving.

In 2013, I published a study through the University of Texas at Austin ([Exhibit J](#)), and you can find it in Westlaw or LexisNexis by looking up legal service awareness of the Latino population in southern Nevada. In that study, we looked at three major questions. Question 1: Are underrepresented communities, specifically Hispanic communities, aware of free or inexpensive legal services such as the Legal Aid Center of Southern Nevada or Catholic Charities? Question 2: If they are not aware of those services, does that affect whether they go to a lawyer? Question 3: What is the correlation between all of this? The study and some of the mathematical formulas we used to strengthen our research were guided by Jeremy Aguero, along with a statistician from University of Nevada, Las Vegas. What we found through the study is that: No. 1, in the Latino community especially, people do not go to a lawyer when



they have a legal issue; No. 2, it is more likely for an individual from an underrepresented community, especially a Latino community, to go to a notary public rather than a lawyer for legal assistance; No. 3, people who do not speak English, especially older people, are more likely to utilize a notary public or document preparer for legal services. The study was done prior to the document preparer law going into effect, so I am specifically using notary public language.

We identified several major factors contributing to the findings of the study. One, in the Hispanic community for individuals over the age of 30, word of mouth from friends or family is still one of the primary forms of communication when people are seeking help. Two, most people in the Latino community perceive lawyers as not speaking Spanish and having no interest in small cases. They also believe that because a notary public is in the community, they are "one of us," and people can better identify with them.

In Mexico, *notario publicos* are not only attorneys, but also have had a 5-year apprenticeship under another notary public. There are other rigorous requirements. For instance, they cannot have any criminal convictions on their records. Therefore, *notario publicos* are not merely regular attorneys, they have even higher qualifications.

We have the right regulations in place now, but there is still a problem with enforcement. Senator Denis added language in this bill that says, if you have had your document preparer or notary public license revoked in any other state, you cannot work in that profession here. That is an important inclusion; because if a person is not good for another state, they are not good enough for Nevada. Also, Senator Denis included language that when you apply to be a notary public or document preparer, you have to include where you have lived for the past 5 years. This is a multilayer approach to this issue. First, we ask if they have had their license revoked, and if they say yes, they cannot work here. Second, if they lie in their application about where they lived for the past 5 years, the Secretary of State can investigate them through a watchdog group which will save money. Often a big issue with these outside groups is the oversight, and the language in this bill will make the Secretary of State perform an annual audit of the watchdog group.

This bill is necessary and is the final piece to resolving this issue. The State Bar of Nevada has expressed an interest in addressing this issue.

**Senator Lipparelli:**

The problem is that some notaries are unscrupulously acting as attorneys.

**Assemblyman Flores:**

There are two issues in the community. One is that non-attorneys are acting as attorneys. The second is that once an individual pretends to be a lawyer and gives fraudulent legal advice, they are off the hook.

**Senator Lipparelli:**

It is against the law to practice law in this State without a license. How does setting this up solve the problem? If somebody is unscrupulous, they are going to continue being unscrupulous.

**Senator Denis:**

We are looking at people who may have lost their licenses in another state and come here to do the same thing. We also want the consumer watchdog group. The Secretary of State cannot enforce the law if nobody comes forward with a complaint against a scam artist, and many of the victims do not come forward because their legal status in the U.S. is in question. We need the watchdog group to keep an eye on this.

**Senator Lipparelli:**

Why does the Las Vegas Latino Bar Association not set up this watchdog group? How does the State's umbrella over this create accountability?

**Assemblyman Flores:**

One of the most common criticisms of unincorporated, nonprofit organizations is that the State does not have oversight over them. When we give the Secretary of State oversight, it legitimizes that group. The watchdog group could even provide information in the U.S. Immigration Court. We also want to avoid having many different watchdog groups acting as vigilantes and giving the Secretary of State oversight would prevent that.

**Susan L. Myers (Legal Aid Center of Southern Nevada):**

Last Session, I testified in favor of the enactment of the document preparer bill which passed. In my capacity as the bankruptcy attorney at the Legal Aid Center, I frequently see victims of fraudulent document preparers and occasionally *notario publicos*. Those debtors are often referred to me after their cases are "messed up." Since the document preparer bill was enacted, we have

seen some document preparers register as required by law, and some have not. I support the provision that any person can report a violation. I repeatedly see some preparers who are not registered do a disservice to their clients by not filling out forms properly, causing people to lose money and have cases dismissed. We encounter these problems with divorce cases and immigration, as well.

It is a good idea to have people who are aware of the violations file reports because sometimes people are reluctant to do so, or are unaware of their right to do so. I would like to add to the bill that the Secretary of State shall make the complete form available in Spanish. I have not been able to give a Spanish form to clients; it is only available in English. I am in favor of the addition of the term *licenciado* and the provisions regarding 5 years of addresses. Because many perpetrators move around frequently, it can be hard to find them when they have committed an offense. This could make them easier to track.

I am not a member of the Latino Bar Association, but I have been active in the Unauthorized Practice of Law Committee (UPL) which works with the Latino Bar Association and the State Bar Association. The UPL is working on a publicity campaign and community education on this issue.

**Scott Anderson (Chief Deputy, Office of the Secretary of State):**

The Secretary of State is neutral on this bill. There are many unknowns such as how many watchdog groups will be needed; who will do the training and enforcement; and what government agency would partner with the Secretary of State's Office. If we had more details on how this would work, we could have a better idea of the fiscal effect. We are willing to work with the sponsors of this bill to find a solution. In response to Ms. Myers, if there are known violations of the *notario* statute, we have a complaint form and a Spanish phone line that victims can use to report those violations.

**Chair Goicoechea:**

I am concerned about the burden this puts on the Secretary of State's Office. A person who is unscrupulous enough to practice law without a license is not going to stop merely because he or she does not have a license. I do not want to put the burden of enforcement on the Secretary of State.

**Mr. Anderson:**

We have no authority over the unauthorized practice of law other than the registration of the document preparation services through the processes in statute. If we received a complaint about this, it would probably be sent to the State Bar for investigation.

**Chair Goicoechea:**

But if you received a complaint today you would deal with it?

**Mr. Anderson:**

Correct.

**Senator Lipparelli:**

The sponsors of the bill raise a legitimate issue. If a notary was prosecuted for practicing law without a license, would that jeopardize their ability to get a notary license in the future?

**Mr. Anderson:**

I do not know. There is a concern about using the revocation of a business license as a trigger for not being able to be a notary. An entity or person can be put into a revoked status for failing to pay their late fee. That would be an issue, because the failure to pay the fee should not prohibit them from being a notary once they get back into good standing.

**Michael Jack:**

I am a process server and a retired FBI agent. I investigated white-collar crime, organized crime and drugs, and I worked undercover. I would like to offer a small amendment to this bill. This amendment would change NRS 240.030, subsection 2, to say that a licensed process server would be exempt from NRS 240. When I first read NRS 240, the question that occurred to me was: Where is the law enforcement component to this? Criminals learn the law and know it better than law enforcement. When they set up shop, they make it appear legal. They run their business as long as they can until they feel the heat and then they move. They do not care about regulations. A good law enforcement operation targets these people with local, state and federal enforcement agencies. I say federal because the forms for immigration through the U.S. Department of Homeland Security, the U.S. Department of State and the U.S. Department of Labor are standardized. On the bottom of the form, a warning, 18 USC 1001 says that it is a felony to provide false information on

this form. Many of the forms also have a warning about wire fraud and mail fraud which are more serious felonies. This is an opportunity to work with the Nevada Attorney General's Office and the U.S. Attorney General to do a coordinated attack on this problem.

I did research in another area and ran across a decision on the federal level called *Loving v. IRS*, 742 F. 3d 1013 (D.C. Cir 2014). It came down on February 11, 2014, from the U.S. Court of Appeals for the District of Columbia. The IRS was trying to regulate almost a million tax preparers. The IRS wanted them to pay fees, sign up and go through training. The tax preparers sued and won because Congress never gave the IRS the authority to do that. I did a cursory search and have not found where the U.S. Departments of Homeland Security, State or Labor have received authority from Congress to regulate preparers. Is it appropriate for the State of Nevada to regulate document preparers when the federal government says you cannot?

**Chair Goicoechea:**

I suggest you work with the bill sponsors to address your concerns.

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**Chair Goicoechea:**

The hearing is adjourned at 2:44 p.m.

RESPECTFULLY SUBMITTED:

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Nate Hauger,  
Committee Secretary

APPROVED BY:

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Senator Pete Goicoechea, Chair

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

| <b>EXHIBIT SUMMARY</b> |                |    |  |  |
|------------------------|----------------|----|--|--|
| <b>Bill</b>            | <b>Exhibit</b> |    | <b>Witness or Agency</b>                         | <b>Description</b>   |
|                        | A              | 1  |  | Agenda   |
|                        | B              | 4  |  | Attendance Roster  |
| S.B. 268               | C              | 2  | Department of Veterans Services                  | Written Testimony  |
| S.B. 166               | D              | 10 | Senator Tick Segerblom                           | Printed Slides   |
| S.B. 265               | E              | 3  | Senator Joyce Woodhouse                          | Written Testimony  |
| S.B. 265               | F              | 4  | American Cancer Society<br>Cancer Action Network | Written Testimony  |
| S.B. 265               | G              | 1  | Dignity Health                                   | Written Testimony  |
| S.B. 265               | H              | 2  | Nevada Palliative Care                           | Written Testimony  |
| S.B. 265               | I              | 4  | Nevada Palliative Care                           | Written Testimony  |
| S.B. 401               | J              | 32 | Assemblyman Edgar Flores                         | Legal Service Awareness of<br>the Latino Population in<br>Southern Nevada 2012 |