

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

**Eightieth Session  
February 14, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:02 a.m. on Thursday, February 14, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/80th2019](http://www.leg.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chair  
Assemblyman William McCurdy II, Vice Chair  
Assemblyman Alex Assefa  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Richard Carrillo  
Assemblywoman Bea Duran  
Assemblyman John Ellison  
Assemblywoman Michelle Gorelow  
Assemblyman Gregory T. Hafen II  
Assemblywoman Melissa Hardy  
Assemblyman Glen Leavitt  
Assemblywoman Susie Martinez  
Assemblywoman Connie Munk

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Asher Killian, Committee Counsel



Mark Peckham, Committee Secretary  
Trinity Thom, Committee Assistant

**OTHERS PRESENT:**

Barbara K. Cegavske, Secretary of State  
Scott Anderson, Chief Deputy, Office of the Secretary of State  
Gail J. Anderson, Deputy for Southern Nevada, Office of the Secretary of State  
Kimberley Perondi, Deputy for Commercial Recordings, Office of the Secretary of State

**Chair Flores:**

[Committee rules were explained and roll was called.] We have two items on the agenda today: we will be having a presentation by the Office of the Secretary of State, followed by a bill that they are moving forward. With that I would like to open up the presentation by the Office of the Secretary of State.

**Barbara K. Cegavske, Secretary of State:**

It is our pleasure to be here today to give you an overview of our Office, and we look forward to any questions you might have about what it is we do for the state. Joining me in Carson City is Scott Anderson, my chief deputy secretary of state; and Wayne Thorley, who is my deputy of elections. In the audience is Kimberley Perondi, the deputy secretary of commercial recording, and Craig Kozeniesky, who is the deputy secretary for operations. Here in Las Vegas I have Gail Anderson, who is the deputy for the southern office, and securities administrator Erin Houston. I am going to turn it over to Scott Anderson to give our presentation, and if you have any questions, we are available both here in Las Vegas and in Carson City to answer anything you might need. Chair Flores, I want to thank you for the opportunity that Gail Anderson has had to work with you on some of the notary legislation. Thank you again.

**Chair Flores:**

Madam Secretary, I will take a personal point of privilege to say how much we have enjoyed working with your office. Gail Anderson has been amazing to work with. Thank you; I look forward to working with you throughout this session.

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

The Office of the Secretary of State is one of the original constitutional offices established in the *Nevada Constitution*, and it is responsible for maintaining the official records of acts of the Legislature and Executive Branch. Additional duties have been added over time and range from chief officer of elections, to recorder of business entity filings, to appointing notaries public, to administrator of the Uniform Securities Act. The Secretary of State serves on various boards and commissions that are listed here on page 3 ([Exhibit C](#)). The Office of the Secretary of State is organized into eight main divisions:

- Commercial Recordings
- Document Preparation Services/Domestic Partnerships/Nevada Lockbox

- Elections
- Executive Administration
- Nevada Business Portal
- Notary
- Operations
- Securities

Our offices are located in Carson City in the Capitol Building, the Meyers Annex, and the Blasdel Building; and also in North Las Vegas City Hall. In-person customer services such as picking up forms or paying fees are available at both the Carson City and Las Vegas Offices. The Secretary of State's Office currently has 138 positions, and the number within each division can be seen on page 5.

The Office of the Secretary of State serves as the collector of various fees, fines, and penalties. These range from filing and licensing fees with the Commercial Recordings Division, to broker-dealers and license fees with the Securities Division, to candidate filing fees with the Elections Division. The majority of the revenue collected by the Office of the Secretary of State goes directly to support the General Fund. In fiscal year 2018 the Office collected revenue of \$218.6 million. Of that total, \$218.1 million, or 99.8 percent, went to the General Fund. This places the Office of the Secretary of State as the third-highest General Fund-generating agency in the state.

Page 7 shows a pie chart breakdown by division of the General Fund revenue collected by the Office of the Secretary of State for fiscal year 2018. The largest General Fund revenue generators in the Office are by far the Commercial Recordings Division at 85.3 percent and \$186.2 million, and the Securities Division at 13.5 percent and \$19.4 million. Together the Commercial Recordings Division and the Securities Division make up 98.8 percent of the total General Fund revenue collected in fiscal year 2018 by the Office of the Secretary of State. The remaining 1.2 percent comes from Uniform Commercial Code fees with \$1.94 million, the Notary Division with \$556,386, and the Elections Division with just over \$35,000.

Page 8 lists some of the fees and penalties collected by the Office of the Secretary of State, the dollar amount or range of the fee, and the statutory authority by which the Office collects the fee.

Our Securities Division regulates investment activity and enforces the state's securities laws, which are found in *Nevada Revised Statutes* (NRS) Chapter 90. Duties of the Securities Division include the registration of security offerings; licensing of investment advisors, brokers, dealers, and athletes' agents; performing compliance inspections; criminal investigations; and investor education. As I mentioned earlier, the Securities Division is the second-highest General Fund revenue-producing division within the Office of the Secretary of State behind the Commercial Recordings Division. The annual General Fund revenue collections for the Securities Division totaled \$28.3 million in fiscal year 2017 and \$29.3 million in fiscal year 2018.

The Office of the Secretary of State administers SilverFlume, Nevada's business portal. SilverFlume is designed to be a first-stop shop for business to government filings and licensing transactions. It supports nearly 500,000 business transactions annually. SilverFlume's partners include 14 state agencies, 27 local government agencies, and 58 regulatory agencies.

The Commercial Recordings Division is responsible for accepting, filing, maintaining, and providing public access to the organizational and amendatory documents of business entities organized under the laws of Nevada. The division also registers trade names, trademarks, service marks, and rights of publicity, and is responsible for issuing the annual state business license to business entities. Business entities that are required to file with the Commercial Recordings Division include corporations, limited liability companies, limited partnerships, limited liability partnerships, limited liability limited partnerships, business trusts, and professional corporations and associations [page 11]. The table on page 12 lists the total number of business entities with an active registration status with the Office of the Secretary of State. The majority of business entities on file with the Office are organized as either corporations or limited liability companies. In total, approximately 322,000 active business entities were on file as of January 2019. Additionally, there were over 43,000 sole proprietor and partnership business licenses on file with the Office.

The Notary Division is responsible for appointing, training, and disciplining notaries public, authenticating documents known as apostilles to be submitted to foreign countries in accordance with the Hague Convention of October 5, 1961, and maintaining a list of qualified ministers in Nevada who have been licensed by the state's county clerks. The Notary Division also conducts training classes for prospective notaries public, including administration of online notary training, enforces the state's notarial laws found in NRS Chapter 240, and administers the state's digital signature laws. Currently there are over 25,000 registered notaries public serving the residents of Nevada.

The Office of the Secretary of State administers domestic partner registrations, Nevada Lockbox filings, and document preparation service registrations. The Office administers the domestic partnership registry. A domestic partnership in Nevada is a civil contract that grants domestic partners the same rights, protections, benefits, responsibilities, obligations, and duties as parties to any other civil contract. The Office of the Secretary of State files and maintains all domestic partnership registrations and terminations. The Nevada Lockbox serves as free online storage for advanced health care directives such as living wills, durable powers of attorney for health care decisions, do-not-resuscitate orders, and also guardianship nomination forms. Once filed in the Nevada Lockbox, these documents can be accessed online by registrants, authorized health care professionals, and family members when medical treatment decisions must be made or by the courts in determining guardianship.

The document preparation service registration program was created by Assembly Bill 74 of the 77th Session. Document preparation service professionals are individuals—excluding licensed attorneys—who provide assistance to clients in certain legal matters. The Office of the Secretary of State registers document preparation service providers, regulates their

business practices, receives bonds, investigates violations, and authorizes disciplinary action and other remedies. The program has been operational for approximately four and a half years and currently 870 document preparation service providers are registered with our office, up from 272 just two years ago.

The areas of the Office that normally come before this Committee are the Notary, Domestic Partnerships, Nevada Lockbox, and Document Preparation Services Divisions. Since the 2017 Legislative Session we have adopted resolutions relating to Assembly Bill 413 of the 79th Session and electronic notaries public. Since the adoption in December 2018, there have been seven e-notaries publically registered and three e-notary service providers registered. Additionally, we are in the end stages of the modernization of our notary registration systems which are expected to go live later this spring. We continue to enhance our online training of notaries. Our training has been exclusively online for the past three years, allowing notaries to receive training at their convenience as it is now available 24/7. The Document Preparation Services/Domestic Partnerships/Nevada Lockbox Division added guardianship nominations as a result of 2017 legislation.

We do have proposed legislation that you will hear later this morning. This piece is our only bill that will come before this Committee, but we are monitoring various other pieces of legislation. Assembly Bill 65 contains provisions relating to notaries public and addressing changes necessary to properly implement the e-notary provisions of Assembly Bill 13 of the 79th Session. As always, we welcome any questions or discussions of this and any other legislation. We prefer hearing beforehand if there are concerns, questions, or proposed legislation relating to the functions of the Office of the Secretary of State.

Mr. Chair, that concludes our presentation this morning.

**Chair Flores:**

Thank you for the presentation. Members, as you know we will be having a specific time to vet A.B. 65 right after this presentation, so please refrain from asking questions pertaining to that, but anything else is fair game.

**Assemblywoman Bilbray-Axelrod:**

Could you talk a little bit more about the Lockbox? I think that is a fantastic idea. I would like to know how you are getting that word out. Whenever I mention it to a constituent they are always intrigued, but if you could please talk a little bit more about the process and what you are doing to get that message out.

**Scott Anderson:**

Gail Anderson in Las Vegas is here to address any of those questions.

**Gail J. Anderson, Deputy for Southern Nevada, Office of the Secretary of State:**

I oversee the Lockbox program. We do specific outreach, primarily in southern Nevada where my one staff person and I are both located. We do outreach events, we speak to community groups, and we attend health fairs and other outreach opportunities that come up

in the community. Additionally, at any of the business outreach events that the Office of the Secretary of State does, we always bring brochures and information on the Lockbox and have someone there if we are at a table or at a booth who can talk about it. When northern Nevada participates in business events, they also have brochures they take with them. The Lockbox itself is a growing program; there is room to grow more, particularly both in the advance directive registry as well as the guardianship registry which now accepts nominations for guardianship. The courts of the state of Nevada are required to look in the Nevada Lockbox guardianship registry when a petition comes before the court for guardianship, to see if that person has declared and nominated someone they would like appointed. This is a program that we talk about everywhere we go, so that is the primary marketing. Certainly our website has an entire section on the Nevada Lockbox where individuals can download the registration form and the guardianship nomination form. We will mail them to people if they call us and say they do not have access to the Internet. We take them with us when we go places. That is what we attempt to do for outreach on the Lockbox.

**Chair Flores:**

Your office is tasked with a very large spectrum of responsibilities, and I can appreciate that. If you could help me understand, anytime a predatory business is identified or a complaint comes to your office, could you walk us through the steps you take? Once we get the complaint, here is what we do, here is how many enforcement officers we have, and then if you could walk us through the challenges you have, either because there are not enough individuals or resources or just the challenges of finding a business that is doing something unlawful. If you could just walk us through that process, I would appreciate that.

**Scott Anderson:**

Are you asking in relation to those document preparation services or are you asking about any business entity that is on file with our Commercial Recordings Division?

**Chair Flores:**

I would prefer if you could do document preparation in comparison to the other, to see if there is something different, if we have more enforcement on one side versus the other. That would be helpful.

**Gail Anderson:**

I oversee the document preparation service program for the Office. It consists of two staff. We have one compliance investigator statewide and an administrative assistant who does the registration processing and assists with some of the case management setup. Regarding specific issues of predatory practices, we find that the majority of the complaints we receive from consumers who have been harmed or have an issue with a service they paid for primarily fall into the category of unregistered activity. Even four years into the implementation of the document preparation service law, there is a great deal of enforcement and also outreach that needs to occur, which we are continually doing. Sometimes it is driving in certain areas of town where there are a lot of these services that are advertised. Of complaints that we receive, about a quarter are related to tax preparation services. We have a number of complaints regarding immigration services. We have a number of complaints

filed that end up being unlicensed practice of law. That is a difficult area because the State Bar of Nevada does not look into the unlicensed practice of law; they look into issues and complaints regarding their members. We do what we can with cease-and-desist letters as well as other civil remedies to try to stop the practice. Yes, there are a lot of issues where we have the authority to go to offices and examine the records, the recordkeeping, the contracts, and the other requirements of document preparation services for those registrants. When someone is not a registrant, we can tell them to stop doing what they are doing through civil remedies. We do a cease-and-desist order first, and then we can proceed with a civil remedy to tell them to stop. If civil measures fail, then we have to let law enforcement look at it as a matter of fraud if we have instances of the public being harmed. With only one investigator, there is a lot to do, but we do address everything that comes in, usually starting with correspondence throughout this process.

**Chair Flores:**

How common is it for you to work with, say, the Office of the Attorney General, the Nevada State Bar, or law enforcement? When I say work, I understand that a lot of times you will reach out to them and say, Look, this may be something that you want to look into. But what I mean by work with them is, how many times do they respond to you and say, Okay, we are going to follow up on this, we are going to start an investigation. Do you have any idea of how often that happens? My perception has always been that they are not working closely with you—that you will submit the complaint and there is not a lot of follow-up after that. Please correct me if I am wrong.

**Gail Anderson:**

We do work closely with a deputy attorney from the Office of the Attorney General. They work very closely with us in preparing and reviewing and even directing us in what actions we can and should take. We have made a lot of progress in the last 10 to 12 months in that arena. Although we work together very closely, if we refer something to the criminal side, then we cannot have any more contact with the case. We refer our evidence and the public who was harmed, usually in multiple instances, to the criminal section. Then we have to wait to see if they will take some action or do anything with it. We do not refer directly to the Las Vegas Metropolitan Police Department (Metro), but we do advise constituents that they should file a report with Metro in matters of fraud or theft. Sometimes it is a challenge because of the person who was harmed.

When we are dealing with immigration issues, we have had conversations and we have excellent contacts with U.S. Citizenship and Immigration Services (USCIS) with the Department of Homeland Security. We participate with a task force on fraud. We are just a small office compared to these federal agencies, but we have met with them and given them informal referrals that they may take a look at in their own administrative processes.

With the State Bar, we met with them in one larger task force meeting two years ago now, but we do have contact there, so we think we understand what the limitations are of the unlicensed practice of law in their venue. We refer to them when there is a suspended attorney who is performing activity that we know of from a complaint that comes to us. We

can refer that to them, but we do not know what action they will take. We do have all of those wonderful and excellent contacts that have been much more fully developed within the last year, and we do have a very good working relationship on the civil side with the Office of the Attorney General and the deputies who work with us on issues. Yes, we are doing things, but it takes a while to get them through that process.

**Assemblywoman Gorelow:**

You work with a lot of fraudulent business complaints, but what about nonprofits? What do you do once you identify a nonprofit that might be fraudulent in requesting donations?

**Kimberley Perondi, Deputy for Commercial Recordings, Office of the Secretary of State:**

There is a process in which we investigate complaints for the Commercial Recording Division's matters. They pertain to compliance and also fraudulent activities. With regards to nonprofits, we do register them and they are required to be registered to solicit and collect donations. If they do not register and we receive a complaint about it, we will investigate it. We have authority under NRS and *Nevada Administrative Code* to refer the matter to the Office of the Attorney General for prosecution. We also can issue a cease-and-desist order from our office immediately while that activity goes forward.

**Assemblyman Assefa:**

I wanted to comment on your enforcement when it comes to fraudulent activities in document preparation. Oftentimes the communities that are affected by these activities are minority communities or immigrant communities, especially when it comes to immigration processes and tax preparation and things of that kind. I am aware of these things in our communities: people are subject to rampant exploitation because of their lack of knowledge, because they do not know what to do or where to go to get their paperwork done, and they are exposed to people who think they know what they are doing but they really do not. They end up being victims of fraudulent activities, and they do not get the benefits they are entitled to. I hear you say that you only have one enforcement officer statewide; I think you are severely lacking and that officer is looking at your registered members only. It sounds to me that you do not have a lot of authority over unregistered activities, and it appears that you may be the first contact to come across these people. There should be a concerted effort to work with the Office of the Attorney General to prevent these things and protect Nevadans from being exposed to these kinds of activities. It seems like nobody is looking at it, and we have got way too many people exposed to this and being taken advantage of.

**Gail Anderson:**

We do have jurisdiction over unregistered activity, which is the largest area that we look at, roughly 90 percent of what we look at. Right now we have 126 open cases and the majority are concerning unregistered activity. We do issue cease-and-desist orders, but sometimes people do not stop just because they have gotten one. We have had success with people coming into compliance as well. We do recognize a number of the communities: Hispanic, Asian, and immigrant communities, which is one of our large areas of complaints. We work with USCIS to see if anything that they are looking at is in the same direction that we are.



Certainly, more resources would be very helpful. It is a daunting task, and we are working as quickly as we can—we have a good process and procedure in place—with assistance from the Office of the Attorney General on the civil side. Now, on the fraud matters, we do have to refer to the Attorney General's criminal section or the district attorney. When we have enough evidence of multiple occasions of harm documented, then we are turning those things over and hopefully they will be prosecuted further.

**Assemblyman McCurdy:**

My question is around the document preparation services and the amount of money we are able to charge in fees. My question is: If we had an increase in document preparation services fees, would that money be used directly for enforcement against those predatory businesses?

**Gail Anderson:**

The fee from document preparation services initial registration is \$50, the renewal is \$25. That funding is used for education and outreach, and we are going to start publishing in some of the community-based newspapers and outreach venues. This will involve some translating. We decided maybe one of the most effective ways would be to publish some of the orders we have been issuing to help get the word out, saying this person has done these things, this is what they have done, this is a person who has been harmed, to see if we could help convey to that community not to go to that person or business entity. The funding does not support the personnel. The personnel costs come directly from the General Fund and the staffing of the Office of the Secretary of State.

The funding that comes in from the registration fees is used for outreach and for education to the community for protection. We also have authority to use funding for technology enhancements which relate to the registration process and the tracking. Document preparation service registration is a multistep process. There is the online application which is very convenient. The fee is paid online which is also very convenient, but then there is the tracking of the conditional approval, the background report being received and reviewed, and making sure that they are qualified under the statute to be registered to perform document preparation service, and then the bond—we have to monitor the bond and its expiration date and its issuance. There are a number of phases and steps and there is technology that might save some time in processing. That is where the current registration fees go. They are not directly tied to personnel positions.

**Assemblyman McCurdy:**

Thank you for that explanation of what you do currently. What I would like to know is, can you utilize additional funds for additional enforcement officers? If we did have a fee increase, would you be able to utilize those funds for additional officers? Currently as we see it, as you are explaining how busy you are right now, it seems as though you need additional resources. My question is, Are you mandated to use General Fund dollars, or are you able to utilize additional fee dollars to hire additional enforcement officers?

**Gail Anderson:**

The cost of additional personnel would cause there to be a very significant increase in registration fees. The cost of an enforcement officer or the cost of another administrative assistant—I do not have those numbers with me today, but you are looking at tens of thousands of dollars in revenue. That is not the kind of revenue we have. It would take a very significant increase to individual registrants. You would be tying a program and its personnel to the ebb and flow of new registrants and renewing registrants and those cycles. That is just something to consider in government where you are tying personnel fees with a particular revenue flow which may not be consistent at all times. That would just be one comment. One thing I would update: in the overview that Mr. Anderson gave of 870 registrants, that was at the close of fiscal year 2018. Currently, as of this week, my report on registrants shows 1,257 and there are another 63 that are in the process of providing their bond. There is a growing program going on here, but it would take some work to find the funding to fund positions; it would be required and then have to be sustained.

**Assemblyman McCurdy:**

Typically how much does an enforcement officer make on an annual basis?

**Gail Anderson:**

It depends on the step they are on the scale, probably around \$70,000, but then you have got the other state costs involved in a personnel position beyond the take-home salary. The range probably starts lower than that, but compliance investigator 2 is the position that we utilize and I do not have that with me. An administrative assistant is less than that.

**Assemblyman McCurdy:**

How does our state do in relation to enforcement compared to other states of similar size?

**Gail Anderson:**

For this particular type of program, California has a licensed document preparer under one of their professional boards. I do not have that information. I can get it to you, as to how they fund it and what they pay. I am not aware of a lot of other states. They might do this through their consumer affairs division as opposed to a specific program such as we have with some very specific needs that were addressed in the original legislation. I am not aware, other than California, of this type of registration and regulation.

**Assemblyman Assefa:**

Not so much a question, I go back to this fraudulent activity of document preparation. Since you may be the first contact to come across these activities, is there any way we can help strengthen your office and help you tackle these issues? I just wanted to make sure you know we are here and we are available to help you.

**Chair Flores:**

Thank you all for being here. I am going to go ahead and close out the presentation and move on to the bill presentation of Assembly Bill 65.

**Assembly Bill 65: Revises provisions relating to notaries public. (BDR 19-472)**

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

This is the Secretary of State's Notary Division bill to clarify and revise certain provisions relating to electronic notaries and provisions that are outdated or conflict with notarial law. These revisions will allow the Notary Division to better administer Nevada's notarial laws and the new provisions of Assembly Bill 413 of the 79th Session. We are not aware of any opposition to this bill or the provisions therein. I will briefly discuss each section of the bill, and you can interrupt me with questions or we can do questions at the end. Whatever you prefer.

Sections 1 and 4 of Assembly Bill 65 remove the language "without a signature" from the fees section of *Nevada Revised Statutes* (NRS) 240.100 and NRS 240.197 for the administering of an oath or affirmation. This is antiquated language that is inconsistent with Nevada notarial law. We are unaware of any circumstances where this would still apply, where it would be appropriate that an oath or affirmation be administered without a signature. Currently the way this is written causes more confusion for our notaries here in Nevada. We also reached out to the National Notary Association and they confirmed that this was appropriate, that we remove this language.

Section 2 clarifies the proper use of signature authentications called certifications and apostilles. These authentications are intended for use in a foreign country. In consultation with the U.S. Department of State, it has been determined that these are not to be used within the United States or its territories. A certified copy is sufficient under the Full Faith and Credit clause of the *U.S. Constitution*. It is unnecessary, and at times inappropriate, to issue certifications or apostilles for use in the United States. Apostilles and certifications are used to authenticate a Nevada notary or public official's signature on a document for use outside the U.S. We have seen certifications used for improper purposes in Nevada, and currently the Office of the Secretary of State will not issue certifications or apostilles for use within the United States or its territories.

Section 3 removes the requirement that a person registering as an electronic notary must have four years of experience as a traditional notary. As we went through the regulation process for the implementation of A.B. 413 of the 79th Session regarding electronic notarization and notarization by audiovisual communication, it was determined that the four-year requirement was really unnecessary as this was just another tool for our notaries to use and there is required training for electronic notaries. Additionally, the service providers have training and safeguards in place to assist the notaries in this process. This section also allows individuals to register as electronic notaries public at the same time they apply for a traditional notary commission. This is not possible with the four-year experience requirement.

Finally, section 5 removes the declaratory language of the notary public that is inconsistent with notarial laws and that causes the notary to acknowledge his or her own statement. We

discussed this change with the Guardianship Commission, created by the Nevada Supreme Court, and also with Justice Hardesty, and they approved this revision.

Thank you, Mr. Chairman, for this opportunity today. I'm happy to entertain any questions you or the Committee have on this bill.

**Assemblywoman Munk:**

I have a question on the last page of the bill, page 9. It looked like you were going to be marking out the "declare under penalty of perjury" that the person is of sound mind—probably because of the electronic notary, but how are we going to protect those people? I ask that question because I am a mental health specialist and work with seniors who have been very ill, and all of a sudden they are in the hospital and someone appears with a notary and the deed, so I am a little concerned about marking that out.

**Scott Anderson:**

I understand your concern. The problem with this language is that when a notary is acknowledging the signature of the signer of the document, they are acknowledging that person's statement; they are not allowed to notarize their own declaration, and having this declaration there violates the tenets of notarial law that a notary should not do that. It is problematic. What we found is that while some notaries would do this, we were receiving complaints from a number of notaries through banks or other organizations who said they did not feel this was appropriate because they were notarizing their own statement.

**Assemblyman Ellison:**

Thank you, that was one of the questions I had. When you see that crossed off, that sets up a big red flag, so thank you for clarifying. I am looking at section 5. How much of the electronic signatures do you think you are going to use? Is it going to be that much?

**Scott Anderson:**

That remains to be seen. The arguments were that this is where transactions are going, with everything becoming electronic. The ability to have a notary electronically notarize a document and to notarize remotely, via audiovisual communication, is very progressive in relation to where we are going as a country in terms of electronic transactions. Right now, there are only seven electronic notaries registered with the state and three service providers. I believe that is going to increase with the change in the education requirements, but that has yet to be seen. The industry feels that this is where this is going in relation to title transactions, land transactions, and other types of electronic transactions.

**Assemblyman Leavitt:**

Thank you for clarifying all this. I appreciate your being here, and really do appreciate the scrubbing of this to make it easier to understand and read. My concern is, in my daily business when I deal with these electronic transactions, oftentimes we have to file an affidavit saying that we are going to do some electronic transactions, whether it be land transfers or things that have to do with estates, and that seems to have some cover on our ability to DocuSign certain items, if we file an affidavit with the court prior to doing any of

this. This looks like it is a way to usurp that a little bit. My only concern is we are opening ourselves up to a little bit of fraud in the way we e-sign things in that there is nothing on file saying we have the legal authority to do this on these transactions. What are your thoughts or concerns from the Office of the Secretary of State in that realm, trying to usurp some of the fraud with electronic filing and signatures?

**Scott Anderson:**

Thank you for that question. We had and continue to have our concerns. We spent 18 months developing regulations that are seen as a model that other states are starting to use for at least the registration and requirements surrounding being an electronic notary. Now as far as the transactions and whether they are appropriate, that does not fall under our purview. The purview of the Office of the Secretary of State is the registration and oversight of the notaries, not necessarily the processes that are being notarized. From our understanding, basically, unless there is specific prohibition, and I am not sure I know of any, any transaction that can be notarized at an in-person or paper-based notarization can be done electronically, and possibly via audiovisual communication, as long as the notary is following the regulations. Does that answer your question?

**Assemblyman Leavitt:**

Yes, it clarified it quite a bit. My question was very much about the notary and the process of electronic notary, not necessarily my signature. I am just making sure we are able to usurp—there is fraud in everything, right? When you go to e-notarizing or approving e-notarizations, there are bad people in the world, and we want to make sure they are usurped as much as possible.

**Scott Anderson:**

What we are finding is that the service providers have many controls in place. From what we have determined, they do not want fraudulent notarizations any more than we do. They want to be able to continue to offer these services without the thought of fraud in their product. They are building certain security items and steps to the process to ensure that the notary is doing what they are supposed to do. This is another tool for the notaries to use to notarize a document in the electronic realm. We still share the concerns that there could be fraud, there could be something happening at the other end of that camera, just as there could be something that happens behind a transaction that someone is sitting in front of. We still share those concerns. Again, time will tell. There have not been a lot of these happening in the state. We just started registering electronic notaries and the service providers.

**Chair Flores:**

Members, are there any other questions? [There were none.] Thank you again for your presentation.

**Barbara Cegavske, Secretary of State:**

Thank you. We are just very appreciative of your time today.

**Chair Flores:**

I am opening it up for those wishing to testify in support, either here or in Las Vegas. [There were no testifiers in support.] I would like to open it up for those who are here in opposition. [There were no testifiers in opposition.] I would like to open it up for those who wish to testify in the neutral position. [There were no neutral testifiers.] Now I would like to open it up for public comment. [There was none.] Thank you for the presentation; we look forward to working with you. This meeting is adjourned [at 9:57 a.m.].

RESPECTFULLY SUBMITTED:

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Mark Peckham  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chair

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Office of the Secretary of State Overview," presented by Scott Anderson, Chief Deputy, Office of the Secretary of State.