

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

**Eightieth Session  
March 14, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:37 a.m. on Thursday, March 14, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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:**

Assemblyman Jim Wheeler, Assembly District No. 39  
Assemblywoman Alexis Hansen, Assembly District No. 32  
Assemblyman Al Kramer, Assembly District No. 40

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst

Minutes ID: 478



Mark Peckham, Committee Secretary  
Trinity Thom, Committee Assistant

**OTHERS PRESENT:**

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers  
Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association  
Thomas D. Dunn, District Vice President, Professional Fire Fighters of Nevada  
Scott A. Edwards, President, Las Vegas Peace Officers' Association  
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO  
Mary C. Walker, representing City of Carson City; Douglas County; Lyon County; and Storey County  
Kevin Eppenger, President, Juvenile Justice Probation Officers' Association  
Marc Ellis, President, Communications Workers of America Local 9413  
Marlene Lockard, representing Service Employees International Union Local 1107  
Drake Ridge, representing Las Vegas City Employees' Association  
Thomas Morley, representing Laborers' International Union of North America Local 872  
Delen Goldberg, Chief of Staff, Communications Division, City of North Las Vegas  
Myron Hamm, Director of Corrections, Las Vegas Police Protective Association  
Chad Lyman, Director, Las Vegas Police Protective Association  
Robert Conway, Business Agent, International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers Local 433  
Shani Coleman, Deputy Director for Government Affairs, City of Las Vegas  
Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry  
Alex Woodley, Code Enforcement Manager, Code Enforcement Division, Community Development Department, City of Reno  
Joseph Henry, Senior Code Enforcement Officer, Code Enforcement Division, Community Development Department, City of Reno  
Sandra J. Anderson, Executive Director, Board of Massage Therapy  
Christy Brunner, Compliance Inspector, Board of Massage Therapy  
Mike Cathcart, Business Operations Manager, City of Henderson  
Bianca Smith, Compliance Inspector, Board of Massage Therapy  
Ben Graham, representing Administrative Office of the Courts  
Dave Dawley, Assessor, City of Carson City  
Jen Chapman, Recorder, Storey County  
Karen L. Ellison, Recorder, Douglas County  
Aubrey Rowlatt, Clerk-Recorder, City of Carson City  
Edith Duarte, representing Nevada Society of Enrolled Agents  
A. J. Decaria, Enrolled Agent; Member, Nevada Society of Enrolled Agents; and Member, National Association of Enrolled Agents  
Wendy Duefrene, Enrolled Agent, Carson City, Nevada

Janet Vick, President, Nevada Society of Enrolled Agents  
Gail Anderson, Deputy for Southern Nevada, Office of the Secretary of State

**Chair Flores:**

[Roll was called; Committee rules were explained.] We have three hearings this morning. We are going to take the agenda in the order it appears. First we will open up the hearing on Assembly Bill 103.

**Assembly Bill 103: Makes certain changes relating to collective bargaining.  
(BDR 23-251)**

**Assemblyman Jim Wheeler, Assembly District No. 39:**

I realize you all think it is funny that a Republican is sitting here with the unions, but what is right is right and correctness has no partisan value—let us put it that way. What we are trying to do here is correct a wrong that happened and move on to something a little better. Chair Flores, I am here today to ask your support of Assembly Bill 103. This legislation will revise *Nevada Revised Statutes* (NRS) 288.225 by clarifying existing concession language regarding employee organization leave time. If leave time, in whatever form, existed in the collective bargaining agreement prior to June 30, 2015, the employees union will be deemed to have made the necessary concessions to offset the past, present, and future costs of such leave for the number of employees to whom such leave was approved as of that date. New employee organizations or organizations desiring to add their existing leave agreements will be required to pay the full cost of such leave or provide the concessions to offset the future employment costs. It will be the unions rather than the counties who make those payments. In short, this bill simply allows employee organizations to have union leave arrangements that they fully bargained and paid for in the past as of June 30, 2015. If they bought and paid for it before that time through a bargained concession, they must be allowed to keep it. If they did not have it as of June 30, 2015, they do not get something for nothing.

One final comment: If, during the years since June 30, 2015, an employee organization was required to pay more for their union time or give more concessions in order to get union time back after it was taken from them, there is no intent of this bill to reimburse the unions for those payments or concessions since June 30, 2015. This bill will simply return the employee organization to the union leave mechanism they negotiated and had in existence as of then. To present this bill today will be Rick McCann from the Nevada Association of Public Safety Officers, Mike Ramirez from the Las Vegas Police Protective Association, and Thomas Dunn from the Professional Fire Fighters of Nevada.

**Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:**

We represent about 10,000 law enforcement professionals in all 17 counties of Nevada. First, I wish to thank Assemblyman Wheeler for his support of this bill. This is the second session that Assemblyman Wheeler has presented this same bill, or at least a part of it. In 2017 we collaborated on one of his original bills, and we were happily surprised that he was able to support our efforts. Through that, the Assembly approved it unanimously in 2017, and the majority approved it in the Senate in 2017 [Assembly Bill 290]

of the 79th Session]. Here we are again, but you will see on Nevada Electronic Legislative Information System that there is an amendment ([Exhibit C](#)) which most people have agreed to. That is why we are here today.

Our thanks also to Speaker Frierson and to this Committee for giving us a hearing on this bill, knowing how important it is to our members. As A.B. 290 of the 79th Session did in 2017, this session's A.B. 103 seeks to accomplish one vital mission: to give back union time to those groups that had it in effect on June 30, 2015. Why? Because those groups negotiated for that time. They gave concessions in exchange for that union time to conduct business that more often than not also helps the employers handle their affairs involving employee-management relations. The concept of negotiations is often defined as an exchange of value. The employee organizations that had union time, as of June 30 2015, exchanged items of value with their employers at that time. Very few things are free in life, unfortunately. I love my colleagues who represent the cities and counties and the political subdivisions with whom we negotiate our contracts, but they are not in the habit of giving away something for nothing.

These things were negotiated way back before 2015. Let us say that you negotiate a contract with me to buy my car. I gave you the car, and you gave me something of value to you—money. Shortly thereafter, I told you that if you still want the car you have to renegotiate with me and give me more money, or you cannot keep that car. Oh, by the way, I am not going to give you your original money back; I am just going to keep the car. I will keep that, but you have to give me something of more value in order to get that car. It is the same concept that we are dealing with here. Is that fair? Of course not. But that is what happened to union leave time in the 2015 Session, and this is simply trying to right that wrong. That is all it is.

Assemblyman Wheeler saw the inequity in 2017. So did a unanimous Assembly and the majority of the Senate, and I respectfully think the esteemed members of this Committee will see it as well.

I represent about 20 separate law enforcement employee associations across Nevada. Many of those associations are small groups throughout Pershing County, Humboldt County, Elko County, Mineral County, Storey County, White Pine County, Clark County, and Washoe County, to name a few. Many of those groups had previously negotiated their union leave time, and they relied upon that time to get to the bargaining table and negotiate new contracts. Many of them have not been able to pay more for their leave time than they have already given—when they negotiated for it prior to June 30, 2015. They do not have a lot of money, and they do not have any more concessions to give. They cannot take their vacation time from their families to negotiate their contracts, and they should not have to. They cannot meet on their days off, which may include nights and weekends and holidays, to negotiate their own contracts, and they should not have to.

Make no mistake, if an employee organization came into effect after June 30, 2015—and there are some—or an existing organization that was in effect then wants to add more time or

more union personnel after June 30, 2015, they must negotiate those terms. This bill simply gives back what they had as of June 30, 2015. Accordingly, we fully support A.B. 103 as amended, and we urge this Committee to do the same. Thank you.

**Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association:**

We would like to thank Assemblyman Wheeler for bringing the bill forward. I am not going to go over everything that Mr. McCann stated, but all we are asking for is what we had prior to 2015. If there is anything after that, we agree we have to pay for it—nothing is free. We hope you all can support it.

**Thomas D. Dunn, District Vice President, Professional Fire Fighters of Nevada:**

Assembly Bill 103 is simply a legislative clarification on the issue of union leave. *Nevada Revised Statutes* Chapter 288 was designed to create a level playing field between local government organizations and employee associations. What happened to union leave in the 2015 Session was to make that playing field uneven. What A.B. 103 does is make that field a little more level. Union leave is used for numerous employer-employee issues to include health, safety, insurance, employee representation, interview investigation, and others that are mutually beneficial to both local government and employee organizations.

The union leave issue has impacted every corner of this state, both urban and rural, small organizations and large. The union leave issue is continuing to be litigated at the Local Government Employee-Management Relations Board (EMRB) of the Department of Business and Industry and in the courts, and has had a negative impact on contract negotiations specific to this issue by dragging out negotiations longer than needed. Recently I spoke with a local government manager who shared with me that one bargaining unit has to meet with its representatives after 5 p.m. and on the weekends, causing an increase in costs to his local government. I would like to thank Assemblyman Wheeler for sponsoring this bill and Les Lee Shell and Mary Walker for reaching out to us and working on the amendment.

**Chair Flores:**

Thank you, gentlemen, for your presentation. I would like to open it up for questions at this time.

**Assemblyman Ellison:**

Thank you, Assemblyman Wheeler. I asked you and you said that you met with the counties and they were on board. Is that through negotiation with the unions, or was that something you went out and did? Where are we at on this?

**Assemblyman Wheeler:**

We met with Mary Walker who represents some of the counties up here in the north, and the amendment ([Exhibit C](#)) actually came from them and was accepted by the unions. Again, we are right back to saying, What is right is right. This is why we are presenting the bill as amended. If you will remember, we actually pulled this bill once because we did not have

the amendment right, and the Chair was nice enough to let us take a few days to go back and negotiate with all the stakeholders and make sure that everybody was on board with this.

**Chair Flores:**

Are there any additional questions? [There were none.] I would like anyone wishing to speak in support to please come forward.

**Scott A. Edwards, President, Las Vegas Peace Officers' Association:**

We represent the corrections officers and sergeants at the City of Las Vegas jail, and we are a proud member of the Nevada Law Enforcement Coalition. I just want to register my ditto. We appreciate Assemblyman Wheeler's bringing this bill again for us, and we ask you to support it.

**Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:**

We also support this legislation. During the 2015 Session, the language that was put in at the bottom of the bill from lines 5 through 9 were essentially mine. In negotiations with the sponsor of the bill, that was the language we worked on to come up with what we thought at the time was a fair deal. During the negotiation process, all of the different entities that I represented at the time had made concessions over the course of time financially. Local governments do not give something for nothing when they negotiate contracts, so there was always a price value attached to the concept of leave time. With that in mind, we had already paid for leave time; we had given up one half of 1 percent or three-quarters of 1 percent of pay to receive that benefit—and the value of that benefit goes on in perpetuity. You do not get that three-quarters of 1 percent back at the end of the contract; that continues to go forward for the local government. We felt that we had paid for it at that point in time going on in perpetuity. After the bill was passed in the 2015 Session, several of the local governments interpreted that it did not go into perpetuity, that you had to renegotiate that and give up more concessions at the end of every contract. That is why we are here again today. Assemblyman Wheeler was gracious enough to put this forward and try to clarify, if you will, that those benefits had been paid for going on into the future. With that, Mr. Chair, we support this bill.

**Mary C. Walker, representing City of Carson City; Douglas County; Lyon County; and Storey County:**

I do want to thank Assemblyman Wheeler because he recognized there was a problem and he took steps to try to resolve that. I also appreciate working with the unions and many local governments to come up with language that almost everybody—we heard this morning that there was one party that we need to sit down with and make sure they are comfortable. Basically everyone has worked very hard, local governments and unions together. It is a matter of fairness. I think that sometimes where you have situations where people feel as though they have been unjustly treated, it may be a small matter or a large one, but being unjust is what drives a lot of conflict. I think this bill, with the amendment, is going to resolve that conflict.

**Kevin Eppenger, President, Juvenile Justice Probation Officers' Association:**

I just wanted to make my appearance today to request your support of this bill. I think everyone who has spoken has recognized its importance, and I just wanted you to take that into consideration and support the bill.

**Marc Ellis, President, Communications Workers of America Local 9413:**

For all the reasons mentioned above, we are in full support of this bill.

**Marlene Lockard, representing Service Employees International Union Local 1107:**

We are a ditto.

**Drake Ridge, representing Las Vegas City Employees' Association:**

We would like to add our name in support of this bill.

**Thomas Morley, representing Laborers' International Union of North America Local 872:**

We support this.

**Delen Goldberg, Chief of Staff, Communications Division, City of North Las Vegas:**

We think these changes are reasonable, and we support this bill.

**Chair Flores:**

Thank you. Is there anyone else wishing to speak in Carson City? [There was no one.] We will go to Las Vegas.

**Myron Hamm, Director of Corrections, Las Vegas Police Protective Association:**

We would like to thank Assemblyman Wheeler for proposing this bill. We are in staunch support of all our brethren who have spoken so far today.

**Chad Lyman, Director, Las Vegas Police Protective Association:**

I would like to add my support for this bill.

**Robert Conway, Business Agent, International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers Local 433:**

We are also in support of everything you heard this morning.

**Chair Flores:**

I will move to those wishing to speak in opposition of Assembly Bill 103.

**Shani Coleman, Deputy Director for Government Affairs, City of Las Vegas:**

Good morning, Chair and members. There is nothing like being the lone opposition. Unfortunately, we received the amendment late, and the way our human resources department is reading this, because of the dates that were placed in the bill and the amendment, it is not something that we can support as is. We have had some conversations with the entities working on the amendment, and we are willing to work with them.

The concern that the City of Las Vegas has is that during the 2015 time period, the City of Las Vegas actually offered union leave time without concessions, so any bill that takes us back to that 2015 date would force us into a situation where we are again offering union leave time without concessions. The City of Las Vegas would like the opportunity to be able to negotiate with our employee organizations. One way or the other we do not want to be forced into a situation where we have to provide the leave time without concessions. That is the reason we are not supporting this bill. Again, we are happy to work with the bill's sponsors and all of the entities who are in support of the bill to try to figure out a way to overcome some of the date issues. With that, I am happy to answer any questions that this body may have.

**Assemblyman Carrillo:**

Prior to 2015, was this not already in place?

**Shani Coleman:**

That is correct. Prior to 2015, the city provided union leave without concessions. So, when we negotiated contracts in 2016 and 2017, we negotiated them with concessions. Based on the reading of this, if we went back to June 30, 2015, we would be forced to enter contracts with union leave without concessions, and the city just wants the ability to negotiate what those concessions may or may not be through the negotiating process.

**Assemblyman Carrillo:**

I just see what appears to be some bobbleheads in the audience, going this way [shakes his head left to right], so I am just confused as to why you would have opposition to what you just said.

**Chair Flores:**

Is there anyone else here to speak in opposition to Assembly Bill 103? [There was no one.]  
Is there anyone who wishes to speak in the neutral position?

**Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry:**

I just want to advise the Committee that since 2015, because of the language about the offset of concessions, we have had a significant amount of litigation before our agency and on petition for judicial review. Anything that can be done to lessen the amount of litigation and clarify what the rules are going to be for these concessions and offsets would be a good thing. I am here for any questions that you may have.

**Chair Flores:**

Is there anyone else wishing to speak in the neutral position? [There was no one.]  
Would the bill sponsors and presenter come back up for any closing remarks you may have.

**Assemblyman Wheeler:**

I just wanted to thank the Committee for hearing the bill. I believe there is a misconception in the way that the City of Las Vegas is construing the amendment, but I think we can talk to



them offline and get that all straightened out. I believe they would be able to renegotiate again.

**Chair Flores:**

I would like, as conversations move forward, that you invite Assemblymen Ellison and McCurdy to be a part of the conversation. Should there be any additional amendments, I would like to have an opportunity to sit in on those conversations.

With that, I am going to go ahead and close the hearing on Assembly Bill 103. Next we will open the hearing on Assembly Bill 212.

**Assembly Bill 212: Revises provisions governing the confidentiality of personal information of certain persons. (BDR 20-620)**

**Assemblywoman Alexis Hansen, Assembly District No. 32:**

Thank you for your consideration of Assembly Bill 212. At the table with me I have Joseph Henry, the senior code enforcement officer for community development for the City of Reno, and to his right, Alex Woodley, who is the business licenses compliance code enforcement manager for community development at the City of Reno.

Under *Nevada Revised Statutes* (NRS) 247.540, certain public officials are authorized to obtain a court order requiring county assessors, recorders, the Secretary of State, or a city or county clerk to make certain personal information confidential. This provision also applies to family members of those seeking a court order. Personal information is defined in NRS 247.520 and includes home address, telephone number, and email address. Also, there is an amendment ([Exhibit D](#)) that you should have seen on the Nevada Electronic Legislative Information System, that is just some clarification of what a code enforcement officer is.

This bill also allows these individuals to request identification from the Department of Motor Vehicles which contains an alternative address. Currently justices, judges, certain court personnel, prosecutors, and certain state or county public defenders are authorized to have personal information that is held confidential. Assembly Bill 212 will allow code enforcement officers and their families the same opportunity to keep personal information confidential. The bill limits the confidentiality provision to code enforcement officers who have direct contact with the public.

This law exists to protect a very limited number of public officials from retribution from individuals who may be seeking revenge or feel that they may have been treated unfairly. You may ask: Why would code enforcement officers need such protections? Code enforcement officers are tasked with enforcing the laws, the ordinances, and the codes of their city or county. This requires them to issue citations to property and business owners on a daily basis. Unlike a police officer who may make an arrest, issue a misdemeanor citation, or a speeding ticket, and probably will not see that person again, code enforcement officers commonly find themselves dealing with the same violator for months or even years. Although their initial contact with a violator may consist of a courtesy letter, their

communications commonly last a long time and may include thousands of dollars in citations and other enforcement actions. This constant level of communication may lead to people feeling that the code enforcement officer is targeting them, and they may view the interactions as personal in nature. Based on my discussions with those affected, code enforcement officers receive threats on a regular basis while on their jobs. As I am sure you can imagine, interactions with repeat violators can become confrontational and commonly consist of violators cursing and yelling at them.

I did a quick review of some news stories from recent years and found some disturbing examples of harassment and violence towards code enforcement officers. Although fortunately there have been no incidents of bodily or fatal assaults against code enforcement officers within the state of Nevada, there have been numerous cases in our border states, including in Utah. In 2018, a code enforcement officer was shot and killed, and her body was lit on fire. In 2017 in Long Beach, California, a man was sentenced to 25 years for shooting a code enforcement officer in the face. In 2014, a Colton, California, man was charged with attempted murder for attacking and brutally beating a female code enforcement officer. Also last year, in Paradise Township, Pennsylvania, a code enforcement officer was shot and killed.

Although code enforcement officers receive defensive tactical training and use specific techniques and approaches to minimize danger while on the job, they are aware of the risks. Unfortunately, their family members do not sign up for the same risk. The intent of this bill is to mitigate the availability of personal information related to where these civil servants live. They execute the duties of responding to complaints that many cities and counties ensure their residents can be made anonymously, but code enforcement officers do not have the advantage of anonymity.

I would like to turn the time over to my copresenters.

**Alex Woodley, Code Enforcement Manager, Code Enforcement Division, Community Development Department, City of Reno:**

I just want to reiterate some of the points that Assemblywoman Hansen shared. Code enforcement officers do deal with individuals over an extended period of time, unlike police officers who, for the most part, will deal with an individual, make an arrest or issue a citation, and not have to see them again until the court date. Unfortunately, we deal with individuals who tend to have ongoing code violations, whether it is building codes, zoning codes, public nuisances, or illegal businesses. For example, just last night I went out on scene to deal with an illegal business—a mechanic's shop. Fortunately for me, I did have Reno police with me. They joined me in the inspection. Unfortunately, while we are at home or our families are at home, we do not have that support or that assistance. A previous case with regard to a woman who was killed in her home, an individual found her information in public records and killed her husband, her mother, and then her as she was trying to hide under the bed. The children were safe because they barricaded themselves in a room. One would say good luck or bad luck, but fortunately for them they are still alive. The way the individual was able to get that information was through public information.

We did have a code officer who, in response to receiving threats last year, attempted to get an approval from one of our judges to have his information treated as confidential. The judge had empathy and stated that he wished he could approve it but that our specific position was not listed in the NRS and therefore he was not able to grant it. That is our hope today, to seek this primarily for our families. Thank you.

**Joseph Henry, Senior Code Enforcement Officer, Code Enforcement Division, Community Development Department, City of Reno:**

I have been doing code enforcement for 25 years, and I have been with the City of Reno for over 28 years. I want to thank Assemblywoman Hansen for bringing this bill forward. In our job we do deal with people for long periods of time, and not just giving them fines and courtesy letters, but in some cases when doing abatements we actually end up getting a court order and taking their properties or condemning their homes, and we get people who are very angry about that. I have received threats on numerous occasions. I had a former city employee who said, Well, I will just go to your house and take your materials. We do this on a daily basis. As Assemblywoman Hansen had stated, we do receive training to do this job. We take precautions to do this job. We cannot protect our families at home if a stranger comes to our house when we are not there. As a father, that is my greatest fear.

**Assemblywoman Bilbray-Axelrod:**

I know a lot of people feel in their jobs that they are out there for everyone to see and they can feel vulnerable, but I think you really nailed it when you came into my office and talked about how personal it can be with the code enforcement. Could you expand on that for the Committee?

**Alex Woodley:**

Because of the fact that we have ongoing communication with the property or business owner, it sort of creates a relationship, for lack of a better term. Unfortunately, some individuals, especially if you are dealing with them over a certain period of time, do not feel as though they are doing anything wrong with the violation or the problem. As human beings we tend to deflect, and what they do is connect the issue with us personally and they feel that we are the problem. They feel as if we are pursuing them or persecuting them or going after them and trying to take things away from them. Unfortunately, because we do not typically do arrests, we have to return to the location, continue with phone calls, and follow up inspections. The intent of cities and counties is to do an administrative process. The idea is to gain compliance, and to work with the property or business owner. We do that. That is the intent. Unfortunately, it does become a personal relationship for them.

**Assemblywoman Bilbray-Axelrod:**

To that end, some people can think that it is a personal vendetta by the code enforcement person. Rather than a systemic issue you are dealing with, they consider it to be a personal vendetta by the code enforcement agent on them. Would that be fair?

**Alex Woodley:**

That is correct. As listed by Assemblywoman Hansen, in one particular case the individual not only shot the code enforcement officer, he also lit her body on fire. That was at a personal level.

**Assemblyman Ellison:**

I have a couple of questions. Is a code enforcement officer a category I, II, or III?

**Alex Woodley:**

In the state of Nevada we do not have the required Peace Officer Standards and Training (POST) certification. In the state of California there is some. We do send our officers to California for that training. One of the benefits for local communities with regard to code enforcement is that they do not have to make the investments typically that we do for police officers. Many years ago—50 or 75 years ago—police officers did do code enforcement. They realized that they had these police officers that were given all this training and POST training, and they did not need to do that for individuals who are addressing junk vehicles, blighted homes, et cetera. That is why the code enforcement position was created with the idea of some training without the necessity of arresting education and training, because we do not typically do arrests and when we do, we do it through the police department.

**Assemblyman Ellison:**

I had a bill heard yesterday, and it is for our police officers and firemen [[Assembly Bill 102](#)]. Every day those guys go out and face danger, but their biggest fear is not what they see ahead of them; it is their families behind them. This bill was to make sure that people [who commit crimes against family members] would be held to a higher standard and serve a longer sentence. I like [A. B. 212](#); I think you need protection. I think any of our officers, code enforcement officers, firemen or others where identification may be out there should have post office boxes, but their home addresses should not be made public.

**Assemblyman Leavitt:**

I appreciate my friend and colleague bringing this forward, and I am very grateful that I had the opportunity to cosponsor this bill. I do feel for your plight. That is a worry that I have every day I spend up here—that my family may not be protected—so any steps we can take to help protect your family is a worthwhile endeavor. One question I have is that in my city there are no code enforcement officers; code enforcement is put upon the police department. Would this extend to those who pull double duty and are both patrol officers and code enforcement officers at the same time?

**Alex Woodley:**

The NRS currently does have specific provisions for police officers, but in their role of code enforcement as well, they would be protected by the amendment before you.

**Assemblyman Assefa:**

Thank you for the presentation and for briefing us ahead of time about what we have before us this morning. This is something that should have been done long ago. Obviously it is not

done since we are here looking at it. We should make sure we protect those who are serving our communities. I just wanted to ask you though, since my colleague expressed concern for legislators, maybe you could amend the legislation to extend it to legislators? You are not police officers, are you?

**Alex Woodley:**

No, sir, we are not.

**Assemblyman Assefa:**

What protection do you have in your interaction with the members of the public who potentially are at issue with the codes?

**Alex Woodley:**

For us, sir, what we do is get a lot of training, such as verbal judo, assessing the environment, and other similar police training. We take certain steps to avoid vulnerability, being aware of our surroundings, and assessing the situation immediately. Obviously we do have connections with our police department and our dispatch. One of our policies is, if our hairs go up, just get out of there, and we can come back with police officers.

**Assemblyman Assefa:**

Law enforcement does back you up when you need them?

**Alex Woodley:**

Yes, sir.

**Chair Flores:**

Please step back, and I will invite all those wishing to speak in support of Assembly Bill 212 to come up.

**Thomas D. Dunn, District Vice President, Professional Fire Fighters of Nevada:**

During the 2017 Session we did have a couple of bills that came forward that provided for certain enhanced criminal penalties for crimes committed against members of our police, fire, and emergency medical service agencies. We had a bill very similar to this that also included civilian members of our police and fire agencies that are targeted or assaulted during the performance of their duties, and we had code enforcement officers successfully added to that bill last session. We see this bill today as an enhancement to protect our code enforcement officers. We have members of our fire departments and organizations, whether they are firefighters, arson investigators, or fire prevention personnel that work with the code enforcement officers on a daily basis, and so we are in full support of this bill.

**Sandra J. Anderson, Executive Director, Board of Massage Therapy:**

I am here in support of this bill, but I would ask that our inspectors and investigators in the field also be covered under this bill. We are the ones who are inspecting the massage establishments statewide. We are exposed to human trafficking. We are exposed to prostitution. We are exposed to all kinds of things. I would really like my two ladies to have

the same protections that the code enforcement officers have in the cities. I personally would like the same protection, and I have an inspector in the south at the table down there and I have our investigator in the north here with me.

**Christy Brunner, Compliance Inspector, Board of Massage Therapy:**

I do spend about 60 percent of my time out inspecting the establishments in northern Nevada for the state. I typically do this work alone. I have a partner, but she is down in Las Vegas. This is definitely a bill that interested me the moment I saw it, because it is something that I think about a lot for my family. I am definitely in support.

**Delen Goldberg, Chief of Staff, Communications Division, City of North Las Vegas:**

As has been said, our code enforcement officers, fire investigators, and other staff really are the front lines that are working hard every day, day in and day out, to keep our city safe, beautiful, and thriving. They deserve the same protections as the police officers and everybody else who are putting themselves out for the benefit of our residents to give them the peace of mind that when they are out working for the citizens of North Las Vegas and other communities, their families are safe at home. We ask that you support this bill.

**Mike Cathcart, Business Operations Manager, City of Henderson:**

We want to thank the sponsors for bringing this bill. We really believe this is an employee safety issue. Our code enforcement officers do deal with pretty tense situations with residents in their homes, and these situations can go on for weeks and months. We believe this is a good piece of legislation.

**Shani Coleman, Deputy Director for Government Affairs, City of Las Vegas:**

For all of the reasons presented by the bill's sponsor and other municipalities, the City of Las Vegas also supports this bill.

**Chair Flores:**

Is there anyone else in Carson City? [There was no one.] We will go to Las Vegas.

**Bianca Smith, Compliance Inspector, Board of Massage Therapy:**

I do cover the five counties here in southern Nevada. I am in support of this bill. I request to be included as well. Thank you to the sponsors of this bill, and thank you for hearing me.

**Chair Flores:**

Is there anyone else who wishes to speak in favor? [There was no one.] I would like to invite those speaking in opposition to Assembly Bill 212 to please come forward. [There was no one.] I would like to invite those in the neutral position to please come forward.

**Ben Graham, representing Administrative Office of the Courts:**

We are generally down in the Judiciary Committee a lot, but Assemblywoman Hansen asked to see if there could be some clarification. We worked with her on the amendment. Sometimes you wonder why in the heck we need to do this but even now, three or four years

down the line, some people do not know, so that is why this amendment is important to the Assemblywoman and the Committee.

**Dave Dawley, Assessor, City of Carson City:**

I am here representing the Nevada Assessors' Association. We are neutral to this bill, as we are every session, but we do want to address the concerns that we have with this. The language itself says that we need to take the home address of the person off the property. What happens when you take the home address off the property is you are removing that parcel from the Internet. Taxpayers or residents or anybody who lives in that general geographical area want to know that they are being taxed the same as everybody else. They want to know that the properties are being valued at a similar rate. By removing that information, it creates a closure of the transparency of government. You just cannot see that.

We are concerned that if we keep removing all these names and addresses, the transparency in government is going to close, and it is only going to close for a specific group of people. There are ways to go about hiding the information: you can create trusts or limited liability corporations (LLC) that would totally take the names away from the actual people who are trying to be protected. We are very concerned that each session we keep adding more and more people who are requesting that this information be taken off. We ask to please consider transparency in government when you are looking at this.

**Chair Flores:**

I appreciate the spirit of your comments. I know last session we had a conversation about possibly having legislators do that, and a strong voice made it clear that we signed up for this job because every single person should be able to vet us, know who we are, and what we are doing. People could maliciously go in the direction of safety, saying we are doing it for safety purposes, but really they are hiding something else. I think as legislators we have an obligation to be as transparent as we can. At the same time, we have to balance that with the reality that there are things happening in other states. We have seen men and women who have been victims of heinous crimes, but I genuinely respect your opinion because we have had to go through that argument in the past in this building. I appreciate the spirit of your words.

**Assemblywoman Bilbray-Axelrod:**

Thank you for being here and making those comments. The options that you gave, as far as making a trust or something like that, those are obviously costly things to do. Is there any other way for a code enforcement officer to still possibly have their anonymity with their name, but the property would still be available without putting it into a trust? Is there any way that would, obviously, not break the bank?

**Dave Dawley:**

Unfortunately, there is not. It would just be the creation of a trust or an LLC. Those would be the best ways to do it but, unfortunately, they do cost money. Initially, with a trust, once you get the property trust created and the property in the trust, then it is good until some kind of a change happens.

**Assemblyman Hafen:**

I just wanted to clarify. Currently the assessors protect law enforcement agents' information?

**Dave Dawley:**

That is correct. If we receive a court order from the judges to remove the information, then, yes, we do.

**Assemblyman Hafen:**

In regard to your comments about LLCs and other ways to conceal identity, that information is actually available on the Secretary of State's website, so it is available if somebody wanted to seek it out.

**Dave Dawley:**

You are absolutely correct. If we are not going to make all of the information confidential, then they can still do it now with all of the information that is currently out there. You go to Spokeo—I do not know how they get the information. Unfortunately, with the advent of the Internet, the information is more readily available than just through our offices.

**Assemblyman Ellison:**

My biggest concern is—there was an officer who told us a story yesterday. They had a cartel group that targeted six to nine officers and their families. Thank God they were caught prior to that. These threats are out there, and they are serious. When you get somebody who is on a hunt, they are going to come and get you. Closing these names off or trying to hide the addresses—not the names as much—there has got to be a way to do this. We pay these people to serve and protect us, and we have got to be able to do that through any means we can. I think that they should be able to have a way through the Department of Motor Vehicles to put a post office box, or whatever, with a number on it that the police can still pull up. There has got to be a way. I see these people who are threatened all the time. I turned in someone one time who had a batch plant that was making people sick, and I got a death threat. These threats are out there, and these people sometimes go overboard, but there has got to be a way we can do this. I understand your issue, but I also understand that the people who we pay to serve and protect us are being threatened.

**Dave Dawley:**

We agree 100 percent. We are not doubting at all that these threats are out there. We certainly understand that they are. If you look at 2012, the Los Angeles County Assessor was taking bribes to lower values. We are just concerned about the transparency. We just want to make sure that the information is out there so people will know that they are being taxed the same as everybody else. That is our main concern. We understand the need for this; we are just concerned about the transparency.

**Assemblyman Assefa:**

You mentioned that a trust or an LLC could be an option, and you did also say that it would cost money. Do you know how much it would cost or who would be responsible for paying it?



**Dave Dawley:**

That would be the responsibility of the person who creates the trust. I am not aware of the cost.

**Assemblyman Assefa:**

These men and women are stepping up to serve their communities, but they are now going to be subjected to additional expense to serve their communities. I do not think that is a feasible way of solving some of these problems that we have. I think you are concerned about the transparency aspect and property values. I think we can figure out a different way of making property values transparent for those particular addresses that we are trying to conceal. It should be the other way around. For the sake of transparency and exposing property values, we should not also expose servants of the public.

**Jen Chapman, Recorder, Storey County:**

I am reading a statement from the Recorder's Association of Nevada. County recorders are one of the few government offices that are required to keep information forever. Every day we use a series of systems to ensure full access to official records in perpetuity. Additionally, ensuring continued access to unaltered legal records across multiple formats is an important aspect of the functions and duties of the recorder's office. Continued access to these recorded documents and information in full is also a part of something bigger than the recorder's office; it is part of the development process of a local economy. It is through these recorded land records and the constructive notice that they provide that an individual or a business entity is enabled to leverage owned assets into capital.

As it pertains directly to this bill, we have a hesitancy to agree with the revision of individuals covered to include those that perform tasks related to code enforcement and further elaborated in the amendment. It is possible that revising the individuals offered to obtain the court order to include those individuals would have a broader impact on the courts and could be a preliminary step to a records system that is not public. By proposing to shield information contained within an official document, which is stored as a physical record in paper, it is also held digitally and in film, for easy public access. Even something seemingly simple on the surface such as redacting residential addresses not only changes fundamentally the way recorders are able to provide access to their records, but could actually undermine the concept of constructive notice and could, over time, effectively lock or heavily delay the process of home buying, selling, and refinancing. Safety and security will always be a concern of any public entity and the citizens alike. Unfortunately, the line between confidentiality and public records continues to be both a complex and nuanced topic both within the public and private sectors, and will be for many years to come. However, as it pertains to recorders and recorders offices, we are public agencies charged with the responsibility to collect, provide, maintain, and protect information. We are public information managers doing that—protecting public information, interest, and the public's ability to buy and sell real estate. We want to be known as a state where purchasing land is achievable and development is supported, not by a cumbersome and sometimes unsuccessful process because access to this public information has been degraded slowly over time. Any legislation with the intent of restricting information present in these public documents could

pose a risk to the process of constructive notice, and we respectfully request for careful consideration when it comes to redaction bills.

I would like to say, as the Storey County Recorder, there is nothing we are opposed to here—the public records side is a big side, but not the full picture. When we do these things, trying to protect the people, I am only going to stress the importance of those individuals seeking protection to take further steps and go to the public information gathering websites and make sure that they follow through with the opting-out process. I am always amazed when I Google my own name. None of it comes up in the public records in my office, but I found some really interesting things. It is another aspect that we have to consider for the protection of individuals.

**Karen L. Ellison, Recorder, Douglas County:**

Good morning, Chair Flores and Committee members. I am here today to testify as neutral on A.B. 212 but with concerns regarding the broad definition of persons identified as relating to confidential information. I am aware of the amendment that was made last night to define code enforcement. Current law under NRS 247.540 identifies the persons authorized and entitled to request personal information be withheld, specific identification of position held; for example, a judge or a clerk of the court. In addition, other positions have specific requirements regarding the job responsibility such as crimes that are punishable as category A felonies or domestic violence. However, A.B. 212 as introduced qualifies the persons who could request their records be confidential as being employees of the state or political subdivision of the state who interact with the public and perform tasks related to code enforcement.

My intent in bringing this up is not to limit those who may be qualified to have their personal information withheld from the public, but rather suggest a clearer description of the positions they hold and the required duties that would more clearly explain why they may need to have their personal information redacted. It would seem to me that the very broad description opens the door for more confusion, which ultimately will impact the courts. Different jurisdictions may interpret the broad spectrum of potential applicants throughout the state which results in more instances of inconsistency of documents redacted. Thank you for your time and consideration. I would like to add that we were contacted just briefly and we will meet with the sponsor of this bill. We just were not able to make a connection to discuss the broad description.

**Assemblyman Carrillo:**

What would you say the percentage is of the overall population we are talking about—if you are talking police, law enforcement, and firefighters? The assessor spoke earlier about getting away from the transparency of it being public information. Overall, if you are talking one tenth of 1 percent of the state's population, how much of an issue is it? I am just looking for clarification as to what percentage of the population overall that this is affording protection to.

**Karen Ellison:**

To be honest with you, I just went with my very first reaction when I read the bill. I do not know the percentage. If you look at it in the broadest terms, and I Googled "code enforcement" because I live in a rural town—it is anybody who is employed by the state of Nevada and works for local government. I am a recorder. To me, in the very broadest sense, we serve the public. If we do not let them record a document, they become upset with us. During the recession they were very upset by records they found in our offices that had to do with foreclosure—so to me it is the broad sense—it just becomes very expansive. That was my point of view.

**Aubrey Rowlett, Clerk-Recorder, City of Carson City:**

I would like to echo the testimony provided by my colleagues today. I also wanted to put on the record that there are public data collection companies that purchase our records across the state, and that happens frequently for the county recorders, so there is a potential that that information has already been bought, purchased, and disseminated throughout these companies. Once it is out there, we have no control over what they do with that information. I just wanted to put that on the record, and then state that the intent of this bill is widely accepted by the recorders. We just want to make sure there is careful consideration when wording these redaction bills. We want it to affect the individuals seeking the protection as best as possible without affecting the departments that manage the documents.

**Chair Flores:**

Is there anyone else wishing to testify in the neutral position? [There was no one.] Assemblywoman, please come back up if you have any closing remarks.

**Assemblywoman Hansen:**

This is why I love this process. No legislation is ever really perfect, and it gives us an opportunity to improve it. These are big things that we do here, with far-reaching consequences. I appreciate the comments in the neutral position from the recorders and the assessors and it gives us an opportunity to really dial it in. We will work together to make sure they have some comfort with who exactly we are speaking about—maybe not have it as broad.

I just wanted to address some of the remarks regarding the properties themselves in relation to real estate. As a Nevada licensed Realtor since 2007, I am very sensitive to this, and I had a good conversation with Mr. Dawley about his concerns. I think we can work on this. I think where the problem might lie is that in Washoe and Clark Counties, when you have a name redacted for confidentiality purposes, say for police officers, the property is still available to see. In the other counties, I have been informed, you do not see that information. It is just a black box on the assessor's website. I agree that that information is very important to us in the real estate industry, and for other reasons, to be able to see property values, the lots, and different things that pertain to the property. The intent is not to exclude and not make property values and information transparent. This may have opened up a box that we have a problem with in general—how we are treating those real estate properties in different counties. I would love to have that conversation.

A reminder, if it was not clear, that this is an opt-in for the code enforcement officers to have their information kept confidential. They do not have to do it. It is if they want to and they pay whatever fees are involved with doing that through the courts. A point of information regarding trusts: they cost about \$5,000, depending on the size of the estate or your personal interests; it is very costly to do a trust. I highly recommend them, but they are expensive. When we talk about how many code enforcement officers there are—maybe it would be a good idea to address that—the number of code enforcement officers we have in Washoe County, Reno, and Sparks is 12, and maybe Mr. Woodley could address how many are in other areas.

**Alex Woodley:**

I can only speak to northern Nevada. In Washoe County we have approximately 175,000 parcels. Between all three agencies and districts we have 12 code enforcement officers. The percentage of that is 0.00006 in relation to the actual number of parcels. That does not include the population itself; obviously the population is over 250,000 compared to 12 code enforcement officers in the area. This is just specific to parcel numbers. Thank you.

**Assemblyman Assefa:**

As a bill progresses I think all parties need to be at the table and try to work out some of these things. There are some valid concerns brought forward by the assessors. They might help out in the methodology of getting to the point you want to get to without concealing too much information. Another piece that needs to be considered is this: What happens when someone is no longer a code enforcement officer? The bill does not address that. How long do we continue to conceal that information? That is something that should be considered as we go forward.

**Assemblyman Hafen:**

Assemblywoman Hansen, I appreciate your bringing this bill. I do not always agree with everything you bring forward, but today I see a need. I wish that we did not need to have this, and I wish that our code enforcement officers were not threatened in any way, shape, or form, and our law enforcement agents, too, for that matter. I have personally seen code enforcement officers verbally attacked and threatened during public meetings. Therefore, I appreciate your bringing this bill forward. I completely understand and respect the transparency issues and, if there was a way to ensure that the addresses were at least available without the names so that way they could not be found, I think that would be a good idea. Could you perhaps reach out to the assessors and talk to them about how to do that? I guess that is more of a suggestion than anything. Again, I wish we did not need to do this, but I do see the need.

**Assemblywoman Duran:**

I know there is a need for this. I had somebody come to my house, so I know that it is very important. My concern is, while it is very important, I also see the comments made earlier—I know you want protection; we have concerns about our family and our children. Are they going to be included as time goes by? If they buy a house, are they going to be protected also? I do not know if it is on the table, but it is still our family members. My daughter, of

course her name will change, but our children are our children, so I am wondering if this bill will encompass them moving forward, as they buy properties, and is it concerning in the long run?

**Alex Woodley:**

No, ma'am, the intent is specifically for the individual who is employed, and it does not extend to anyone else.

**Assemblyman Hafen:**

Just a point of clarification on the last question. Actually, section 1, subsection 1, paragraph (h) does state, "The spouse, domestic partner or minor child of a person described in paragraphs (a) to (g)" are included in this. So to answer your question, yes, the children, spouses, or domestic partners would be allowed to request their information be kept confidential, because we are adding paragraph (g). I do not mean to point that out, but I just wanted to alleviate Assemblywoman Duran's concerns.

**Chair Flores:**

Thank you again, Assemblywoman, for bringing this bill forward. As the conversations continue to move in the right direction, keep us informed as to how they are going. We are going to close the hearing on Assembly Bill 212. Next, I will open the hearing on Assembly Bill 215. Assemblyman Kramer, please come up.

**Assembly Bill 215: Revises provisions relating to document preparation services. (BDR 19-666)**

**Assemblyman Al Kramer, Assembly District No. 40:**

It is my belief that sometimes when we make laws there are some unintended consequences that come about. Sometimes when you throw a net out you catch things you were not intending to catch, and I think that is what happened when Assembly Bill 324 of the 79th Session was passed. I was on this Committee at that time and I voted in support of it. My understanding is that *Nevada Revised Statutes* (NRS) Chapter 240A was created to protect the vulnerable immigrant population from being preyed upon by nonlawyers doing immigration document preparation, and that A.B. 324 of the 79th Session was a reaction to this targeted scamming going on. Some people, instead of being document preparation became tax preparers—some even to the point of becoming enrolled agents.

I think the net we cast to try and bring people in line and to stop this preying on people who were relying on supposed experts to get their documents ready pulled in one group too many, and that is the tax preparers who do income taxes for people. We do not have a Nevada income tax, but everyone pays federal income tax. Federal income tax preparers fall into several groups. You have some that are attorneys or work for attorneys. You have certified public accountants (CPA) who have obviously taken some pretty healthy accounting exams. You have enrolled agents who have also taken an exam. You have unenrolled agents who are in two parts, and that is what I want to address and that is what this bill would do.

There are two parts to what A.B. 215 will do. There is one group that has joined an association and does continuing education, and they are Annual Filing Season Program (AFSP) participants. You can actually go online to that organization and find out who has completed the continuing education and kept their education up to date. For example, you know the tax law has changed since last year rather significantly and in order to have this designation, a person has to take the tests and the continuing education in order to be current with these new tax law changes, or they cannot be part of the AFSP group. A person will not be listed on their website and they cannot claim that status. The way a person defines themselves is to say they hold a current "record of completion" issued by the Internal Revenue Service (IRS). What this bill would do is exempt those people from having to have the \$50,000 bond, which is basically a \$500 a year penalty to those people. It does not exempt them from registering with the Office of the Secretary of State.

I said there were two groups that were not enrolled agents and not CPAs and not attorneys—anybody can hang up their shingle as a tax preparer. There is no test involved—some states have a test, but Nevada has no test for that. What it does do is get you a preparer tax identification number (PTIN), which anybody can get, but when you get that you are agreeing to obey the rules set forth by the IRS. If you break those rules—for example, if you were to charge a fee for preparing taxes that varied based on how much you can get them back—that is not legal with the IRS. You would be breaking a federal law and you are subject to penalties from them. Declaring yourself a tax preparer when you do not have any credentials and no one can look and see what your education is or anything like that, I think those people should have the bond because there is no way to tell how well qualified they are. I would like to see the ones who have gone through the trouble of getting continuing education be exempted from the bond process. That is what this bill is about. There is an easy way to check it. It is online. In a matter of seconds, you can go online and see if the person you are talking to has a certification.

I am available for any questions.

**Assemblyman Ellison:**

I was with you on the Government Affairs Committee when that bill was passed. It was a good bill—we just did not realize that some of the larger companies were going to get thrown into this. I spent months and months with the Legislative Counsel Bureau and the Office of the Secretary of State trying to back some of these up, because every employee who worked for H&R Block, for example, carried the bonds and carried the IRS numbers and everything. When the bill came out, it said everybody doing tax preparation had to carry that bond. Some of those people work three months out of the year. It took us months to try to clarify that they were not the people we were trying to address.

I am glad you brought this bill; I really like it. I thought we got it all straightened out, but this clarifies it—but the bill was a good bill. There were people out there doing some pretty bad things. We had no idea that when the bill that the Chair introduced came out at the end, it added everybody. So I thank you for this.

**Assemblyman Leavitt:**

I appreciate my colleague for bringing this forward. It is not the most exciting bill in the world but, nonetheless, I think it is important. He brought this forward to remedy this small but important issue.

**Assemblywoman Bilbray-Axelrod:**

I want to talk about the definition of a registrant in section 1. Any registrant who prepares tax returns and holds a record of completion issued by the IRS is exempt from holding the bond. Registrant, obviously, has a broad meaning in NRS Chapter 240A, so some registrants who do tax preparation and hold a record of completion status with the IRS may offer services that are more than tax preparation. This says that if the registrant meets those two criteria, they are exempt from the requirement to hold a bond, and this could create a loophole to someone who does have those two criteria but offers other services, such as multiservice businesses.

**Assemblyman Kramer:**

You bring up a good point. A person can put themselves up for business under many titles, and what I am saying here is that if you do this work and you are AFSP-registered and you completed your education on that, then you are exempt from having to post the bond for that reason. But if you hold yourself out for business as a document preparer for other reasons, I would think that the requirement for a bond would still be there. I do not know why; I am just saying that if all you are doing is tax preparation under this you should not need a bond. In my opinion, if you are doing other things, then of course you are going to come under the requirements of other parts of the law.

**Chair Flores:**

Because we do not have our legal counsel here today, what we can do is have that point clarified by him as to whether or not meeting the criteria would exempt you even if you are doing business outside of the two criteria you have laid out. Legal can clarify that for us at a later time.

Are there any additional questions? [There were none.] Assemblyman, if I may ask that you step back, I would like to invite everyone speaking in support of Assembly Bill 215 to please come forward.

**Edith Duarte, representing Nevada Society of Enrolled Agents:**

Thank you, Assemblyman Kramer, for sponsoring this bill. This is a good bill that clarifies some problems that occurred last session. Speaking on behalf of the enrolled agents, I am in support of any bill that would exempt them or repeal the language that put them into NRS Chapter 240A and had them have to fulfill those requirements. Just a little bit of background on the enrolled agents: they are very similar to attorneys and CPAs in that they have the same ability to represent their clients before the IRS. They do tax preparation; they can also represent them if there is an audit or appeals or collections cases. The distinction with the CPAs and with the attorneys is that they are licensed and the exam is at the federal level. This is an IRS exam. An attorney passes the state bar, a CPA passes an exam that is

also a state exam. They [enrolled agents] are entirely regulated by the federal government, and when we put them into the NRS it created a constitutional question.

I also wanted to talk a little bit about their credentials and what they do. They do have that tax identification number which they sign off on. Every time they prepare a tax document for a person, they sign their name and they provide that number. If there is ever a problem with that tax document, the IRS has to call them back. The client will have recourse; they have somebody that signed off saying they prepared it for them. The bad actors that we have talked about do not ever sign off on the bottom of that page saying they prepared the document for somebody, and that is what happens when people get in trouble.

Additionally, they also do have an exam, as I alluded to. It is a three-part exam that includes part one on taxes for individuals, part two on business taxes, and part three on representation practice and procedure. After passing that exam, they also have to pass a suitability check. This is a federal background check that goes back and looks at any felonies and also if they ever had problems with their own taxes, if they have back taxes owed, or if they have not filed taxes. They will not provide that credential if there is that problem.

Additionally, after receiving this credential, this license, and passing the credibility exam, they also have continuing education. Seventy-two hours for three years, and then at the three-year mark they do have to apply for renewal of their license. Every year though, they do have to maintain 16 hours of continuing education, and 2 of those are related specifically to ethics. They are required to take that continuing education.

If a person had an issue with an enrolled agent, there is recourse for that client to go to the IRS. The IRS often has to suspend or even revoke a license. There is recourse, and the policy of the IRS is to respond to individuals within 72 hours. I should not say often, but a person does have recourse if there is a problem with an agent. If there are any other questions, I do have experts here who are enrolled agents. This bill does repeal them from that definition and does specifically create an exemption for the enrolled agents.

**Chair Flores:**

I have a quick question. In order to get the title of enrolled agent, are they required to undergo a background check at any point?

**Edith Duarte:**

Yes. When they receive their first license, they do have to pass a federal background check. If they get into trouble, or if there is a serious case against them, at that point the investigation will result in another background check if necessary.

**Assemblyman Carrillo:**

Regarding the actual enrolled agent, they got scooped in during last session—I know our Chair had brought a great bill forward. I am not saying it was far-reaching, but I would like some clarification from your point that this would basically pull enrolled agents out of the NRS chapter.



**Edith Duarte:**

This bill would pull enrolled agents out of NRS Chapter 240A. That was the problem; they were swept into that bill. I know that was not the intention, but that is what happened. This bill would remove them and specifically exempt them.

**Assemblyman Assefa:**

What is the penalty? You spoke about revocation or suspension if any one of these people messes up somebody's tax return, and that taxpayer is on the hook for thousands of dollars of unpaid taxes and penalties. Other than the revocation of the registration of that registered agent, are there any other recourses?

**A. J. Decaria, Enrolled Agent; Member, Nevada Society of Enrolled Agents; and Member, National Association of Enrolled Agents:**

Treasury Department Circular No. 230 ([Exhibit E](#)), which I believe has already been submitted to this Committee, binds attorneys, CPAs, and enrolled agents exactly the same way. All of us are bound by Circular No. 230. Circular No. 230 provides the requirements for practice before the Internal Revenue Service, ethical standards, and discipline. Discipline includes losing your license. It can involve jail time as well. A taxpayer who was not well supported or represented by an enrolled agent, or an attorney or CPA for that matter, has recourse that can also result in fines and penalties. I do not know if I have answered your question or not.

**Assemblyman Assefa:**

That is very good. Thank you, sir.

**A. J. Decaria:**

I just want to enhance a couple of the things that have already been said. The IRS continuing education requirements for enrolled agents are 24 hours per year. While it can be 16 hours a year, by the end of the three years it has to be 72 hours. Each year it is required to be 2 hours of ethics. On top of that, the National Association of Enrolled Agents requires an additional 6 hours of continuing education, so that is 90 hours total for that three-year period from the organization.

I would like to say this one additional thing with respect to tax preparers in general. The problems do not arise in general terms with attorneys, CPAs, or enrolled agents, and possibly not with the AFSP category that is fairly new and available with unenrolled preparers. Where the problem really arises with preparers is that there are a number of people out there who do not have a set office, who do not have a shingle they hang up every year, who are not present at all times, and who prepare returns as if they are self-prepared. The IRS deals regularly with that. I am a former IRS agent and manager. I ran an abusive schemes group while I was at the IRS. These are problems we faced within the IRS, and sometimes it was trying to determine who those people are. I think the state has that same problem. People who do not have any ethical standards, do not have any training, and who do not even sign the tax returns that they are preparing are where you have the problem.

**Assemblyman Carrillo:**

You said something about the enrolled agent if they do not sign off on the tax return. Could you clarify the issue with that?

**A. J. Decaria:**

Not enrolled agents; unenrolled preparers. Enrolled agents follow all of the requirements of the IRS as far as credentials and getting the preparer tax identification number that is required to interact with the IRS. Enrolled agents are following all of the requirements of the IRS with respect to that.

**Wendy Duefrene, Enrolled Agent, Carson City, Nevada:**

Thank you for this opportunity to speak. I am an enrolled agent. I have 20 years of experience in taxation. I own a private practice here in Carson City, and I would like to express the negative impact that NRS Chapter 240A has had on myself and our industry as a whole in the state of Nevada. As NRS Chapter 240A is currently written, it prevents us from interpreting tax law, and that is what we do. We provide tax advisement, ongoing tax strategies for individuals and businesses, we represent taxpayers at all levels of the IRS, and we prepare tax returns. Without the ability to interpret tax law, this essentially ties our hands.

Also, the bond of \$50,000 presents a financial hardship for many of the enrolled agents. We already carry errors and omissions insurance policies voluntarily, and with that typically comes engagement letters. We do sign into a formal contract with the taxpayer when we represent them, and at times we also have them sign a power of attorney for us to represent them before the taxing agencies. As NRS Chapter 240A is currently written, this could potentially put us out of business as independent enrolled agents. This would have a negative impact on the taxpayers of the state of Nevada. It would limit their options for resolving their tax matters. It also has a negative impact on the taxing agencies. We benefit taxing agencies by providing guidance to taxpayers, by filing delinquent tax returns, and assisting in getting balanced dues paid to the taxing agencies. I support the passing of A.B. 215 to exempt us from NRS Chapter 240A. Thank you.

**Janet Vick, President, Nevada Society of Enrolled Agents:**

I am a partner in an accounting firm with two CPAs and two enrolled agents. I am also president of the Nevada Society of Enrolled Agents. For most people, they just assume that an enrolled agent or a CPA takes a stack of papers, goes to the back room, puts in some numbers and out comes a piece of paper that says you owe the balance due. That is not really what we do. We spend a huge amount of our time counseling our clients. They come to us asking, "Should I fund my individual retirement account, or would I be better off just paying the tax?" They want to know, "Should I retire now, or should I retire in two years when I turn 65? What is the tax consequence of those choices? How do I adequately withhold to make sure that I do not have a balance due?" One of the unintended consequences of NRS Chapter 240A was that it prohibited us from giving tax advice. That is a huge part of why someone would come to us as a professional. If they already knew those answers, they would simply buy the box [tax preparation program] at a store and prepare the return

themselves. Another part of our practice is helping taxpayers who, for one reason or another, have fallen out of compliance with the law. They come to us and say, "I haven't filed my taxes in five years. I am scared to do this. How do I get clean with the IRS?" We help them arrange a payment plan, we help them get those old returns filed, but that does involve a fair amount of time and planning and advice. For those reasons, it would be very beneficial to us to get straight with NRS Chapter 240A and be in the same position as the CPAs and be exempt from the law.

**Chair Flores:**

Is there anyone else wishing to speak in support of Assembly Bill 215, either here or in Las Vegas? [There was no one.] I would like to invite those wishing to speak in opposition to Assembly Bill 215 to please come forward.

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

As part of my duties, I oversee the document preparation service program in the office. I would certainly prefer to be considered testifying as neutral, but when I looked at the information I wanted to provide I felt it was more accurate to speak in the opposition phase. But if you wish to consider it neutral and these as concerns, that would be fabulous. The first thing, and a number of things have been commented on already, is that the Annual Filing Season Program record of completion is an excellent program that this bill and Assemblyman Kramer want to address. That is an excellent program. In fact, as has been mentioned, they take some voluntary hours of continuing education on federal tax law, on ethics, and current tax law changes. In fact, every federal tax return preparer should have that minimum level of competence, but it is not required.

The IRS does not have the authority to regulate tax preparers in individual states, but what they do is require qualifications for a practitioner who can practice before the IRS, and those things have been discussed thoroughly and accurately by the enrolled agents. The IRS has granted unlimited representation to those certain classifications that have been addressed: attorneys, certified public accountants, and enrolled agents, which is what they certify them to do. That is all excellent. But because the IRS does not have the authority to regulate who can prepare taxes, they have incentivized tax preparers to voluntarily complete a certain number of continuing education hours in preparation for a specific tax year, and that is the Annual Filing Season Program record of completion that Assemblyman Kramer has addressed. All of that is correct. They do a good job with that. We really have no idea who or how many people might have that new recognition, which just came out two years ago and this might be the first or second tax year that that has even been in place.

I wanted to address a couple of things. The legislation on enrolled agents in 2017 was never intended to prevent enrolled agents from doing what they are certified to do before the IRS. The way it got placed in law has caused problems, saying that they had to be a document preparation service in order to represent a client before the IRS. That is where the problem lies with that. One other clarification, and I actually do not know the answer to this, there was a question about consumer recourse if an enrolled agent has performed things that cause the consumer harm. Yes, the IRS certainly has authority over their certification; they can be

decertified. My understanding is they can even be fined for those things. What I am not aware of is that there is any restitution or recourse available, such as the bond in Nevada would cover, with a court judgment if that happened. If someone offline can provide me information on that, that would be helpful, too, from the enrolled agents.

I have been participating since 2017 with a group of tax preparer regulators convened by the IRS, and so I have been participating with that group for a year and a half now, and it is very helpful and interesting. There are seven states, Nevada being the eighth, that do regulate tax preparers.

I think some of the things that were concerns for me at least have been talked about already in the presentation of the bill. The very first thing was the use of the word "registrant" and Assemblywoman Bilbray-Axelrod had a question on that. Because the word "registrant" is very broad and it encompasses much more than just tax preparers, it means anyone doing any of the things that require registration under NRS Chapter 240A. There is the potential that some registrants who do tax preparation and who hold a record of completion status with the IRS may offer more services than tax preparation, and as this is currently written, it would appear to exempt them from the bond, which could pose some problems. It creates a significant loophole there, and I think it needs to be looked at as a significant issue.

In section 6, subsection 1, of the bill, I am concerned, too, about the broad loopholes that are being created which provide exceptions to all registrants to be excluded from the provisions of paragraphs (e), (f), and (g) to NRS 240A.240. These are the prohibitions against the unlicensed practice of law which, of course, was a very significant part of the original legislation back in 2013 for this program: negotiating, communicating positions, conveying positions, appearing on behalf of a client, providing advice and explanations, and so forth. In section 6, subsection 2, again the word "registrant" is used which has a very broad meaning and is not just tax preparers. I do not know if this was written to specifically allow an enrolled agent to not have section 6, subsection 1, paragraphs (e), (f), and (g) apply to them, to the extent that compliance with such provisions would violate federal law. It seems very broad. It encompasses all registrants, and I really do not know the impact that might have on some of the other things that document preparation services do in terms of divorce and bankruptcy, among other things. That is something that would cause some concern. If it was specifically addressed for enrolled agents, and if enrolled agents are removed from the requirement to be registered under NRS Chapter 240A, it probably is not even necessary, so that is something that should probably be looked at. That would be very helpful.

There is one other thing. Section 7 of the bill provides for the bill to be effective upon passage and approval. If this body moves forward with these changes and the Governor signs it, our office needs some time to implement this. Our application is online. It would have to be amended to add questions that would help determine qualifications for anything that is carved out as being exempt or a portion thereof. I would be concerned about registering people who might perform tax services and might go through the process of being prepared to perform tax services. That would be admirable and certainly desirable. But they may offer other services as well, as the multiservice offices do. Implementation time would

be a factor. The online application, as I mentioned, has automated messages that go out as their statuses are reviewed and changed, which gives instructions on what to do next. We would need to address those things that concern the bond, which is the last step in the process.

I wanted to mention, regarding the bond, and I did talk to Assemblyman Ellison and worked with Legislative Counsel Bureau after last session, more than a year ago our office revised the surety bond forms, the templates, that are on our website. We notified registrants, to the best of our ability, through our data system and entities with whom I had been working after the 2017 Session on this impact, that there are two bond templates. One is for an individual performing document preparation service, and the other is for a business entity performing document preparation service, which covers their employees. That was a very significant adaptation to allow a business entity to hold a bond for its employees and people that work for them that covers them, and not to have to post a separate individual bond for each person who is a registrant. That is something that we worked on to address right away after it became an issue after the last legislative session.

In summary, there are just a couple of things that I would like to say. One is that NRS Chapter 240A is the only regulation of tax preparers in the state of Nevada who are not statutorily exempt already: attorneys and CPAs. It has not specifically been referenced, but the Office of the Secretary of State is under a permanent restraining order to not enforce NRS Chapter 240A against enrolled agents, and that again was due to the problem in the structural wording of the law saying they had to be registered in order to perform what they are credentialed to do before the IRS. I also want to note that between 20 and 25 percent of the complaints received in our office under this program are related to tax preparers. To the best of our knowledge, none of the complaints have been concerning an enrolled agent. We have no idea who might be AFSP preparers, and so we really do not know those specifics other than that we do always look and see if a complaint against a tax preparer is an enrolled agent. We can look that up online, and we have not found that. The other point is that the bond is the insurance policy against an act or an omission or a refusal to provide contractual services for a consumer who uses a registered document preparation service for anything that falls under the purview of NRS Chapter 240A. Again, those are just the concerns and issues in particular that I saw regarding the use of the word "registrant" being too broad, even with the qualification of a tax preparer. A tax preparer who holds a record of completion might have a multiservice office also offering other services. That would be something important, I hope, for your consideration. We want to do everything we can in the Office of the Secretary of State to enforce this particular program—document preparation services—as it was intended. To those areas where there is harm being done to the public, much of our activity and complaints are unregistered document preparation—the majority by far is that. We do feel somewhat comfortable that those who are registered are doing what they are supposed to be doing in all of the disclosures, and not practicing law. I am here for any questions that I might be able to answer.

**Chair Flores:**

Ms. Anderson, thank you. I want to thank the Office of the Secretary of State for working with me so diligently to get rid of some of the garbage we have in this state. I want to thank Ms. Duarte. She has been phenomenal about educating me about enrolled agents, and I will admit that I was ill-informed when I approached this conversation originally last session. I promise that this session we are going to ensure that we take care of our enrolled agents and that we fix the NRS to reflect our original intent. We will take care of that. We do have a few questions.

**Assemblyman Carrillo:**

You mentioned in your testimony towards the very end that 25 percent of complaints were regarding tax preparers, but zero of those were about enrolled agents. Does that zero percent mean you have never had a complaint brought against an enrolled agent?

**Gail Anderson:**

To our knowledge, we have not had a complaint on tax preparation brought against an enrolled agent. That is correct.

**Assemblyman Assefa:**

If the issue is not related to enrolled agents and the complaints that you are receiving are regarding unenrolled agents, do you have enforcement mechanisms to track those and enforce them? You are not a law enforcement agency, but what is a recourse for people who are victimized by these predatory practices?

**Gail Anderson:**

We use our own business data sources to identify businesses that have tax preparation in their business licensing. Beyond that, you might have sole proprietors and obviously their business license is in their own name, and you do not know exactly what they are doing. We do a lot of driving around. In fact, we spent time in Reno last week visiting several tax preparation locations. There were some that we were not aware of and just found in a couple of areas—to stop in and see what they were doing. It is a pretty hands-on type of identifying people who are doing U.S. tax preparation specifically.

What we can do about it is, first of all, we would find out if there was an attorney, CPA, or enrolled agent. After that, it is to bring notice to them that we are investigating them for unregistered practice of document preparation services. Then we have our process on the civil side. If they become registered and we get a complaint, we might look at doing something a little more. If they were unregistered and did not have a bond, there is no recourse for a person who was harmed, who did not get their refund, or was not refunded the correct amount. Those are usually the issues. We can file a civil suit against them and try and take action that way. We would work more on the law enforcement side when there is a pattern of practice or a recurring number of complaints on the same types of things from a single business entity or a business entity that has multiple offices. That is what the enforcement is on unregistered activity. There are civil penalties for that and, in fact, Chair Flores had a bill to increase the civil penalties on this knowing fraud is committed, but

that takes going through a civil process. We do work with the Office of the Attorney General and can refer to the district attorney if we have the right kind of information and enough of it.

The bond is really the best recourse for a consumer to be able to go to court and make a claim against the bond. The state holds the bond, and again those are for registered business entities or individuals who are a registered document preparation service, but that still gives them a recourse to go to for some type of recovery for the hardship or the loss that they can substantiate due to this person's actions. For unregistered people, of course, there is no bond and so that recourse is not available. They would just have to work through getting judgments and orders and getting those enforced. We do everything we can, but we do have a number of complaints on that as well as other types of document preparation services, specifically immigration services.

**Assemblyman Assefa:**

I am going back to the source of the issue. A lot of these fraudulent activities happen from the unregistered tax preparers. What this bill is trying to do is exempt them from being subject to the provisions of the bonding. In regard to unregistered agents, we do not even know who they are or who has bonds on them. That is where the problem lies. According to your testimony, if we have zero problems with registered agents, then I do not think we have a problem exempting them from the bond requirements.

**Gail Anderson:**

If I may clarify. The enrolled agent is one classification that is in the bill being removed from NRS Chapter 240A. There is another classification, the seasonal tax preparer, the Annual Filing Season Program record of completion preparer, that is different. That is voluntary. It is some continuing education hours for a particular tax season, and there is a test with the law portion of that. It is done by continuing education providers that are certified or approved by the Internal Revenue Service. This board that I participate on, part of what they do is review those curriculums and approve them. So, there really are two different classes looking at exemption here. Enrolled agents, I believe, are looking at being entirely exempted from registering under NRS Chapter 240A, but these Annual Filing Season Program record of completion holders, which fall under the IRS limited rights preparers, do not have full rights and cannot represent their clients in a hearing or an appeal. They can work with an agent of the IRS. They have a tax services advocate that they can communicate with for their client, but they cannot represent them in a hearing. I do not know that it is appropriate to say these Annual Filing Season Program record of completion holders should be exempt from paragraphs (e), (f), and (g) in section 6, subsection 1 of the bill, which are the prohibitions against the unlicensed practice of law. That is another area I have concern about for the record of completion people.

Enrolled agents is one separate category in and of itself, and you have heard quite a bit of testimony on what their qualifications are and what they do, but the seasonal folks with the voluntary record of completion do not have those representation rights. They do not have nearly the training that an enrolled agent has, and I believe you heard testimony from enrolled agents, or at least one person, with a concern about that. It is the exemption of the

bond, and it is a question of, should any group that falls under NRS Chapter 240A be exempt from the bond? So there is a registration, there are requirements to maintain records, to have a contract for services that is clear, to perform those services, to disclose that you are not an attorney and you are not going to give legal advice—all of those requirements that are in NRS Chapter 240A, plus hold the bond. This bill proposes that for that certain class of voluntary record of completion holders, and they have to do this every year, by the way. We do not know who they are, we do not know if there are any, I do not know that—to exclude them from the bond only, not from registration, not from the criminal background check, and not from the requirements of NRS Chapter 240A. Mr. Kramer, I am sure, could correct me if I am speaking incorrectly on the intention of that.

**Assemblyman Carrillo:**

Does the Secretary of State have a fraud line or a complaint line?

**Gail Anderson:**

In our program we can take telephone calls regarding the document preparation service program, and we have a complaint form on our website that we ask people to complete that helps us begin our investigation. We do talk to people who have any kind of problem. I do not know that it is a fraud line, per se. One of our programs is required to have that and we do have an 800 number that is listed on our website.

**Assemblyman Carrillo:**

It was my understanding that the Office of the Secretary of State was going to be setting up a complaint line, so I guess that 800 number is sufficient.

**Chair Flores:**

Thank you again, Ms. Anderson. I look forward to the conversation between Ms. Duarte, Assemblyman Kramer, you, and me, and we will come up with something good. We are committed to helping our enrolled agents. We will not leave this session until it is taken care of, we promise you.

Ms. Anderson did mention that she was not aware what additional recourses were available should an enrolled agent commit some type of fraud, and I believe you wanted to address that question, Mr. Decaria.

**A. J. Decaria:**

I would like to draw a comparison, if I might, between enrolled agents who are regulated by the federal government and CPAs and attorneys who are regulated by the state. There is no bond requirement against CPAs or attorneys, or no requirement that they have a cash bond. There is a cash bond requirement within NRS Chapter 240A. I did an analysis about a year ago—it is not current and I did not bring it with me—about all disciplinary actions since they began being recorded by the IRS. I think they go back to 1979. There were over 6,000 disciplinary actions in that time against attorneys, CPAs, and enrolled agents. Around 5,000 of those were against CPAs. There were about 1,000 that were against attorneys. There were 26 against enrolled agents. None of us wears a halo, and I am not pretending that we



do, and none of us is perfect, but just comparatively speaking, in that period of time it is enrolled agents who have had the fewest disciplinary actions by the IRS.

There was a previous question by Assemblyman Assefa that I might go into also, and that has to do with recourse. He asked a question I believe about recourse. The recourse against what enrolled agents do is exactly the same recourse that is available by the public against CPAs or attorneys, which is essentially civil.

**Chair Flores:**

Assemblyman Kramer, please come back up. In the interest of time, I do not think we need to have a long rebuttal. This is likely to turn into a work in progress and we will have all the stakeholders come to the table, but please add anything you want.

**Assemblyman Kramer:**

I agree. I think there is a loophole we need to close. I had forgotten when we started to talk about enrolled agents, it seemed to me that it was a lawsuit that was already settled, and this does clear that up, but I should have brought this forward as one of the two things this covers. I will say that the idea of knowing who is an unenrolled agent who has done their certificate of completion on continuing education is available online; you can look it up right now. It is not as if you do not know who they are; you can find out who they are. It would be interesting to know, and I will be in contact with Ms. Anderson on how many of those cases were—of the 25 percent that were tax preparers—how many of those were people who were on that website. I would like to know that. It is a work in progress; you are right. I am sure, Mr. Chair, that you will have some comments for me, and I will work with Ms. Duarte and others to get something that is acceptable.

**Chair Flores:**

If I may ask that you specifically include Assemblyman Assefa and Assemblyman Carrillo in those conversations, that would be very helpful. With that, I am going to close out the hearing on Assembly Bill 215. I will invite anyone wishing to speak in public comment. [There was no one.] This meeting is adjourned [at 10:51 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 an amendment to [Assembly Bill 103](#), submitted by Mary C. Walker, representing City of Carson City; Douglas County; Lyon County; and Storey County.

[Exhibit D](#) is an amendment to [Assembly Bill 212](#), submitted by Assemblywoman Alexis Hansen, Assembly District No. 32.

[Exhibit E](#) is U.S. Department of the Treasury Circular No. 230 (Rev. 6-2014), Catalog Number 16586R, titled Regulations Governing Practice before the Internal Revenue Service, Title 31 Code of Federal Regulations, subtitle A, Part 10, published June 12, 2014, Submitted by Edith Duarte, Director, Nevada Society of Enrolled Agents.