

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

**Seventy-Ninth Session
April 5, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:09 a.m. on Wednesday, April 5, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Brittney Miller, Assembly District No. 5
Assemblyman Jason Frierson, Assembly District No. 8



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Carol Myers, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Stephen B. Street, State Inspector General, Office of State Inspector General, State of Louisiana
Phillip Zisman, Executive Director, Association of Inspectors General
Randall J. Meyer, Inspector General, Office of the Inspector General, State of Ohio
Andrew Diss, Government Affairs Director, Grand Sierra Resort and Casino
Geoffrey Lawrence, Assistant State Controller, Office of the State Controller
Alex Goff, representing Nevada Democratic Veterans and Military Families Caucus
Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada
Marlene Lockard, representing Las Vegas Police Protective Association Civilian Employees, Inc.
Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO
Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association; and representing the Nevada Association of Public Safety Officers and Coalition of Law Enforcement
Michael Kelly, 1st Vice Chair, Clark County Democratic Party
Cindy Lake, Private Citizen, Las Vegas, Nevada
Alexander Assefa, Chairman, Transportation and Tourism Workers Caucus, Clark County Democratic Party
Francis Peterson, Private Citizen, Las Vegas, Nevada
Peni Sua, Private Citizen, Las Vegas, Nevada
Yhbarek Hailu, Private Citizen, Las Vegas, Nevada
Dqwegt Teget, Private Citizen, Las Vegas, Nevada
David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson
Radford Snelding, City Auditor, City Auditor's Office, City of Las Vegas
Steve Walker, representing Carson City and Douglas County
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Patrick Cates, Director, Department of Administration
James Dzurenda, Director, Department of Corrections
Jeffrey Haag, Administrator, Purchasing Division, Department of Administration
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Brian Reeder, representing Nevada Contractors Association

Andrew Shetty, Pacific Region Solutions Manager, SeeClickFix
Ben Berkowitz, Co-Founder and Chief Executive Officer, SeeClickFix
Shanna Rahming, Chief Information Officer, Division of Enterprise Information
Technology Services, Department of Administration

Chairman Flores:

[Roll was called. Committee rules and protocol were explained.] I will open the hearing on Assembly Bill 404.

Assembly Bill 404: Creates the Nevada Office of the Inspector General. (BDR 18-740)

Assemblywoman Brittney Miller, Assembly District No. 5:

We have three guest testifiers on the phone: Inspector General Meyer from Ohio, Inspector General Street from Louisiana, and the Executive Director of the Association of Inspectors General, Phillip Zisman. They are all from different time zones and will be available for questions.

I will provide a brief presentation, have the inspectors general speak, and then go through the sections of the bill. Assembly Bill 404 is to establish the Office of the Inspector General, which is an office of accountability for state government. For over 250 years, our country has been arguing back and forth over the size and scope of government in our lives. However, the one thing we all agree on is that whatever the size and scope of government, we want our government to be accountable, effective, efficient, transparent, and to work with integrity. The Office of the Inspector General enables that.

There have been some questions about how this office is different from auditors and other programs that exist for oversight. I will be addressing that throughout my presentation. Initially, the mission of the Office of the Inspector General is to provide independent, efficient, and timely oversight of Nevada state governmental agencies and publicly funded entities [page 2, ([Exhibit C](#))].

The Inspector General is to seek out and investigate fraud, waste, and abuse in government. There are many examples of fraud, waste, and abuse, and I do not want to spend time focusing on situations and scenarios at this time [pages 3 and 4, ([Exhibit C](#))]. I want to get right into the benefits of having a Nevada Inspector General. The Office of the Inspector General will increase government accountability; serve as an internal mechanism to resolve disputes; provide transparency in government administration; restore public trust; serve as a deterrent to crime; and provide cost savings [pages 5 through 7, ([Exhibit C](#))].

We have offices planned for Reno and Las Vegas, and satellite offices to service the rural areas throughout the state [page 8, ([Exhibit C](#))]. The sections that comprise the Office of the Inspector General include Administration, Audits, Special Counsel, and Investigations [page 9, ([Exhibit C](#))]. The objective of the Administration Section is to provide accountable, efficient, and effective leadership. There will be an Inspector General, Deputy Inspector General, Special Counsel, and an Administrative Services Officer [page 10, ([Exhibit C](#))].

There have been several questions on how the Audits Section of the Office of the Inspector General will be different from other audit divisions such as the Audit Division of the Legislative Counsel Bureau (LCB) [page 11, ([Exhibit C](#))]. We must shift our thinking from the idea that the Office of the Inspector General is only an auditing agency and think of it as a law enforcement agency. There will be category II peace officers who will have enforcement and arrest capabilities and the ability to write warrants. This is different from the traditional role of an auditor who examines financial records and prepares an audit report for agency personnel. The Inspector General's officers will handle the process from beginning to end. The Inspector General is a people's advocate because they are government's oversight. The public or a state employee is able to initiate an audit. That does not happen now.

These are not routine audits where a standard might be to conduct an audit every two to four years. An Inspector General's audit only occurs if there is a concern or reason to believe there is fraud, waste, or abuse. For instance, I use the analogy of the Internal Revenue Service (IRS), U.S. Department of Treasury. As long as I am paying my taxes, I am not concerned about the IRS auditing me. The IRS audits a return when a concern arises that there is something amiss. It is not a routine process but is a part of program management or facilitation. Another scenario is a health department. If a health department inspector walks into a restaurant and finds infractions that might lead to a public health issue, he has the authority to shut down the restaurant immediately. He has enforcement power, like the IRS. I am not saying the Inspector General will walk into agencies and divisions and shut them down, but people respond to recommendations by a certain authority.

This bill will not replace any auditors in place within other state divisions nor will it replace the Inspector General located within the Department of Corrections. If anything, this office will work in conjunction with other state and local government auditors when necessary. There are 14 states that have a statewide Office of the Inspector General. Within those states' divisions and agencies, there are 130 Offices of the Inspector General.

The Special Counsel Section will provide quality and timely legal counsel to the Office of the Inspector General, protect employees from reprisal for whistleblowing, and report on prohibited personnel practices [page 12, ([Exhibit C](#))]. Personnel will be comprised of special counsel, a paralegal, and a legal secretary.

The Investigations Section will conduct objective and imperative investigations that safeguard the integrity of Nevada government [page 13, ([Exhibit C](#))]. The section's priorities are procurement fraud, public corruption, and to prevent and investigate fraud, waste, and abuse. This is why the criminal investigators are categorized as category II peace officers.

Before going through the bill, I would like to ask the guest testifiers on the phone if they would like to add anything.

Stephen B. Street, State Inspector General, Office of State Inspector General, State of Louisiana:

I am happy to answer specific questions. I do have a couple of observations up front if you believe now is the appropriate time to make those.

Chairman Flores:

I would prefer that we go through the whole presentation and then afterward open it up for discussion. The guest testifiers can jump in when they feel it is appropriate.

Assemblywoman Miller:

I will quickly go through the bill. Section 1 establishes the Office of Inspector General. Section 3 defines "local government" as, ". . . any political subdivision of this State that receives funding from the State, including, without limitation, any county, city, town, board, airport authority, regional transportation commission, fire protection district, irrigation district, school district or other special district that performs a governmental function and receives funding from the State."

Section 5 defines "state agency" as, ". . . any board, commission, department, division, officer or employee in the Executive Department of the State Government." Section 6 does three different things. Section 6, subsection 1 establishes the Nevada Office of Inspector General and subsection 2 states how this position is appointed.

Our main concern is that the Office of the Inspector General is never used politically. That is where the term "independent" is derived. It is not an office or position to be used politically, never as a "gotcha," and never for any witch hunts. This is an office of integrity. These are some of the safeguards: the LCB will put together a list of at least three people, and the Governor will appoint from that list. The Inspector General must be impeached in order to be removed from office. This ensures the office remains apolitical.

Section 6, subsection 5 discusses the qualifications and identifies the Inspector General as unclassified. Section 7 establishes the Inspector General as the responsible party for all of the provisions relating to the Office. Section 8 authorizes the Inspector General to appoint the Deputy Inspector General and other staff according to their needs and funding. Section 9 requires the Inspector General to perform a full-time program of auditing, investigation, inspection, and performance review. In addition, the Office will submit a quarterly report to the Governor and the LCB Director regarding any findings, conclusions, or recommendations.

Section 10 authorizes the Inspector General to establish a telephone number to report fraud, waste, and abuse. Section 11, subsection 1 requires that a state agency or local government must cooperate with and provide any assistance requested by the Inspector General.

At this point, I would like to clarify some concerns about the Office that I have heard from a few stakeholders. Section 11 in no way absorbs any agency, local government's employees, or equipment. Section 11, subsection 2 states, "A person who willfully prevents, impairs or prohibits the Inspector General from initiating, carrying out or completing any audit, investigation, inspection or review is guilty of a category C felony" The section specifically states "willfully." These are people intentionally impeding or blocking an investigation by the Inspector General.

Section 12 provides the authority to issue subpoenas for witnesses and evidence. It also states that if a person refuses, the Inspector General may petition a district court who shall issue a subpoena to appear before the court. Section 13 requires the Inspector General to make all reports available to the public. Section 14 discusses the professional standards of the Office, which must conform to those created by the Association of Inspectors General.

Section 15 creates the Inspector General's Fund in the State of Nevada Treasury where all money received by the Office must be deposited. Section 16 establishes penalties for anyone who retaliates against whistleblowers, making it a category C felony. Section 17 makes it a category E felony for a person to use threats or force to prevent the Inspector General or an employee of the Office from performing their duties. Section 18 amends *Nevada Revised Statutes* (NRS) 200.481 to include the Inspector General and employees of the Nevada Office of the Inspector General in the definition of "officer" for the purpose of the increased penalty for battery of an officer.

Section 19, along with sections 10 and 13, provides for the confidentiality of any record with the identity of a whistleblower that is being maintained by the Inspector General during an investigation.

Section 20, subsection 21 makes the Inspector General and any person employed by the Nevada Office of the Inspector General a category II peace officer. Section 21 adds the Inspector General to the provisions of NRS 353A.010. Section 23 requires that the Governor appoint the Inspector General on or before December 1, 2017.

Chairman Flores:

I would like us to take advantage of the individuals on the phone. They are available for technical questions. Questions regarding how the Office of the Inspector General works in practice and the relationship between the Inspector General and other agencies are all fair game, along with any questions regarding the language in A.B. 404.

Assemblyman Carrillo:

In your testimony, you stated that investigating fraud, waste, and abuse in Nevada are the purposes of the Inspector General. I know Nevada has a whistleblower law, and whistleblowers have immunity from any attack from the entity they are reporting on. Can you provide some examples of what is happening in Nevada? Maybe even up to five years back if necessary. I need to understand through example why Nevada needs an Inspector General. What fraud, abuse, and waste is happening? How will the Inspector General resolve these issues?

Assemblywoman Miller:

There have been concerns that an employee could use the Office of the Inspector General as retaliation. The Nevada Inspector General, as well as others in other areas, will be trained on when to open an investigation. For example, an employee is upset and calls the Office. The employee may call, but it may not always result in an investigation. In one state, there were 401 phone calls made to their fraud hotline, and only about 40 were opened for investigation. The Inspector General knows how to decipher what is a personality complaint or conflict and what is actually an example of fraud, waste, and abuse.

I understand the need for examples, and I do not want to point fingers at any one specific agency or event. I am most concerned about the fraud, waste, and abuse we are not catching. The Inspector General will actively look for fraud, waste, and abuse. There is no doubt there is mismanagement of funds and situations where things may not have been handled efficiently and effectively. It is about the systemic problems that occur within agencies and divisions that are not being dealt with. Is there anyone on the phone that would like to comment? Maybe you can talk about your state and the appearance of catching fraud, waste, and abuse and what occurred after the Office of the Inspector General was instituted.

Stephen Street:

I have a couple of observations about what has just been discussed. I want to applaud Nevada's effort to establish the Office of Inspector General. Assemblywoman Miller mentioned how an Inspector General is different from a state auditor, attorney general, or other entities set up to investigate fraud and corruption.

Inspectors General are unique in their independence, authority, and nonpolitical nature. The single biggest difference is the nonpolitical nature. In Louisiana, the Inspectors General are prohibited from running for elected office for a period of four years from the time they leave the Inspector General's Office. That removes the issue from the table in terms of whether the Inspector General has the motivation to set himself or herself up for the next political step. It provides an objective, independent reviewer of facts with one goal. The goal is to determine the truth. They apply the law and public policy to determine if any enforcement action is required.

The presence of a credible Inspector General provides two things. First, it will add incredible value. I can state that definitively because I have had the privilege of serving as president of the Association of Inspectors General. I am in my second term, and it has provided me the opportunity to observe inspectors general all over America. Everywhere those offices exist, they bring incredible value to the taxpayers who live there.

Second, the bill is set up in a strong way to provide the safeguards discussed by Assemblywoman Miller. Once an inspector general begins doing the job right, it has a deterrent effect. It will result in political blowback, and the office will eventually come under attack by those who are not happy with the Office's investigative activities. It is not unique to Louisiana; it has happened all over the country. Those would be my initial observations, and as we get into more detail of the bill, I think there might be areas for streamlining or improving the language.

Phillip Zisman, Executive Director, Association of Inspectors General:

I would like to mention a point directly to Assemblywoman Miller's statement about the value added by the Inspector General. First, inspectors general have a hybrid component. They investigate allegations of fraud, waste, and abuse but also audit the issues and make recommended solutions. An inspector general's approach is proactive—not only to get the bad guys, but to solve the problems.

How does an inspector general find problems that we do not know about? The current movement is data mining. This ensures that the state government databases are not hiding red flags indicating fraud or abuse. The inspector general develops sophisticated approaches to understanding where the risks are in a specific jurisdiction and then designs ways to test whether there are vulnerabilities to fraud, waste, and abuse. This is a new administrative function; it combines law enforcement, auditing, and integrity. As Inspector General Street mentioned, an inspector general is an independent party tasked with finding the truth and making a recommendation to address the problems found.

Randall J. Meyer, Inspector General, Office of the Inspector General, State of Ohio:

From 2011 to 2016, my office received over 2,400 complaints and opened over 515 cases. Through those cases, we identified a loss to Ohio of \$267 million. The Inspector General's operating budget is \$2.2 million. The return on investment is obviously much greater than the investment made in establishing and maintaining the office.

One of the cases I provided to the Assembly Committee on Government Affairs involved the Ohio Department of Transportation [*State of Ohio, Office of the Inspector General, Report of Investigation 2012-CA00083*]. That investigation started from a \$3,000 employee theft. We uncovered roughly \$294 million in tax revenue that was held by Ohio's Department of Taxation. I will not go into the details of the case. However, we were able to get the Ohio Department of Taxation to return \$34 million in refunds to businesses.

The funds were held because, at one point in time, the state was in a budget crunch and the deputy tax commissioners decided not to disburse the refunds. Nevada may have a similar statute, where after a period of three to four years the funds default to the state. That is what they were hoping for. The return on investment is hard to prove just like prevention is hard to prove.

I apologize; I am having a hard time hearing some of the questions. I will try to pay closer attention, but it is difficult to hear all the conversations.

Assemblyman Carrillo:

I appreciate the gentlemen throughout the country providing us information on what they have done and how they have helped their states recover funds. I would really like to have some examples. What is the kind of waste, fraud, and abuse that is happening in Nevada? Would printing on one side of the paper be considered waste? Also, please clarify the impeachment process. It sounds like we are in a presidential situation mentioned in section 6, subsection 3. I have never heard of impeaching an inspector general.

Assemblywoman Miller:

Addressing your question concerning examples, we have people here today who will testify on their experience and what they have been through. The impeachment process is to safeguard the Inspector General from the Governor or other people preventing an investigation because of political pressure. Section 6, subsection 3 states, "The Inspector General may be removed only by impeachment for misdemeanor or malfeasance in office." This ensures the inspector general cannot be released on a whim. They must go through an impeachment process involving the LCB.

Chairman Flores:

There are a lot of questions concerning this section. If we need to come back to it in a bit, we can do that.

Assemblyman Ellison:

This bill mirrors Assemblyman Edwards' bill, Assembly Bill 300 of the 78th Session, that had a \$10 million fiscal note attached. This bill does not have a fiscal note so the funds would have to come out of the General Fund. Please respond to that, and then I would like to address section 6, subsection 4, paragraph (b).

Assemblywoman Miller:

My goal is to focus on the policy around the bill because I know this is a policy committee. Finding the money is another process, and it will go through the Assembly Committee on Ways and Means.

Assemblyman Ellison:

Basically, your bill will be in the same funding cycle as Assemblyman Edwards' bill; the \$10 million range.

Assemblywoman Miller:

I have not seen his funding cycle. The programming and staffing will need to be developed. I have looked at other inspector general's state agencies that are composed of between 16 to 25 employees. We would focus on what meets the needs of Nevada, given our size and characteristics.

Assemblyman Ellison:

In section 26, subsection 2, the effective date is set to, "On October 1, 2017, for all purposes." Is that because when funding becomes available, the Governor can appoint the position? It appears that if the funding is available, the Governor can create this position on October 1, 2017?

Assemblywoman Miller:

Yes, that is correct. If the bill passes, we want the Governor to appoint and establish the Office of the Inspector General.

Assemblyman Ellison:

I have a follow up to what Assemblyman Carrillo mentioned concerning impeachment. Does that give the Inspector General more power than the Governor?

Assemblywoman Miller:

That is an interesting perspective, but I am not looking at it that way. It is to protect the Inspector General because, as you heard from Inspector General Meyer and State Inspector General Street on the phone, the position comes with a lot of pushback from agencies. The Inspector General must be apolitical and not used as a political ploy or pawn. It is believed the impeachment process will protect the Inspector General from being at the whim of the Governor and will protect the people of Nevada.

Assemblyman Ellison:

My feeling is the Governor is the highest position in Nevada and should be the ruling authority on what departments should be kept or not.

Assemblyman McCurdy:

I think this is a good bill, but I have concerns with the language in section 6, subsection 3. There is a lot of damage an individual might do before a misdemeanor or malfeasance is prosecuted. My suggestion is to review that section.

Assemblywoman Miller:

I appreciate the comments from Assemblyman Ellison and Assemblyman McCurdy. I will definitely consider those suggestions because bills are not written as nonnegotiable.

Assemblyman Daly:

I want to get clarification on the funds and how they pertain to local government and state agencies. For example, the consolidated tax is collected and redistributed by the state. Would that count as funding or would it have to be an appropriation? School districts and other agencies get money from our state on a yearly basis. There are entities, such as the Regional Transportation Commission, that receive money from the state and the next year no funds are dispersed. I want to make sure who the local governments and state agencies are and what the arrangement is. Is any money received from the state?

Assemblywoman Miller:

That is an excellent question because there are some entities who receive one-time contract funding and then no more. I have been referring to the definitions of local government and state agencies as written in the bill. I will refer back to legal.

Assemblyman Ellison:

Section 11, subsection 2 states, "A person" That language may need to be clarified so that a "person" who is subject to investigation is not just anyone. In NRS 0.039, "person" is everyone except for a governmental entity. But "governmental entity" is not the subject of what we are talking about. I think more clarification is needed rather than using "person" without a definition.

I had a similar question as Assemblyman Carrillo. The definitions of fraud and abuse are pretty clear. I hear all the time about how a city project is being run, and that money is being wasted on different levels of government such as the school district. I respond that they should walk in their shoes before calling it waste. But without a definition, the office may be getting a lot of calls. How is the term "waste" defined? Also, what type of abuse is being discussed? There is an abuse of discretion or abuse of exceeding authority. I am not sure what those examples are. Maybe the people on the phone can help answer my questions.

Stephen Street:

I can give you one example from Louisiana on the issue of waste. Following a hurricane, we had \$17 million worth of ice that was allowed to melt in an unrefrigerated warehouse. The amount of ice that made it to the public cost taxpayers \$28 for every 10-pound bag. That was one of the largest waste cases we investigated. Waste is in the eye of the beholder, but I think there was some fairly universal agreement that this constituted government waste.

Phil Zisman:

An example of abuse that had criminal implications is the Bridgegate scandal in New Jersey. Members of the governor's staff claimed a traffic study was taking place on the George Washington Bridge causing traffic jams. There was a criminal investigation and charges were brought against the staff who set it up. It was a misuse of their governmental authority.

Chairman Flores:

There are at least four or five more members that would like to ask questions, and I would like to move on. I am not sure if Assemblyman Daly's question was answered. I think he was hoping to have a more defined way of approaching "waste" because that term is very broad. Please work with Assemblyman Daly to identify a satisfactory definition.

Assemblywoman Bilbray-Axelrod:

We are not the money committee but have you thought through how this will be paid for? I feel we have a due diligence to ask that. Inspector General Street brought up the fact that Louisiana has a provision that the inspector general cannot run for political office until four years after leaving office. I did not see that in A.B. 404. Is that something you would consider?

Assemblywoman Miller:

That provision is not in the language of A.B. 404. We want to ensure the Office of the Inspector General is not used as a political platform. I think it is a wonderful addition to the bill. If that is something the rest of the Committee will support, I would absolutely consider it. To be frank, when it comes to funding I am focusing on policy because my goals are to let the Assembly Committee on Ways and Means focus on the funding.

Chairman Flores:

Members, I know it is important for us to know where the funding is coming from, so we can gauge if we are removing funding from somewhere else. However, that is not for us to determine. We are here to determine if this is good policy and whether or not Nevada needs an Inspector General. Assemblywoman Miller will go through a rigorous vetting process to find out where the funding will come from. The funding conversation will be complex, and we will allow the money committee to do that.

Assemblywoman Monroe-Moreno:

Section 6, subsection 2 establishes a four-year term for Inspector General and can be reappointed. Is there a term limit for the position?

Assemblywoman Miller:

That is a great question, and the language in the bill does not discuss a term limit total. The Inspector General is not guaranteed a reappointment, but as a courtesy, there is a provision for their name to be on the list that comes from LCB. I will discuss term limits with the Legal Division. The Legal Division did affirm four years is the maximum allowed for a term.

Assemblywoman Monroe-Moreno:

My only concern is having someone reappointed and reappointed and reappointed. I would like to see an end date of two or three appointments. Section 8, subsection 1, paragraph (a) allows the Inspector General to appoint a Deputy Inspector General and a Special Counsel. Are there any specific qualifications that the Deputy Inspector General must have? Would they be required to become certified fraud examiners, like the Inspector General?

Phil Zisman:

I would like to explain our certification process. The Association of Inspectors General has established standards referenced in A.B. 404. These are best practices for the offices of inspectors general and the professionals who work in those offices. That includes auditors and investigators. We also certify the inspector general and the senior level members of their staff. The Association is very proud of the institute where we train and certify them. We would recommend a certification process be incorporated into your bill. It also serves a very important purpose in the training and understanding of what an inspector general does. I know my colleagues, Inspector General Street and Inspector General Meyer, can speak more about how the certification process is important in running their particular offices.

Assemblywoman Monroe-Moreno:

After certification, is continuing education required?

Phil Zisman:

The certifications must be maintained. There is a requirement of 40 hours of continuing professional education credits every two years, being an Association member, and participating in our activities.

Assemblyman Kramer:

I have the same concerns as Assemblyman Daly regarding the funds. If the visitor's convention from Bullfrog County wanted to spend their money to bring visitors from Florida, that might be considered waste. I think it is something to look at.

I also think the term limit should be longer than four years, perhaps six years. Some investigations are multiyear projects. If the Inspector General is in the middle of an investigation, a transition in leadership may be detrimental.

Section 11, subsection 2 states "A person who willfully prevents." I interpret that as lying to an investigator, which is a felony. I think that might be a little heavy, and I am not sure I go along with it. It brings to mind how people could be put in a situation where they are told what to do and what to say or be accused of lying to an investigator and charged with a felony.

You mentioned the results of the investigation being available to the public. I question investigations in progress being available to the public. I am sure that is not what you intended, but your answer was different. I would like you to consider those areas.

Assemblywoman Miller:

The desire for the term limit was to be longer, but according to the statute, the limit is four years. Section 11, subsection 2 states, ". . . prevents, impairs or prohibits" I appreciate your concern about the levels of lying, how they could be interpreted, and I am taking note of your concern over the term "lying." The report that would be available to the public is the final results of the investigation. This report is submitted to the Governor and the LCB Director on a quarterly basis.

Assemblywoman Neal:

This is a follow up to what Assemblyman Kramer mentioned and a question for the Ohio Inspector General, Randy Meyer. I read through the laws that established the Ohio Office of the Inspector General, and there was the ability to do disciplinary action but not the ability to charge for a category C felony. I reviewed Louisiana's power and duties and was not able to find it.

In Nevada, a category C felony is one year of imprisonment or potentially a \$10,000 fine. Section 17, subsection 2 of the bill states, "Any person who, by means of any threat, force or violence, attempts to deter or prevent the Inspector General . . ." is a category E felony. The category E felony is a much higher disciplinary action than what I have read in the Ohio and Louisiana statutes. Why did you choose to enact a disciplinary action versus a criminal record?

Randy Meyer:

The Ohio Inspector General's unit is not set up as a law enforcement agency. We have the ability to conduct criminal and administrative investigations, but we are not sworn law enforcement officers for the state of Ohio. We do criminal investigations, and we work with our assistant district attorneys' county prosecutors based on their venue to present our cases and get criminal convictions. We do not have a statute similar to what is being proposed. A good analogy would be lying to a federal officer. We do not have that type of language. The language in our statute says they must cooperate, but there is no criminal penalty associated with their failure to cooperate.

We are a fact-finding agency. We do not have any type of disciplinary action or any other effect on the employment of the individuals. We have authority over 158,000 State of Ohio employees, but we cannot discipline or terminate their employment based on our investigations. The agencies have that responsibility.

Our investigations are mainly administrative. We do fact-finding, present the case, create the investigation report, and then we rely on the agencies to determine the best course of action. Part of the reason behind that are *Garrity* issues that are in play for union employees [*Garrity v. New Jersey*, 385 U.S. 493 (1967)]. Since we have no ability to affect discipline, *Garrity* does not apply to our investigations. That is part of why we address our investigations in this manner.

Assemblywoman Neal:

Thank you. I was able to look up Louisiana statutes on their website, but I was not able to go too deep. It brought me back because I went to law school in Louisiana. Does Louisiana have a criminal procedure for their inspector general?

Steve Street:

Yes, we do. The Louisiana Inspector General is a statutorily designated law enforcement agency, and we have sworn criminal investigators. Our situation is a little different from Inspector General Meyer's situation in Ohio. We have broad jurisdiction over all state employees as well, but the emphasis of what we do, while not limited to criminal investigation, is primarily criminal investigation. Rather than having a separate provision in our statute that would impose criminal penalties for impeding or hindering an inspector general's investigation, the Louisiana criminal code has a general obstruction of justice statute that is applicable in those scenarios.

There is a general duty upon all state employees to cooperate and provide all reasonable assistance to the State Inspector General, but there is no penalty, per se, attached. The obstruction of justice requires willful action along the lines of destroying records. We often partner with federal law enforcement where those provisions can apply. *United States Code*, Title 18, Section 1001 makes it a crime to lie to a federal agency. We do business as a law enforcement agency, and we rely on the general provisions in the criminal code when people run afoul. There is another provision here that makes it a crime to intimidate a witness or to otherwise do things that are also in different sections of A.B. 404.

Assemblywoman Neal:

Section 9, subsection 2 has a series of paragraphs that interplay with each other. Section 9, subsection 2, paragraph (f) contains language that permits auditing. It states, "... grantee or other recipient of money" I think that is very broad. Section 9, subsection 2, paragraph (f), subparagraph (2) permits an income subsidy, which is also a very broad term. In Nevada, that might cause some serious issues because it seems overreaching in regard to contract relationships.

Section 10, subsection 6, paragraph (a) discusses contractual relationships and a third party. It states, "... who receives any portion of the public money from the contractor to carry out any obligation" That seems very broad as well. It may open the door for a lot of other things in terms of confidentiality and the ability to get into the business of another recipient and whether or not you have rights to that information.

In Ohio, since you are a fact-finding entity, you might have a little bit more flexibility to fact-find, I am not sure. Could you comment on that?

Randy Meyer:

Our authority is limited to our executive branch of state government. We have authority to investigate with the exclusion of our statewide elected officials. Our authority lies with our governor all the way down to the cabinet agencies, the boards and commission, and those seeking to do business with the state of Ohio. An example of a contractual relationship was

in our annual report. A paving contractor's state contract had a bonus set aside for asphalt density. They were supplanting fake core samples to the Ohio Department of Transportation (ODOT) to receive the bonuses. Luckily for us, an ODOT investigator was on the scene and saw them switching the core samples. We were able to get a \$15,000 settlement based on the bonuses they had already received. We do have authority to investigate and to subpoena agencies doing business with the state of Ohio.

Stephen Street:

In Louisiana, our jurisdiction extends to all contractors, subcontractors, grantees, and subgrantees of the executive branch of state government. That has been pretty important down here because we have had billions of dollars flowing through the executive branch for hurricane recovery.

[Assemblywoman Neal assumed the Chair.]

Vice Chairwoman Neal:

I appreciate those comments. We are going to close out the questions from the Committee.

[Assemblyman Flores reassumed the Chair.]

Chairman Flores:

We have 20 people signed in to speak in support and opposition. In the interest of time, I am going to ask that everyone restrict his or her comments to two minutes. There is nothing wrong with you coming up, stating your name, what you do, and saying, "I love the bill, and I am good with it." Do not feel obligated to offer a whole host of comments.

Andrew Diss, Government Affairs Director, Grand Sierra Resort and Casino:

First, I want to respond to Assemblyman Carrillo's question about specific examples. You heard me testify last week about the example of the Reno-Sparks Convention and Visitors Authority. Ten percent of their budget is wasted through mismanagement of their facilities. That is about \$4.5 million a year.

A big story ran in the *Las Vegas Review-Journal* reporting on the Las Vegas Convention and Visitors Authority (LVCVA). That story had examples of LVCVA staff taking airline executives out to nightclubs and racking up bar tabs at places like Hakkasan Nightclub at the MGM Grand in excess of \$10,000. They were purchasing Tiffany & Co. bracelets for the LVCVA employees. All this was done with taxpayer dollars. I think these expenditures raise a lot of questions and perhaps the Office of the Inspector General is the best place to investigate this abuse of funds.

Assemblyman Kramer brought up a good question on the authority and whether it specifically receives funding from the state. The same with Assemblyman Daly when he mentioned the Department of Transportation's projects only receiving funding for certain services. I think a better way to state it is any agency that receives public tax dollars or public funding.

Geoffrey Lawrence, Assistant State Controller, Office of the State Controller:

State Controller Ron Knecht apologizes for not being here today. We have worked with Assemblywoman Miller on this bill, and we support it in its current iteration. We have offered and would love to host the Inspector General within the Office of the State Controller because we are already an independent agency. This is something that we feel there is a need for in the state. We would like to provide guidance, advice, and counsel as to what issues the Inspector General might look at. We are also developing a statewide business intelligence tool that will go live later this year. It has a forensic data mining capability that we designed with this kind of purpose in mind. We will have the tools available for the Inspector General to use.

Alex Goff, representing Nevada Democratic Veterans and Military Families Caucus:

I am a United States Marine Corps veteran, and on behalf of the Nevada Democratic Veterans and Military Families Caucus, we endorse this legislation. All our forces' branches have an independent inspector general. The primary responsibility is to protect the force by investigating fraud, waste, abuse, and misconduct. These actions, which are prejudicial to good order and discipline of the force if left unchecked, can cost billions of dollars. Where there is the mistreatment of military personnel or misappropriation of government funds and equipment, an inspector general can save dollars that are better allocated for additional programs and services. Additionally, the inspector general is a service security blanket. Civilian military leaders, commanders, and military of force have come to trust the inspector general as an independent watchdog who has passed politics by and focuses on ensuring the safety and security of the force.

In Nevada, an independent Inspector General can and will serve that same function for agency leaders, public employees, and the citizens of Nevada. If an independent Nevada Inspector General can identify fraud, waste, and abuse and conduct enforcement operations, we might be able to allocate those funds to improve education, health care, and the treatment of veterans in Nevada. The independent Inspector General would indirectly benefit the veterans' communities by serving as an office that can restore our trust, confidence, and work toward making Nevada not only the most friendly veteran state in the nation but the most veteran-trusted state in America. Therefore, the Nevada Democratic Veterans and Military Families Caucus fully support A.B. 404.

Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada:

We support this bill. We think there were some valid questions brought up, but a proper system of checks and balances will help our state.

Marlene Lockard, representing Las Vegas Police Protective Association Civilian Employees, Inc.:

We very much support this bill.

Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO:

We reviewed Assembly Bill 201 and Assembly Bill 404 in making our position decision. The structure of the bill sets up the independent nature of the Office of the Inspector General. That is of paramount importance to us, and therefore, we are in full support of this bill.

Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association; and representing the Nevada Association of Public Safety Officers and Coalition of Law Enforcement:

We are in support of this bill and want to echo what Todd Ingalsbee stated. We want to make sure there are proper checks and balances in place, but we see this as a good idea.

Michael Kelly, 1st Vice Chair, Clark County Democratic Party:

As our organizers were going throughout the community and talking with people, our central committee voted in April of last year to affirm the appointment of a Nevada Inspector General. I would like to quote from our platform, which states, "We [the Clark County Democratic Party] support the highest ethical standards for all public officials and full transparency and accountability for all local, county, and state government and elected representatives, regardless of their political party or affiliation [Therefore,] we support the appointment of a bi-partisan Nevada State Inspector General . . . with full subpoena power and law enforcement authority, in order to investigate and hold government agencies fully accountable for fraud, waste, abuse, and misconduct."

I also want to speak as a former state employee. It has been requested to hear some examples of fraud, waste, abuse, and misconduct. I would like to speak to a few. I can speak to them in various ways, and I also want to talk quickly about accountability and the reason why an inspector general is needed. State employees do not have any type of outlet to go to. They have no agency to investigate for them that they can trust. If there is an accusation, the person who investigates may very well be the Office of the Attorney General. However, I want to make something clear: the Attorney General may investigate the case or alleged complaint, but if the agency decides to retaliate against the employee, it is the same office, the Office of the Attorney General, that will actually prosecute the employee. The employee is hit from both sides. They do not have a neutral, independent person to go to.

Here are some examples: there was an issue where there was fraud within the Housing Division of the Department of Business and Industry. Also, a few years back, an investigator of an agency attempted to reveal misconduct, but there was no entity to report it to. An Office of the Inspector General is necessary for our state, and it is a way to improve the quality of life not only for our employees but for the people of our state.

Assemblyman Carrillo:

Mr. Kelly, I was under the impression there are protections set forth for whistleblowers in Nevada, especially for state employees. Last session or the session before, someone in the middle of their testimony threw it all out there for the record.

Mike Kelly:

There is limited whistleblower protection because one of the biggest problems under NRS Chapter 284 is the agencies will often retaliate against the employee through different means. For example, if an employee reports misconduct, an agency might turn around and charge that employee with an offense such as failure to complete a report properly. Unfortunately, under the penalties and prohibitions established under NRS Chapter 284, which every agency is granted, there is wide latitude on enforcement. An agency could very well charge someone with something very minor. Yes, the agency can say a person made a mistake, but indirectly it is retaliation. Unfortunately, employees do not have a lot of avenues to report misconduct.

I would like to add another issue. There was an employee who reported his signature had been forged on a document for petty cash in a state agency. Clearly, that is something the Inspector General would investigate. In this case, it was not the Attorney General that investigated but the personnel officer for the agency—not a trained investigator.

Additionally, for prohibitive practices, state employees have an option within the Division of Human Resource Management, Department of Administration. They can investigate. Unfortunately, those reports are confidential even to the complaining employee. If I, the complaining employee, state that I was being harassed by my supervisor, that report is confidential even to me as the complainant. I will never know what the status is. If anything was actually ever done, there is no way I can find out. Even if the employee is disciplined, they will never know the results of the report.

Assemblywoman Neal:

How was Assembly Bill 300 of the 78th Session different? I do not want to get into political personality issues.

Chairman Flores:

We will have Assemblywoman Miller address that question when she comes back up for closing remarks.

Cindy Lake, Private Citizen, Las Vegas, Nevada:

I am a citizen activist and former chairwoman of the Clark County Republican Party. For the record, I support this bill in its current form. I would offer a suggestion that perhaps the general public is incentivized in some way for helping the Office of Inspector General to find waste, fraud, and abuse. That is what my fellow activists and I do. It is voluntarily, but I think it might be something to consider. I support Geoffrey Lawrence's suggestion as well.

**Alexander Assefa, Chairman, Transportation and Tourism Workers Caucus,
Clark County Democratic Party:**

We are in a small room in Las Vegas, and there are a lot more people located in a separate room who are listening. I would like them to be reflected in the record. My remarks are very lengthy, but I will shorten them. I would like to submit the entirety of my testimony in writing ([Exhibit D](#)). I am here to support A.B. 404.

I believe this bill will make government more efficient, accountable, and transparent. I will tell you one state agency where efficiency, accountability, and transparency do not exist: it is the Taxicab Authority, Department of Business and Industry.

In fact, the 2015 audit conducted of the Taxicab Authority by the Division of Internal Audits, Office of Finance, Office of the Governor revealed that the agency is not only inefficient and not transparent, but conducts business without accountability. It stated the Taxicab Authority is a liability for the State of Nevada and recommended it be abolished.

The Taxicab Authority enforcement officers constantly abuse drivers. Drivers are beaten by Taxicab Authority officers, causing bodily injury. They spit on them, and call them names and outright racial remarks. Worse yet, there are instances where the Taxicab Authority officers have pulled their weapons on taxicab drivers. I am not making this up; it is in the audit report published in January 2016. Many of these instances happened right in front of tourists in the back seat of taxicabs.

The vast majority of us in my community are immigrants and refugees who ran away from the worst conditions the human eye could see. We ran to the protection of this country. A country that promised it is the "Land of the Free." Many refugees crossed the deserts of Africa and dared to cross the unforgiving waters of the Mediterranean Sea. Hundreds of Eritreans and Ethiopians lost their lives in search of freedom and in search of the America we heard about. The America we found in southern Nevada has a different story.

The question we must answer this morning is this: Is the State of Nevada going to take proactive measures and put in place means to address these urgent issues or allow them to continue? This deplorable experience in Nevada cannot be tolerated. An oversight by the Office of the Inspector General is a starting point for moving in the direction of removing this dark cloud over our history. I respectfully ask that A.B. 404 be approved. The installation of the Office of the Inspector General will go a long way in restoring public confidence in state agencies and would promote government efficiency and transparency.

Francis Peterson, Private Citizen, Las Vegas, Nevada:

I am here with my wife, and we are here in honor of our daughter, Angela Nichole Peterson. Angela was killed in a drunken driving accident on November 29, 2009, as a result of a drinking party hosted by the Clark County School District Police Services employees and dispatchers ([Exhibit E](#)). It is a very long story.

I would like to let you know we have taken five years to complete our course of action to get answers to the nightmare we have survived and are suffering. Throughout the lawsuit that we filed and the 24 various depositions, employees admitted to crimes, but there was no investigation. They admitted to crimes of inappropriate behavior before this party. It was a holiday party that turned into a beer pong party for the minors. The Clark County School District in total paid close to \$1 million in attorney fees and the settlement, which was a judgment from federal Judge Larry R. Hicks to us.

If this corruption was stopped sooner, not only would the money be saved but hopefully we would have Angela here with us today. She was a University of Nevada, Las Vegas honor graduate and a double major. We need someone to oversee these actions and hold certain individuals accountable. If you need examples of abuse, corruption, cover-up, and evidence, we have it. This is just one of many files on the subject that we have collected over the years ([Exhibit F](#)). If you would like, you may contact me personally via phone or email, or contact our attorney, Marc P. Cook, at the law office of Bailus Cook & Kelesis, Ltd. We would be more than happy to assist you. We have done the homework, and it is yours to check out. We are in support of A.B. 404.

Peni Sua, Private Citizen, Las Vegas, Nevada:

I am a retired veteran with 28 years in the military. I am a member of the Nevada Democratic Veterans and Military Families Caucus, a member of the Military Holder of the Purple Heart of the USA Chapter 730, and a member of the Asian American and Pacific Islander Democratic Caucus in Las Vegas. I follow your guidance. I love this bill, and I thank you very much, Assemblywoman Miller, for presenting this bill.

Yhbarek Hailu, Private Citizen, Las Vegas, Nevada:

I have been a cab driver with Yellow Checker Star Transportation for 17 years. Thank you very much for giving me the chance to speak on A.B. 404. The Nevada Inspector General will give people the right to fight. As cab drivers, we have been trying for a long time for someone to hear our complaints about the taxicab companies and the Taxicab Authority. We were on strike for two months in 2017, and because of that, most of us could not make this hearing. The arguments have been siding with the companies' interest, not the people. I believe that right now if the Inspector General were established in Nevada, our demands and the abuse of people would not happen. We would get answers. Because of this, I support the Inspector General being established in Nevada.

Dqwegt Teget, Private Citizen, Las Vegas, Nevada:

I have been a cab driver for the last six years. I wish the state employee testifier that I mentioned their protection was speaking about the taxicab companies. As a taxicab driver, I have been apologized to once. I support A.B. 404. The Taxicab Authority needs checks and balance. To the Assemblyman who asked for examples, a previous testifier mentioned abuse by the Taxicab Authority. I support the Office of the Inspector General.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 404?

**David Cherry, Communications and Intergovernmental Relations Manager,
City of Henderson:**

First, I want to begin by thanking the bill sponsor for taking the time to meet with me to share some of the City of Henderson's concerns regarding A.B. 404 and by acknowledging that we all share a responsibility to be prudent stewards of our public resources. I appreciate Assemblywoman Miller's willingness to work with stakeholders and clarify the intent of the legislation as it relates to section 11 of the bill. Our concern in that section is the language

that provides for the Inspector General to make use of a local government's employees. It is not absorbing employees per se, but we read this language as allowing the Inspector General to direct city employees, including the internal audit function. This could impact the City of Henderson's staffing and the ability to complete required duties if our staff is no longer available to fulfill existing workloads.

I would like to highlight that the City of Henderson has a very robust internal audit function currently in place. Our auditor reports to the audit committee that is composed of two council members and an at-large member of the public. Our senior internal auditor is a certified public accountant (CPA), and the city auditor is a CPA, certified fraud examiner, and a certified fraud specialist.

The City of Henderson maintains an internal hotline to allow city employees to report confidentially what they suspect is waste, fraud, abuse, or a violation of state or federal law. We are subject to NRS Chapter 354, the local finance and administration statutes, requiring an annual audit of every local government's financial statements. This is an independent external audit, and the auditors are required to provide a statement that all funds of a local government are used for the purposes for which they are created. The Department of Taxation receives all financial reports and official budget documents. By law, the Department of Taxation must provide a review of the city's annual audit, and if answers are deemed inadequate, they can be sent to the Nevada Tax Commission within the Department of Taxation or the Office of the Attorney General.

We believe there are significant safeguards already in place to prevent waste, fraud, and abuse if detected and to take swift corrective action to address. An added concern that we have is the legislation before you would add a potential expense. If the Inspector General ordered a city to cancel a contract midstream, we would potentially incur costly delays if we were required to have to go out and bid or recontract. Finally, we hope there will be a clear intent of a standard to prevent inadvertent violations by establishing a bright line that requires an action to be willful and malicious in order to trigger penalties that might be imposed upon an employee or an official under investigation.

Assemblyman Carrillo:

You stated the City of Henderson has an extensive audit system. Has the City of Henderson found waste, fraud, or abuse in its own departments?

David Cherry:

I do not have any examples in front of me that I can share with you. I can go back to our internal auditor and find out for you.

Radford Snelling, City Auditor, City Auditor's Office, City of Las Vegas:

I would like to thank the Committee for hearing my testimony. I oppose the bill as proposed because of the effect on the City of Las Vegas and the City Auditor's office. Assembly Bill 404 section 11, subsection 1, states, "Upon request by the Inspector General, each state agency and local government and any employee of a state agency or local government shall" I am paraphrasing now—they must provide the requested data under penalty of law.

As such, the Inspector General mandates assistance from local government. This is an encroachment of the local government and its audit organization. Local government auditors operate with limited resources. The local elected officials and leaders set priorities to be fulfilled by their organization's audit staff. In the case of the City of Las Vegas, it is by the city charter. The City Auditor's office receives direction from the Las Vegas City Council and an audit committee. Our audit plan is full.

Having the Inspector General giving directives limits what I may accomplish as it relates to assigned audits and projects. This places a burden on the local audit organization. Expenditures accompanying the Inspector General's workload would be funded by the local government rather than the state. This puts a burden on the local government.

I have worked for the City of Las Vegas for the last 17 years. Prior to that, I worked for the City of Shreveport for 9 years, and prior to that I worked for the Wichita Public Schools as an auditor. All together that is over 31 years of experience. I state that to make a point. In all those instances, I worked for the legislative branch of the government entity. This gives the audit function organizational independence. The executive branch makes the decisions; the audit and investigative function reporting to the executive branch creates an ethical dilemma. The organizational independence is mirrored in the federal government, the U.S. Government Accountability Office. This is the audit arm of Congress. Certainly, the federal government has inspectors general. However, the work is limited to an agency. One inspector general does not audit or investigate all federal agencies. A better approach would be to have the investigative function reporting through the legislative branch, possibly through the post-legislative audit bureau as an investigative unit mirroring the federal situation.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position on A.B. 404?

Steve Walker, representing Carson City and Douglas County:

I signed in as opposition but listening to the testimony, I have changed to neutral and suggested my clients also do. Local governments are not opposed to having oversight, but we have annual audits, audit committees, internal auditors, and grand juries that serve some of the same purposes. We have that concern, and I would like to meet with the bill sponsor to have that discussion.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

First of all, I want to thank Assemblywoman Miller for reaching out to us several weeks ago to ask if we had any concerns. We do not. We are neutral today because I do not think it will have a significant impact on our agency. I did want to say that we support transparency and accountability in local government. I think A.B. 404 will be a benefit to law enforcement because we often get citizens who call in to report waste or something that may not fall into the realm of what law enforcement might investigate or handle. The creation of the Inspector General will give us the ability to refer those people to the proper entity to conduct the investigation.

Patrick Cates, Director, Department of Administration:

The Department of Administration has no position on this bill. I did not intend to speak, but I wanted to get on the record some comments concerning the whistleblower discussion and the protections state employees have or where they might turn. Nevada does have a whistleblower law; it is NRS 281.611 through NRS 281.671. If an employee feels they have been retaliated against as a whistleblower, they can request a hearing before an administrative law judge in the Hearings Division of the Department of Administration. They are most certainly apprised of the outcome and determination of that judicial proceeding. I have asked Peter Long, the Administrator of the Division of Human Resource Management, Department of Administration to provide this Committee some supplemental information in regard to what procedures we currently have in place for state employees concerning this issue.

Assemblyman Carrillo:

Does the whistleblower protection apply to state employees?

Peter Cates:

Yes, that is correct.

James Dzurenda, Director, Department of Corrections:

I am speaking as a neutral party today. For the record, I was previously commissioner for all the prisons, jails, and the parole board in Connecticut under the Governor's Office. Additionally, I was commissioner for the city jails in Rikers Island Facilities complex in New York City under Mayor de Blasio. Both states had the same inspector general authority. In New York, a separate Inspector General's office had authority similar to today's bill. In Connecticut, it was similar to the current Nevada situation.

Currently, in Nevada under the Department of Corrections (DOC), there is an Inspector General. If there is a state Office of the Inspector General, the DOC would still require an internal affairs office. Internal affairs operate different investigations than an inspector general. Currently, we investigate anything that involves criminal or noncriminal cases, and noncriminal cases against the DOC reported to our inspector general, my office, or the Office of the Governor.

If there is a conflict of interest between the complainant and my office, it is referred to the Department of Public Safety. The Department of Public Safety does its own investigation outside of the DOC. I am not privy to it, and it is forwarded to the criminal court or directly to the Governor's Office.

An investigation that is not criminal can be appealed to the Administrative Services Division, Department of Administration. Nevada has the oversight. Criminal cases will go through the courts. Those who feel justice was not served have avenues to appeal or request a further investigation. I have witnessed a complaint that was written directly to the Office of the Governor, presented public testimony at the State Board of Examiners, and that was referred to the Department of Public Safety for an independent investigation outside of DOC.

Chairman Flores:

Will the bill sponsor please come back up for closing remarks?

Assemblywoman Miller:

Thank you for hearing A.B. 404 and to all who came forward in support or neutral, as well as the wonderful suggestions and questions that were brought up, including Mr. David Cherry. As he stated, we will continue to work together. As a sponsor, I am eager to work with everyone to make A.B. 404 the best bill it can be.

I would like to respond to the concern that the Inspector General may replace what agencies and divisions are currently doing in regard to internal audits. This bill will in no way deter from what is already occurring in other agencies or municipalities. The term "internal" means we are checking on our own as opposed to the independent Inspector General. Oftentimes, with the term "internal," the question of objectivity has to be considered. If there is ever a situation with fraud or corruption, it is not often the administrative assistant. It is usually up higher in the ranks and generally more than one participant. Other people must be engaged and involved. This is not intended to question the integrity of our internal auditors individually, but to understand that when we use the term "internal," it is different from independent or external. I would like you to keep that in mind. I thank you for listening, and I know you have many more bills. I did not realize I bumped the Speaker of the Assembly out of his position this morning. That is not always a comfortable spot to be in.

[([Exhibit G](#))] was submitted but not discussed.]

Chairman Flores:

I will close the hearing on Assembly Bill 404. I will open the hearing on Assembly Bill 280.

Assembly Bill 280: Revises provisions relating to preferences in bidding for certain contracts for businesses based in this State. (BDR 27-1060)

Assemblyman Jason Frierson, Assembly District No. 8:

I offer you Assembly Bill 280 with at least the partial purpose of helping this hardworking Committee get caught up on time. I commit to being fairly brief in introducing the bill concept and present the bill in a bullet point fashion, recognizing that there are some folks who have some input and thoughts as to how this impacts them.

Assembly Bill 280 revises provisions relating to bidding preferences for certain contracts of Nevada-based businesses. The general intent of this bill is to keep jobs in Nevada, to employ Nevadans, and to ensure that Nevada-based businesses are given preference in government contracting. If we are not going to support our own, then who else will? We are trying to keep jobs in Nevada and support our Nevada businesses.

Existing law grants a 5 percent preference to bids or proposals submitted to the Purchasing Division of the Department of Administration by locally owned businesses and businesses operated by service veterans with a disability. This bill extends the 5 percent preference to all Nevada-based businesses.

The current bidder evaluation process for a state purchasing contract involves ranking the bidders based on a percentage of the bid's set price. Taking 5 percent off the bid percentage provides an opportunity for Nevada-based businesses to be the lowest bidder and an increased opportunity for the contract award. The theory is that more Nevada businesses will be awarded contracts. This status already exists for contracts with the State Public Works Division of the Department of Administration.

Assembly Bill 280 attempts to extend that to the Purchasing Division. I would like to walk you through the bill using the proposed amendment document ([Exhibit H](#)). I have had extensive conversations with Administrator Jeff Haag, who provided practical insights into how purchasing works and the distinctions between purchasing and contracts. This amendment removes the proposed additional penalties imposed by the Purchasing Division and the State Public Works Division. The language is still present in section 10, but it is my intention to remove that penalty language.

The amendment lists the bidding preference at 10 percent, but it is my intention to leave that at 5 percent. The amendment intends to apply the preference bidding principles of the Public Works Division to the Purchasing Division without expanding it but recognizing that purchasing functions differently. The amendment explains who qualifies for the preference.

Section 3 of the amendment defines a Nevada-based business and the qualification criteria. This broadens the definition as I mentioned earlier. Section 4 defines "State purchasing contract." Section 5 establishes the 5 percent bidding preference for submitted proposals. Section 6 describes penalties for businesses that made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference. That penalty section remains. Section 7 is the penalty section to be removed.

Section 8 is an important provision allowing the Purchasing Division to adopt any necessary regulations for the applicant to provide proof that they have met the criteria for a Nevada-based business. Sections 9 and 10 reiterate the bidding preference, raising it to 10 percent but we will reduce that to 5 percent. Section 11, subsection 8 enforces the same provisions. It is an expansion of the consequences and was not intended to be included, and it will be removed. Sections 13 through 16 deal with the bidding preference. Where it states 10 percent, it will remain at 5 percent.

Some of the language mirrors the State Public Works Division's statutes [*Nevada Revised Statutes* (NRS) Chapter 341]. We are applying the same principle to purchasing but recognizing that purchasing operates differently. I will continue to work with the stakeholders to ensure that is reflected in the end product. Senator Cannizzaro is sponsoring Senate Bill 317, which is the same language as my original bill. Assembly Bill 318 is Assemblywoman Tolles' effort and accomplishes the same thing but from a different perspective. Assemblywoman Tolles and I have had extensive conversations, and I have reached out to Senator Cannizzaro. It is my hope that the three of us can meet and develop a single product that reflects our intent to provide support for Nevada-based businesses. I look forward to having that conversation.

There are several groups that have reached out to me in the last few days expressing concerns. Most of them should have received a copy of the amendment to provide a baseline. I believe some stakeholders have changed their perspective, but I will let them speak. Assembly Bill 280 is a straightforward concept that provides purchasing with a Nevada-based business bidding process.

Chairman Flores:

The amendment was not uploaded to the Nevada Electronic Legislative Information System (NELIS) due to some confusion. The members do not have the exhibit in front of them. The staff is working on getting all of us a copy. Members, you can ask questions as to the general concept. When we receive the amendment, you may ask questions on specific sections.

Assemblyman Ellison:

This bill seems to keep popping up, and I hope we can get this passed. I believe in the 5 percent preference because it is a fair business practice for small Nevada-based businesses. I know there is bid preference on construction contracts. Is this bill for purchasing requirements within any state agency?

Assemblyman Frierson:

I apologize that the Committee does not have the amendment. We emailed and circulated it yesterday, but it may not have been clear for the document to be uploaded to NELIS. I was concerned when there was not a copy at the front table, and I suspected it might not have been circulated. Jeff Haag is present, and I would like for him to answer any questions from a practical perspective. We coordinated on this amendment because it impacts how he does his job.

Assemblyman Ellison:

Did you say the 5 percent preference will remain?

Assemblyman Frierson:

Yes, it is our intention to leave the preference at 5 percent.

Assemblyman Kramer:

Many times when purchasing office supplies, there are purchasing contracts with national vendors. Are there national vendors with national pricing that Nevada contracts with? We are concerned with Nevada-based businesses, but a company like Office Depot, Inc. has local stores and could submit a proposal. Are they considered a Nevada-based business?

Assemblyman Frierson:

The definition in the amendment of a Nevada-based business is broadened, recognizing it may be an entity that is not a typical small business in Nevada. The entity may have sufficient contacts and exposure with Nevada employees to warrant the 5 percent preference.

Assemblywoman Neal:

Section 7, subsection 1 of the bill states, ". . . at least 50 percent of the workers employed by the business" Does that provision remain in the amendment? Is there a penalty if the company misrepresented themselves?

Assemblyman Frierson:

That section is proposed to be stricken. Mr. Haag drafted the amendment, and we have discussed it.

Jeffrey Haag, Administrator, Purchasing Division, Department of Administration:

My recommendation is to strike that language. First, to Assemblyman Frierson's point, I am not a proponent of penalties to industry. I feel we already have the ability to enforce penalties should they falsify their claim. I did not see the value in specific penalties.

I am recommending we broaden the definition of a Nevada-based business to include language that states, " 'Nevada-based business' means a business which certifies that its principal place of business is in Nevada and/or the majority of goods provided for the State Purchasing contract are produced in the State" [Section 3, ([Exhibit H](#))]. If we widen the net, it allows us to better define within statute what quantifies or qualifies as a Nevada-based business for procurement contracts. Those are the recommendations I made to Assemblyman Frierson.

Assemblywoman Neal:

The privileges and immunities clause, which allows for discrimination against residents, and the "50 percent of all workers employed" threshold language, are limitations. We have used that language in other bills to protect workers. Nevada had a high unemployment rate, and there were things the Legislature needed to do to protect and insulate ourselves. When the unemployment rate fell, I was not sure if the 50 percent threshold language could potentially discriminate against an out-of-state resident from coming to Nevada and working. I am glad you struck it out.

Assemblyman Kramer:

I would like to ask my question again. A company like Boise Cascade Company, headquartered in Boise, Idaho opens a limited liability company in Nevada and has a person physically located in Nevada. Are they considered a Nevada-based company? Can they get a 5 percent preference on their bid? They are not really a Nevada company, so is it a Nevada product? I like the idea of the products being made in Nevada, but national companies receive goods from all over. I think the preference should go to a Nevada-based business.

Assemblyman Frierson:

Mr. Haag and I have engaged in some extensive conversations on how these preferences translate into a Nevada-based business. The proposed amendment could potentially provide the Purchasing Division a much broader opportunity to assess these types of programs. Our surrounding states have policies of reciprocity. They can adjust their bid to compensate for ours, and we are back to where we started. We want to acknowledge, encourage, and support local businesses in an effective way. I think when you see the combination of Senator Cannizzaro's, Assemblywoman Tolles', and my bill—after we work with Mr. Haag—we will come up with a practical way to approach this. Also, we can assess as we go along.

Assemblyman Ellison:

I just received the amendment ([Exhibit H](#)). I understood the 10 percent preference would be changed to 5 percent. The amendment states 10 percent.

Assemblyman Frierson:

The ultimate product will reflect 5 percent.

Assemblywoman Neal:

That confused me. The 10 percent in the amendment will not be going forward.

Assemblyman Frierson:

The 10 percent will be struck out, and the 5 percent will remain.

Chairman Flores:

We will have support, opposition, and neutral positions come up to provide more time for the members to review the amendment.

Assemblyman Frierson:

Unfortunately, I have to leave, but I am more than happy to answer any follow up questions the Committee may have. I will provide an amendment with the modifications discussed here and circulate it. The stakeholders I have spoken with had a copy yesterday, and we clarified with them that the 10 percent would be back down to 5 percent. Additionally, the penalty language in section 8 will be struck out. Those changes will be reflected in the final amendment.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 280?

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:

I am also speaking on behalf of The Chamber, Reno-Sparks-Northern Nevada. The chambers are supportive of the intent of this bill, and we are comfortable with the amendment walked through by Assemblyman Frierson.

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

We are in support of this bill and look forward to working through the amendment. We think this is a good solution to help ensure Nevada jobs.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 280? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position to A.B. 280?

Brian Reeder, representing Nevada Contractors Association:

I represent 600 members throughout the southern Nevada construction industry. We signed in as opposition, but we are neutral based on the comments from Assemblyman Frierson and what he intends to do with the bill. Particularly, in the original bill section 11 and in the amendment section 10 that deal with penalties for contractors who violate these sections of law.

Chairman Flores:

Mr. Haag please come back up for closing remarks.

Assemblywoman Neal:

I am looking at section 6 of the amendment. In the amendment, it was mentioned that section 10 would be struck out and the language in section 6, subsection 1, paragraph (b), that states, "Shall not bid on a state purchasing contract or a contract awarded by any local government for 1 year after the date" Can you tell me what has been struck out and what remains?

Jeffrey Haag:

I think that question is better answered by Assemblyman Frierson. In the context of our conversation, that section of the bill was not discussed.

Assemblywoman Neal:

For the purposes of this hearing, can you explain how section 6 functions? It is confusing because the penalty language is being struck out, but this is still penalty language.

Jeffrey Haag:

That is a good question. My interpretation of section 6 provides the Purchasing Division three remedies to hold a vendor accountable if they have been found to misrepresent themselves as a Nevada-based business and had received preference. I agree this is a penalty, and I would like the opportunity to engage with Assemblyman Frierson to determine if he intends for this to be stricken or not.

Chairman Flores:

Was it your understanding that all the penalty language would be stricken?

Jeffrey Haag:

It was my recommendation to Assemblyman Frierson that all penalty language that relates to procurement contracts through the Purchasing Division be stricken.

Assemblywoman Neal:

Section 7 allows the Purchasing Division to adopt regulations to determine what is advisable. What do you envision occurring or being created through regulations that promote a preference given to Nevada-based businesses? What is your intent?

Jeffrey Haag:

My intent is to better define the law for state purchasing to cast a wider net as it pertains to Nevada-based businesses competing for state contracts. It is difficult because we contract for a variety of goods and services. A more defined definition of preference in regulation will allow us to capitalize on those businesses within Nevada who have decided to stand up here, invest here, and grow here, making these businesses the most eligible and the most competitive for the wide variety of procurement contracts we award. I will acknowledge it is a heavy lift. At least 25 other states have adopted similar laws and struggled with it. But I think we owe it to Nevadans and the businesses here to do the due diligence to ensure this preference has the intended impact that we all want it to have.

Assemblywoman Neal:

Is it your idea, intention, or thought to allow more businesses to compete on some of the sole sourcing contracts? Or limit the terms? Or diffuse some of those contracts, so more small businesses can get a piece of the pie?

Jeffrey Haag:

I would not draw that correlation to sole-source waivers. Although I am not a proponent of them, they do have a place. To your second point, absolutely. The intention is that if we get it right, small businesses and businesses within Nevada will have an advantage through this process. We want to create an environment that allows them to be more competitive on state contracts.

Chairman Flores:

Can you walk me through the preferences that the Purchasing Division is applying now? For example, if you have bids submitted, what is being done to help our Nevada businesses? Or is that not being taken into account? Is it a quality and price issue? Please help me understand what is occurring now.

Jeffrey Haag:

Currently, in the statute, there is a 5 percent preference for disabled veteran-owned businesses within the state [NRS 333.3366]. That legislation was passed in 2009 and has resulted in one contract award. Not the type of statistics I like to report. Today, preference is on a very case-by-case basis to the degree where we evaluate an organization's connection to their investment in Nevada.

For example, we recently supported the Public Employees' Benefits Program on a health maintenance organization solicitation for state employees. We heard overwhelmingly from the vendor community that they would like us to acknowledge the investments they have made in Nevada. I think that was a very valuable request, and I think it is something we should acknowledge. Their investment improves the health of our citizenry across the board.

We were able to develop specific criteria that allowed the vendors to identify investments they have made in Nevada. This type of solicitation is done on a case-by-case basis. We assessed a score based on that, and it was factored into the overall evaluation criteria for that solicitation. It is a very thoughtful approach. I agree with that approach because there is not always a Nevada-based business that is qualified, eligible, or interested in bidding for a state contract. Having the latitude to determine on a case-by-case basis the best way to structure the Nevada-based preference is the best way for us to take advantage of awarding Nevada-based businesses. I understand that is difficult to do, and it does not necessarily solidify something in law, which is important.

Assemblyman Daly:

For clarification, the NRS Chapter 338 sections that we are discussing relate to purchasing. Will most of those remain the same?

Jeffrey Haag:

The bill took existing preference language from the Public Works Division and applied it to the Purchasing Division. I am incredibly appreciative and thankful for the sponsor's willingness to engage with us. We shared how we felt the preference language does not equally apply to a state purchasing contract. I do not want to speak on behalf of Assemblyman Frierson's bill, but I think what you will see in the final product is the Public Works Division will be left as it is and the preference language applied to the Purchasing Division modified to the degree presented in the amendment.

Assemblyman Daly:

I understand you will try to do some preference by regulation rather than have too much in the statute. Section 3 of the amendment ([Exhibit H](#)) states, "... the majority of goods provided for the State Purchasing contract are produced in the State." I do not know if "produced" is the word to use. If we use paper as an example, there is not a company that produces paper in the state. "Produced" is going to be difficult for a company to meet. Does that mean you can only be a Nevada-based business if you are producing the product that you are selling in Nevada?

Jeffrey Haag:

I agree with your thought process, and in the analogy of paper, you may be correct. I would hope that we are producing other things in Nevada that we would certainly want to identify or reward businesses for producing. It is absolutely my intent that "produced" might be better defined within regulation. I will want to confer with Assemblyman Frierson, and I will include your concerns along with other input that was provided. Whether the bill will include manufacturing housed or distributed from within the state, I think those are areas to be considered.

Assemblyman Carrillo:

Does this include consulting businesses that may be generating reports on issues within the state? Is it all contracts?

Jeffrey Haag:

My understanding is it will encompass all contracts awarded through State Purchasing. There are certain exemptions around independent contractors for certain specialties that qualify in law for solicitation waivers on sole-source requests. We would have to understand how existing law would be impacted or not impacted by this legislation.

Chairman Flores:

We will take those questions and answers as closing remarks. I apologize for the confusion with the amendment. Members, after you have had the opportunity to review the amendment and have questions, please forward those questions to me or Assemblyman Frierson. I will get an idea of how close they are to having the final language. Should we move the bill to a work session, we will have an opportunity to vet that process and ask all the questions we need to. Then we can determine if it stays on work session or not. That will be the best way to do this in a fair manner and ensure we get everything on the record.

[([Exhibit I](#)), ([Exhibit J](#)), ([Exhibit K](#)), and ([Exhibit L](#)) were submitted but not discussed.]

The amendment ([Exhibit H](#)) is now available on NELIS. I will close the hearing on A.B. 280.

[Assemblywoman Neal assumed the Chair.]

Vice Chairwoman Neal:

Assemblyman Flores will be presenting Assembly Bill 437. Please proceed when you are ready.

Assembly Bill 437: Establishes a statewide information system for reporting nonemergency situations. (BDR 19-755)

Assemblyman Edgar Flores, Assembly District No. 28:

I am here today to present Assembly Bill 437. For my constituents, this is for you. I would like to request our committee assistant confirm that our three experts are on the phone. They will be helping me with my presentation. I will identify the issue, walk you through the bill, how I believe the issue is addressed, preemptively address concerns, move to our guests joining via teleconference, and finally take questions from the Committee.

Nonemergency issues are graffiti, potholes, excessive garbage, et cetera. These issues are typically identified by residents, but it is difficult for them to know to whom to report the issue. There are a myriad of state agencies, all with different phone numbers, and that is confusing. Oftentimes residents will not report the issue. The intent of this bill is to address that scenario through the creation of a statewide software application.

The statewide application, or app, will allow individuals to report a scenario instantaneously by taking a picture with their phone. The app sends it to a centralized database that works like a distribution center. The information arrives, and the app sends it to the appropriate state agency to address the issue. For example, someone takes a picture of a pothole, sends it to the app, and the app sends it over to the Department of Transportation (NDOT) who will forward it to the correct jurisdiction whether that is a city, a county, or whoever is responsible.

Nevada Revised Statutes (NRS) Chapter 242 is where we think the statewide app should reside. Specifically, NRS 242.080 and NRS 242.090 state that the Division of Enterprise Information Technology Services (EITS), Department of Administration is tasked with the obligation for creating databases, compiling information, and distributing it to the appropriate state agencies.

Section 1, subsection 1 of the bill states, "The Division shall establish and maintain a statewide nonemergency information system to provide information to and accept reports from the general public regarding nonemergency situations in the State." The Division will establish the phone app. The intent of the app is for an individual to take a picture of a situation or issue and have it distributed to the appropriate division, agency, or whoever is responsible.

The next part of section 1, subsection 1 states, "The Division may integrate into the statewide nonemergency information system any nonemergency information system established by a state or local governmental agency that participates in the statewide nonemergency information system." That is a long-winded way of saying if nonemergency information systems exist, they may interface the system with the app. Examples are the nonemergency phone numbers 211 and 311.

Section 1, subsection 2 states, "Each state agency shall participate in the statewide nonemergency information system established pursuant to subsection 1 unless the Administrator authorizes a state agency to withdraw from participation in the statewide nonemergency information system because the state agency does not accept reports from the general public regarding nonemergency situations or if, in the opinion of the Administrator, the reports accepted by the state agency are not suitable for inclusion in the statewide nonemergency information system." Under NRS Chapter 242, the Division already has the authority, but we do not require all state agencies to participate; only state agencies that accept complaints or information from the general public.

Section 1, subsection 3 states, "A local governmental agency may apply to the Administrator to participate in the statewide nonemergency information system established pursuant to subsection 1." Let me draw a distinction between subsection 2 and subsection 3. Section 1, subsection 2 relates to state agencies, and subsection 3 relates to municipalities, cities, or counties. All state agencies must participate, but not all cities or counties are required to participate. The reasoning is that state agencies are already under the purview of EITS. Some cities or counties may not have the resources or may not want to be involved. They have an option to opt-in.

As an example, the City of Las Vegas has decided to opt-in. I am in Las Vegas and see a pothole. I take a picture, and through the app, it is sent to NDOT. The Department of Transportation would refer back to the appropriate Las Vegas entity to address that concern. If Las Vegas had opted out, the information would not be sent by NDOT, and the individual may not receive feedback. The intent of this app is to provide immediate feedback and immediate satisfaction. I am walking. I see a pothole. I take a picture; it is sent to the right source. I receive a report back that the issue is being addressed next week, and they will send me a report then. That is why it is important municipalities opt-in. The experience will be instantaneous gratification for the individual because of the immediate feedback.

Section 1, subsection 4 defines a "nonemergency situation." It is when your life or property are not in peril, and there is no essential need to act immediately. Otherwise, the emergency telephone number 911 would be the appropriate course of action. Section 1, subsection 4, paragraph (b) defines "State agency," which would be included under NRS Chapter 242. It explains it is any ". . . agency, bureau, board, commission, department, division, officer, employee or agent or any other unit of the Executive Department."

I would like to address some concerns preemptively. This is not the money committee [Assembly Committee on Ways and Means], but I can tell you about similar programs in other states. The implementation and annual maintenance for this type of app is \$65,500. Where the money will come from will be vetted through a different committee. One important question is, what is the value? Most of us like to believe that our constituents love their state and assembly members. But I think most of us would agree they probably do not even know our names. People care about how quickly the government can respond to an issue, not who their elected officials are.

When constituents have a concern and it is addressed, immediately they know someone is listening. This is how people rate government. The truth is no one knows the issues in his or her neighborhood better than the people who live there. Our neighbors, kids, moms, and dads who live in those areas know the issues, and by allowing them to participate in the process, they will have a direct impact on their neighborhood. They will make sure the graffiti is cleaned up, the pothole is taken care of, or the stop sign that keeps getting stolen is replaced. They are involved in the entire process and receive instant feedback from the statewide app.

Other important questions are, how does the statewide app work? How will it be implemented? What are the functions of the statewide app? This is where our experts on the phone come in. They have created and maintained this type of app in other states. I have used the word state, but it is important to make clear that Nevada would be the first state to implement a statewide nonemergency information app. There are many cities throughout the country participating, but Nevada would be the first state.

Another concern the Committee might have is, what happens if a governmental agency does not want to participate? The agency will still receive the complaint because the information is still distributed to the appropriate entity, but the feedback would not occur. If they are not participating, there is no way to provide any information back. For example, if I identify a pothole in the City of Las Vegas, but they are not participating, they will not be able to send me an instantaneous message stating, "Thank you, Edgar, for bringing this to our attention. Here is what we are going to do." But the issue is still directed to the appropriate entity.

I would like to hand this off to the three individuals on the phone. They work for SeeClickFix and maintain a similar app to the one I have been discussing for other cities. They will get into the weeds of implementation, function, and maintenance of the app. Thank you to all three, for joining us.

Andrew Shetty, Pacific Region Solutions Manager, SeeClickFix:

I am joined by my peers Ben Berkowitz, our Co-Founder and Chief Executive Officer, and Mike Nargi, our Vice President of Solutions. We want to thank the Committee for allowing us to join the discussion on A.B. 437. As Assemblyman Flores stated, we are here to provide our expertise on citizen engagement and a citizen's ability to report quality of life issues.

For citizens, reporting a problem in their neighborhood can be a painful and confusing process. It is difficult to connect with the right agency or person and receiving a response can be even more difficult. Most of us will give up or may not even try. Governments collect data in an organized manner but routing that information to the right place can be difficult. Typically, this process involves a handful of departments, phone calls, sticky notes, and Excel spreadsheets. We have all experienced these types of scenarios, and inevitably, problems fall through the cracks. If problems get to the right place, it can be difficult to update the citizen on the progress of the service request.

Likewise, governments have a hard time communicating local issues to the right agency or person with the information needed to get the job done. More often than not, these issues get lost. They get ignored, and the citizens become even more frustrated. The problem we found on a larger scale was broken communication, which led to inefficient operations and very frustrated citizens.

Our solution to this problem was to create streamlined communication between the governmental entities. The result was a public transparent network complete with reporting, messaging, and task and resource management tools. This creates accountability, internal efficiency, and stronger communities. This is why Ben Berkowitz created SeeClickFix over ten years ago.

We offer smart workflow for creating and collecting citizen requests and managing and streamlining government communications. It is very simple. A citizen submits a request using the SeeClickFix mobile app or our online web tool. Each request is manually or automatically sent, based on type and location, to the right person with the right information. Next, staff is notified by SeeClickFix that work has been assigned. Once the work request has been updated or the problem fixed, the citizen receives an automatic notification.

In summary, SeeClickFix increases citizen participation and awareness with a streamlined communication system and improves the quality of service at a lower cost. To date, SeeClickFix has received over 3.3 million issues reported with over a 90 percent resolution rate. We have over 300 partners nationwide, which includes the Department of Transportation within the states of Vermont and Utah.

Assemblyman Ellison:

I agree with section 1, subsection 3 where it states "may." There are a lot of counties in this state that would not be able to implement a policy like this because of their size. Media such as pictures can be quite large and the data retention may be lengthy for SeeClickFix and the agency involved. What kind of database is used to hold this information? Who can address this issue?

Assemblyman Flores:

My original analogy of the app was a distribution center. It is not a warehouse. The purpose is not for the app to store the information and manage it. The idea is for the app to distribute the nonemergency issue brought up by the individual and route that to the appropriate division. That is something agencies currently do. For example, if the Department of Transportation receives a complaint, there is a mechanism in place to address it. The app is streamlining the process for the individual. It gets their complaint to the agency quickly.

Ben Berkowitz, Co-Founder and Chief Executive Officer, SeeClickFix:

I echo Assemblyman Ellison's sentiment. We do store the data. We are a cloud-hosted environment, and we have co-located hosting environments in two different locations across the country. We use Amazon Web Services, Inc. for hosting media and media images. We also recognize that this is public data. The data is available and easy to download for the government agencies to preserve a record off our servers. Our intent is to also keep that data in perpetuity.

Assemblyman Ellison:

I am not familiar with this system. Is there a data retention timeline?

Ben Berkowitz:

I can answer that question on a national level. You are right. Different states have different legal requirements to retain this type of data. I cannot speak to Nevada's data retention, but our company would certainly be in compliance because we are expecting to hold the data in perpetuity. If SeeClickFix were to cease doing business, the data would be turned over.

Assemblyman Flores:

I would like to state that A.B. 437 is not changing current state regulations concerning how long a complaint must be retained or the issues of confidentiality. This bill is creating a process for individuals to report their complaint to the appropriate entity as quickly as possible.

Assemblyman Ellison:

I was concerned because video requires a lot of data space. The individuals living near Coachella Valley, California, may be recording lots of video due to noise complaints when the music festival is happening. The videos are large, and they must be stored for a long time.

Assemblywoman Bilbray-Axelrod:

This brings forth the issue that we must be responsive to our constituents. I have a privacy concern with a private company controlling government information. I am foreseeing a nuisance violation at a party house with lots of pictures being taken. As we teach our children, if the pictures are in the cloud, they are in the cloud forever. I have looked at these apps in other cities, but they are city applications. SeeClickFix is a private company.

Assemblyman Flores:

There is nothing to stop people from taking videos now. Today, typically, if an issue arises, someone will use a phone and begin recording. I believe it is important for people to feel comfortable taking out their cameras. If there is a violation or privacy concern, we have laws for that. I would like to encourage people to take out their camera and participate in what is happening in their neighborhoods. It is important for neighbors to realize they have the power to patrol and take care of their own community.

Regarding the concern of a third party hosting the data, the state uses third parties for many different situations, and they contract private information. It is the only real way we can function as a state. If the state were tasked with creating an app, implementing it, and maintaining it, I think it would be a huge burden. We may not have the expertise at the governmental level to accomplish it. I think it is appropriate to bring in a third party with the proper vetting process. We would not just pick any company. The reason for working with SeeClickFix now is because they are already doing it and bring expertise to the table. But that does not mean the state is obligated to hire them.

We had a hearing before this Committee that promised an amazing database allowing the state to collect all this forgotten money. I mention that because I am very vigilant about the fact that we are not performing well. I have reached out to other states and received amazing feedback on SeeClickFix. They have a great track record, and their client cities are very content with them. That is why I am comfortable with having them speak today. The state has confidentiality in statute already, and that is not being altered.

Assemblyman Carrillo:

What happens when the issue is not remedied? Does the complainant have another option to check the status of the request?

Assemblyman Flores:

The remedy situation exists now. This statewide app will create a track record providing status on their concern. It will hold government accountable to do more. It will facilitate multiple issues brought up in the same neighborhood, block, or corner. It is not a fix or guarantee of a solution, but at a minimum, the app will route the concern to the appropriate entity to take action. The track record is something we do not have now.

Ben Berkowitz:

From a technical perspective, enabling one-to-many communication allows for expectations to be set, even those that cannot be resolved immediately. For example, ten people have voiced concern about a stretch of the state road that has fallen into disrepair. SeeClickFix provides an opportunity for an agency to respond to the road complaint that it will not be fixed by next week, but it is on the paving schedule for August. That is how city and states are using the platform. At the end of the day, it is not about showing off how fast the city or state can respond, but it is about building empathy with the citizenry. The state is tasked with responsibilities, and this is able to show how those resources are being applied.

In our particular platform, we enable service level agreements (SLAs) that can be set by request type. If you believe a pothole issue should be responded to within 24 hours, the SLA is set to 24 hours or whatever is required. If the SLA is broken, it triggers an escalation email that is sent to a supervisor or higher up. That provides an added level of internal accountability. Currently, that works quite well.

Very few cities have built service request mobile applications. We white label about 200-plus applications for cities and state agencies. As an example, if you were to look at the Utah Department of Transportation's road application, it will appear that it is a government-created application; however, it is published by SeeClickFix. I am just one data point, but my experience is that hundreds of service request applications for localities are actually built by private enterprise.

Assemblyman Marchant:

I like this concept. In my business, I created apps to fix problems similar to this. I think it would be advantageous for all agencies to get on board and a very valuable tool for all of our citizens. When someone reports an issue, do they have to go back to the app to see the status or is it pushed out to them when something occurs?

Ben Berkowitz:

The status is pushed out to them. We found that push notifications did not have as high of an engagement, but email, as old-fashioned as it is, seems to be the most effective in terms of engaging the resident. It is also the most universally accepted.

Assemblyman McCurdy:

I would like to say I love this concept, and I believe many of our constituents would utilize it.

Vice Chairwoman Neal:

When Assemblyman Ellison was talking about uploads of images and photos, I want to know how that works. For example, I received a call from an individual in my district. They were upset and could not sleep because their neighbor had, according to him, a jillion dogs barking through the night. He called the city and the county, but no one responded. This is a real issue for me because I believe they are violating a city ordinance. In that situation, what would he do? Would he video the dogs barking at 2 a.m.?

Ben Berkowitz:

I have actually recorded audio and video of very high decibel motorcycles in my neighborhood and reported it on SeeClickFix. I received a response from the police. A noise complaint is a very valid use of this technology because until you have a recording, it really just sounds like a qualitative assessment versus a quantifiable one. We have seen users record via decibel meters on their smartphones, then take a screen shot of the decibels exceeding the city ordinance.

People get pretty creative when it comes to recording noise complaints. Noise complaints are traditionally one of the highest complaints that clog up 311 phone lines around the country—definitely in New York City and other large cities. This is a way to mitigate those concerns and to document them in a constructive way. Enforcement can be deliberate about targeting specific times of the evening when these behaviors are happening. A police vehicle can patrol at a specific time, validate, and officially capture the concern. Noise complaints are a good place for aggregating many-to-one requests because neighbors validate each other's concerns on a platform like this. The shorter answer could have been that video technology can also record sound and pass it to the servers.

Vice Chairwoman Neal:

I live in a neighborhood with a homeowners association. If there was a party and they had a mariachi band, and I grab the trumpet, would I be uploaded? I thought that was very interesting.

Is there anyone wishing to testify in support of A.B. 437? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in the neutral position?

Shanna Rahming, Chief Information Officer, Division of Enterprise Information Technology Services, Department of Administration:

Section 1, subsection 1 of the bill requires the Division of Enterprise Information Technology Services to "... establish and maintain a statewide nonemergency information system to provide information to and accept reports from the general public regarding nonemergency situations in the State."

Enterprise Information Technology Services anticipates this bill will result in a fiscal impact to the division and possibly to other reporting agencies. However, we need to obtain a better understanding regarding the expectation of this legislation to evaluate what additional resources will be required to implement this new program. The Director of the Department of Administration and I are scheduled to meet with Assemblyman Flores this week to discuss this legislation in depth; thereafter, we will revise our fiscal note to capture anticipated costs. At this time, the agency is not taking a position on the bill but seeks to understand what is expected to be implemented, so the fiscal impact can be better evaluated. Thank you for the opportunity to provide input on this bill. We welcome the opportunity for continued conversations.

Vice Chairwoman Neal:

I am curious, how much was your fiscal note?

Shannon Rahming:

Our fiscal note is undetermined until we get more information.

Vice Chairwoman Neal:

Assemblyman Flores, please come back to the table for closing remarks.

Assemblyman Flores:

Members, thank you for your time and your thoughtful questions. I think it is time for our government to come to terms with technology. Utilizing technology to the best of our abilities will help our constituents, and that is the intent of this bill. Thank you to our experts on the phone for your participation.

Vice Chairwoman Neal:

I will close the hearing on A.B. 437. Is there anyone here for public comment? [There was no one.] This meeting is adjourned [at 11:16 a.m.].

RESPECTFULLY SUBMITTED:

Carol Myers
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled "AB 404: State of Nevada Office of the Inspector General," presented by Assemblywoman Brittney Miller, Assembly District No. 5.

[Exhibit D](#) is written testimony presented by Alexander Assefa, Chairman, Transportation and Tourism Workers Caucus, Clark County Democratic Party, in support of Assembly Bill 404.

[Exhibit E](#) is written testimony submitted by Francis Peterson, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 404.

[Exhibit F](#) is a packet of newspaper articles, submitted by Francis Peterson, Private Citizen, Las Vegas, Nevada, regarding the death of Angela Nichole Peterson, in support of Assembly Bill 404.

[Exhibit G](#) is a publication submitted by Assemblywoman Brittney Miller, Assembly District No. 5, titled "*Quarterly Report to the United States Congress*," published by the Special Inspector General for Afghanistan Reconstruction on January 30, 2017.

[Exhibit H](#) is a proposed amendment to Assembly Bill 280, submitted and presented by Assemblyman Jason Frierson, Assembly District No. 8.

[Exhibit I](#) is a letter dated April 4, 2017, in support of Assembly Bill 280 to the Assembly Committee on Government Affairs, submitted by Jeffrey Haag, Administrator, Purchasing Division, Department of Administration.

[Exhibit J](#) is a publication submitted by Jeffrey Haag, Administrator, Purchasing Division, Department of Administration, titled "*Local Preference in Public Procurement: The Importance of Best Value Analysis When Government has Adopted Local Procurement Preferences*," published by NIGP: The Institute for Public Procurement, in 2015.

[Exhibit K](#) is a publication submitted by Jeffrey Haag, Administrator, Purchasing Division, Department of Administration, titled "*In-state Preferences*" published by the National Association of State Procurement Officials in August 2012.

[Exhibit L](#) is a letter dated March 31, 2017, in support of Assembly Bill 280 to the Assembly Committee on Government Affairs, submitted by Aviva Gordon, Legislative Committee Chairwoman, Henderson Chamber of Commerce, and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce.