

Assembly Bill No. 549—Committee
on Government Affairs

CHAPTER.....

AN ACT relating to homeland security; increasing the number of members on the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State; clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit; making various changes concerning grants and other funding for homeland security; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada Commission on Homeland Security, for which the Governor appoints the voting members and certain nonvoting members. The Commission has certain duties relating to the protection of residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.120, 239C.160) **Section 22** of this bill increases the number of voting members that the Governor must appoint to the Commission from 14 members to 16 members, to include a representative of the broadcaster community and a representative recommended by the Inter-Tribal Council of Nevada, Inc. **Section 22** also requires the appointment of the Chief of the Division of Emergency Management of the Department of Public Safety as a nonvoting member of the Commission.

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 26** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. **Section 26** also clarifies that the documents, records and other items of information subject to an executive order of confidentiality for security purposes, except vulnerability assessments, may be inspected by and released to the Legislative Auditor when conducting a postaudit, subject to certain requirements.

Section 24.5 of this bill specifies the duties of the Commission with respect to grants and related funding and requires the Commission to submit annual briefings to the Governor assessing preparedness. **Sections 30.5 and 31.5** of this bill extend to tribal governments the applicability of provisions concerning grants of money to the State or a political subdivision for prevention of or response to terrorism or other similar incidents.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. Chapter 239C of NRS is hereby amended by adding thereto a new section to read as follows:

“Tribal government” means a federally recognized American Indian tribe pursuant to 25 C.F.R. §§ 83.1 to 83.13, inclusive.

Secs. 2-16. (Deleted by amendment.)

Sec. 16.5. NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, ***and section 1.5 of this act*** have the meanings ascribed to them in those sections.

Secs. 17-21. (Deleted by amendment.)

Sec. 22. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~14~~ **16** voting members that the Governor determines to be appropriate and who serve at the Governor’s pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more. ~~1~~

(b) The chief of the county fire department in each county whose population is 100,000 or more. ~~1~~

(c) A member of the medical community in a county whose population is 400,000 or more. ~~1 and~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more.

(e) A representative of the broadcaster community. As used in this paragraph, “broadcaster” has the meaning ascribed to it in NRS 432.310.

(f) A representative recommended by the Inter-Tribal Council of Nevada, Inc., or its successor organization, to represent tribal governments in Nevada.

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; ~~and~~



(b) The agent in charge of the office of the Federal Bureau of Investigation in this State ~~H~~; and

(c) The Chief of the Division,

→ as nonvoting members of the Commission.

4. The Senate Majority Leader shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. ~~{Except for the initial members, the}~~ *The* term of office of each member of the Commission who is a Legislator is 2 years . ~~{and commences on July 1 of the year of appointment.}~~

7. The Governor or his or her designee shall:

(a) Serve as Chair of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chair of the Commission.

Secs. 23 and 24. (Deleted by amendment.)

Sec. 24.5. NRS 239C.160 is hereby amended to read as follows:

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, *tribal governments*, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. *Make recommendations to the Governor, through the Division, on the use of money received by the State from any homeland security grant or related program, including, without limitation, the State Homeland Security Grant Program and Urban Area Security Initiative, in accordance with the following:*

(a) The Division shall provide the Commission with program guidance and briefings;

(b) The Commission must be provided briefings on existing and proposed projects, and shall consider statewide readiness capabilities and priorities for the use of money, administered by the Division, from any homeland security grant or related program;

(c) The Commission shall serve as the public body which reviews and makes recommendations for the State's applications to the Federal Government for homeland security grants or related programs, as administered by the Division; and



(d) The Commission shall serve as the public body which recommends, subject to approval by the Governor, the distribution of money from any homeland security grant or related program for use by state, local and tribal government agencies and private sector organizations.

3. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

~~[3-]~~ 4. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports other than international airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.

~~[4-]~~ 5. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

~~[5-]~~ 6. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall:

(a) Establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State; and

(b) Advise and make recommendations to the Governor relative to the compatibility and interoperability of those systems when used by response agencies within this State, with particular emphasis upon the compatibility and interoperability of public safety radio systems.



~~[6-]~~ 7. Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

~~[7-]~~ 8. To the extent practicable, cooperate and coordinate with the Division to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

~~[8-]~~ 9. *Submit an annual briefing to the Governor assessing the preparedness of the State to counteract, prevent and respond to potential acts of terrorism and related emergencies, including, but not limited to, an assessment of response plans and vulnerability assessments of utilities, public entities and private business in this State. The briefing must be based on information and documents reasonably available to the Commission and must be compiled with the advice of the Division after all utilities, public entities and private businesses assessed have a reasonable opportunity to review and comment on the Commission's findings.*

10. Perform any other acts related to their duties set forth in subsections 1 to ~~[7-]~~ 9, inclusive, that the Commission determines are necessary to protect or enhance:

- (a) The safety and security of the State of Nevada;
- (b) The safety of residents of the State of Nevada; and
- (c) The safety of visitors to the State of Nevada.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~[public]~~ :

(a) *Public* safety and public health personnel ; and

(b) *Except as otherwise provided in this subsection, the Legislative Auditor conducting a postaudit pursuant to NRS 218G.010 to 218G.555, inclusive,*

↪ if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare. *Any information that is inspected by or released to the Legislative Auditor pursuant to this subsection is not subject to the exception from confidentiality set forth in NRS 218G.130. The Legislative Auditor may confirm that*



vulnerability assessments have been submitted to or are in the possession of a state agency that is the subject of a postaudit, but the assessments must not be inspected by or released to the Legislative Auditor. An employee of the Audit Division of the Legislative Counsel Bureau who is conducting a postaudit that includes access to documents or information subject to the provisions of this section must be properly cleared through federal criteria or state or local background investigation and instructed, trained or certified, as applicable, regarding the security sensitivity of the documents or information.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.



(g) Vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. As used in this paragraph, “public entities” means departments, agencies or instrumentalities of the State, any of its political subdivisions or tribal governments. The term includes general improvement districts.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. *The Governor shall review the documents, records and other items of information determined by executive order pursuant to subsection 1 to be confidential every 10 years to assess the continued need for the documents, records and other items of information to remain confidential.*

5. As used in this section, “public safety and public health personnel” includes:

(a) State, county, ~~land~~ city *and tribal* emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, “disaster” has the meaning ascribed to it in NRS 414.0335.

Secs. 27 and 28. (Deleted by amendment.)



Sec. 29. NRS 239C.270 is hereby amended to read as follows:
239C.270 1. Each utility shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~[A]~~ *Except as otherwise provided in NRS 239C.210, a* person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or



(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 30. (Deleted by amendment.)

Sec. 30.5. NRS 239C.300 is hereby amended to read as follows:

239C.300 1. If the State , ~~for~~ a political subdivision *or a tribal government* submits an application to and is approved to receive money from the Federal Government, this State, any other state, a local government, any agency or instrumentality of those governmental entities, or any private entity, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to and recovery from acts of terrorism, the State , ~~for~~ political subdivision *or tribal government* shall, not later than 60 days after receiving such approval, submit to the Commission a written report that includes, without limitation:

(a) The total amount of money that the State , ~~for~~ political subdivision *or tribal government* has been approved to receive for the project or program;

(b) A description of the project or program, unless the State , ~~for~~ political subdivision *or tribal government* previously submitted a written report pursuant to this section relating to the same project or program; and

(c) The items to be paid for with the money that the State , ~~for~~ political subdivision *or tribal government* has been approved to receive for the project or program.

2. A project or program for which the State , ~~for~~ a political subdivision *or a tribal government* is required to report the receipt of money pursuant to subsection 1 includes, without limitation, a project or program related to:

(a) Homeland security;

(b) Emergency management;

(c) Health or hospitals;

(d) Emergency medical services; and

(e) Chemical, biological, radiological, nuclear, explosive, agricultural or environmental acts of terrorism.

~~[3.—Any grant related to terrorism that is administered by the Division and is provided to a political subdivision must be approved by the local emergency planning committee.]~~

Sec. 31. (Deleted by amendment.)



Sec. 31.5. NRS 239C.310 is hereby amended to read as follows:

239C.310 1. The State and each political subdivision *and tribal government* shall:

(a) Adopt any national system that is required as a condition to the receipt of money from the Federal Government by the United States Department of Homeland Security pursuant to federal law in preparation for, prevention of, detection of, mitigation of, response to and recovery from a domestic incident, including, without limitation, an act of terrorism.

(b) Submit to the Division documentation evidencing that the State, ~~for~~ political subdivision *or tribal government* has adopted the national system.

2. The Division shall submit on a quarterly basis documentation to the Commission evidencing the compliance of this State and each political subdivision *and tribal government* with the provisions of paragraph (a) of subsection 1.

Sec. 32. (Deleted by amendment.)

Sec. 32.5. NRS 332.830 is hereby amended to read as follows:

332.830 1. On and after October 1, 2005, a governing body or its authorized representative shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by a local government from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in NRS 239C.060.

(b) "Response agency" has the meaning ascribed to it in NRS 239C.080.

(c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

Sec. 33. (Deleted by amendment.)

Sec. 33.5. NRS 333.820 is hereby amended to read as follows:

333.820 1. On and after October 1, 2005, the Chief, the Purchasing Division or a using agency shall not purchase an information system or system of communication for use by a



response agency unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by the Chief, the Purchasing Division or a using agency from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in NRS 239C.060.

(b) "Response agency" has the meaning ascribed to it in NRS 239C.080.

(c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

Secs. 34-39. (Deleted by amendment.)

