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SENATE BILL NO. 82—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2010

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Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to governmental information systems. (BDR 19-267)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to governmental administration; requiring the Chief of the Office of Information Security of the Department of Information Technology to investigate and resolve certain matters relating to security breaches of information systems of certain state agencies and elected officers; authorizing the Director of the Department or the Chief of the Office of Information Security to inform members of certain governmental entities of such security breaches; increasing the membership and certain terms of office of the Information Technology Advisory Board; revising the authority of the Department to provide services and equipment to local governmental agencies; requiring certain agencies and officers that use the equipment and information services of the Department to report certain incidents to the Chief of the Office of Information Security; making various other changes relating to governmental information systems; authorizing the Chief of the Purchasing Division of the Department of Administration to publish certain advertisements for bids or proposals on the Internet website of the Purchasing Division; authorizing the Chief to purchase and acquire services from a vendor who has entered into an agreement with the General Services Administration; and providing other matters properly relating thereto.



\* S B 8 2 \*

**Legislative Counsel's Digest:**

**Section 4** of this bill requires the Chief of the Office of Information Security of the Department of Information Technology to investigate and resolve any security breach or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of an information system of a state agency or elected officer that uses the equipment or services of the Department. **Section 4** also authorizes the Director to inform the members of certain boards and commissions of such security breaches and unauthorized acquisitions.

**Section 12** of this bill adds the Attorney General or his or her designee and the State Library and Archives Administrator or his or her designee to the membership of the Information Technology Advisory Board. **Section 12** also increases from one person to three persons the number of members who are appointed to the Board by the Governor as representatives of a city or county in this State and increases from 2 to 4 years the term of the members of the Board who are appointed by the Governor.

Under existing law, the Department is authorized to provide services to counties, cities and towns, and their agencies, if there are sufficient resources available. (NRS 242.141) **Section 13** of this bill authorizes the Department to provide services to those local governmental agencies if the provision of services would result in reduced costs to the State for equipment and services.

Under existing law, the Department is responsible for the information systems of state agencies and elected state officers that are required to use its services and equipment. (NRS 242.171) **Section 14** of this bill adds certain testing and monitoring of information systems to the duties of the Department.

Under existing law, all users of equipment or services of the Department are required to comply with certain regulations. (NRS 242.181) **Section 15** of this bill requires such users to report noncompliance and unauthorized access to their information systems or applications of their information systems to the Chief of the Office of Information Security of the Department within 12 hours after discovery.

Existing law requires the Chief of the Purchasing Division of the Department of Administration to publish advertisements for bids or proposals for commodities or services in at least one newspaper of general circulation in the State. (NRS 333.310) **Section 19** of this bill authorizes the Chief to publish the advertisement on the Internet website of the Purchasing Division, rather than in the newspaper.

**Section 20** of this bill authorizes the Chief of the Purchasing Division to purchase and acquire services from a vendor who has entered into an agreement with the General Services Administration.

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

**Section 1.** Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4, of this act.

**Sec. 2.** *“Local governmental agency” means any branch, agency, bureau, board, commission, department or division of a county, incorporated city or town in this State.*

**Sec. 3.** *“Security validation” means a process or processes used to ensure that an information system or a network associated with an information system is resistant to any known threat.*



1     **Sec. 4. 1. The Chief of the Office of Information Security**  
2 *shall investigate and resolve any breach of an information system*  
3 *of a state agency or elected officer that uses the equipment or*  
4 *services of the Department or an application of such an*  
5 *information system or unauthorized acquisition of computerized*  
6 *data that materially compromises the security, confidentiality or*  
7 *integrity of such an information system.*

8     **2. The Director or Chief of the Office of Information**  
9 *Security, at his or her discretion, may inform members of the*  
10 *Technological Crime Advisory Board created by NRS 205A.040,*  
11 *the Nevada Commission on Homeland Security created by NRS*  
12 *239C.120 and the Information Technology Advisory Board*  
13 *created by NRS 242.122 of any breach of an information system of*  
14 *a state agency or elected officer or application of such an*  
15 *information system or unauthorized acquisition of computerized*  
16 *data that materially compromises the security, confidentiality or*  
17 *integrity of such an information system.*

18     **Sec. 5.** NRS 242.011 is hereby amended to read as follows:

19     242.011 As used in this chapter, unless the context otherwise  
20 requires, the words and terms defined in NRS 242.015 to 242.068,  
21 inclusive, *and sections 2 and 3 of this act* have the meanings  
22 ascribed to them in those sections.

23     **Sec. 6.** NRS 242.055 is hereby amended to read as follows:

24     242.055 “Information service” means any service relating to  
25 the creation, maintenance, operation , *security validation, testing,*  
26 *continuous monitoring* or use of an information system.

27     **Sec. 7.** NRS 242.057 is hereby amended to read as follows:

28     242.057 “Information system” means any communications or  
29 computer equipment, computer software, procedures, personnel or  
30 technology used to collect, process, distribute or store information .  
31 ~~{within the Executive Branch of State Government.}~~

32     **Sec. 8.** NRS 242.059 is hereby amended to read as follows:

33     242.059 “Information technology” means any information,  
34 information system or information service acquired, developed,  
35 operated, maintained or otherwise used . ~~{within the Executive~~  
36 ~~Branch of State Government.}~~

37     **Sec. 9.** NRS 242.071 is hereby amended to read as follows:

38     242.071 1. The Legislature hereby determines and declares  
39 that the creation of the Department of Information Technology is  
40 necessary for the coordinated, orderly and economical processing of  
41 information in State Government, to ensure economical use  
42 of information systems and to prevent the unnecessary proliferation  
43 of equipment and personnel among the various state agencies.

44     2. The purposes of the Department are:

45     (a) To perform information services for state agencies.



(b) To provide technical advice but not administrative control of the information systems within the state agencies ~~[, county agencies and governing bodies and agencies of incorporated cities and towns.]~~ *and, as authorized, of local governmental agencies.*

**Sec. 10.** NRS 242.101 is hereby amended to read as follows:

242.101 1. The Director shall:

(a) Appoint the chiefs of the ~~[divisions]~~ *Programming Division and the Communication and Computing Division of the Department who are* in the unclassified service of the State;

(b) *Appoint the Chief of the Office of Information Security who is in the classified service of the State;*

(c) Administer the provisions of this chapter and other provisions of law relating to the duties of the Department; and

~~[(e)]~~ (d) Carry out other duties and exercise other powers specified by law.

2. The Director may form committees to establish standards and determine criteria for evaluation of policies relating to informational services.

**Sec. 11.** NRS 242.105 is hereby amended to read as follows:

242.105 1. Except as otherwise provided in subsection 3, records and portions of records that are assembled, maintained, overseen or prepared by the Department *or a local governmental agency* to mitigate, prevent or respond to acts of terrorism, *or to maintain the continuity of government and governmental services in the case of an act of terrorism*, the public disclosure of which would, in the determination of the Director, create a substantial likelihood of threatening the safety of the general public are confidential and not subject to inspection by the general public to the extent that such records and portions of records consist of or include:

(a) Information regarding the infrastructure and security of information systems, including, without limitation:

(1) Access codes, passwords and programs used to ensure the security of an information system;

(2) Access codes used to ensure the security of software applications;

(3) Procedures and processes used to ensure the security of an information system; and

(4) Plans used to reestablish security and service with respect to an information system after security has been breached or service has been interrupted.

(b) Assessments and plans that relate specifically and uniquely to the vulnerability of *such* an information system or to the measures which will be taken to respond to such vulnerability,



1 including, without limitation, any compiled underlying data  
2 necessary to prepare such assessments and plans.

3 (c) The results of tests of the security of *such* an information  
4 system, insofar as those results reveal specific vulnerabilities  
5 relative to the information system.

6 2. The Director shall maintain or cause to be maintained a list  
7 of each record or portion of a record that the Director has  
8 determined to be confidential pursuant to subsection 1. The list  
9 described in this subsection must be prepared and maintained so as  
10 to recognize the existence of each such record or portion of a record  
11 without revealing the contents thereof.

12 3. At least once each biennium, the Director shall review the  
13 list described in subsection 2 and shall, with respect to each record  
14 or portion of a record that the Director has determined to be  
15 confidential pursuant to subsection 1:

16 (a) Determine that the record or portion of a record remains  
17 confidential in accordance with the criteria set forth in subsection 1;

18 (b) Determine that the record or portion of a record is no longer  
19 confidential in accordance with the criteria set forth in subsection 1;  
20 or

21 (c) If the Director determines that the record or portion of a  
22 record is obsolete, cause the record or portion of a record to be  
23 disposed of in the manner described in NRS 239.073 to 239.125,  
24 inclusive.

25 4. On or before February 15 of each year, the Director shall:

26 (a) Prepare a report setting forth a detailed description of each  
27 record or portion of a record determined to be confidential pursuant  
28 to this section, if any, accompanied by an explanation of why each  
29 such record or portion of a record was determined to be confidential;  
30 and

31 (b) Submit a copy of the report to the Director of the Legislative  
32 Counsel Bureau for transmittal to:

33 (1) If the Legislature is in session, the standing committees  
34 of the Legislature which have jurisdiction of the subject matter; or

35 (2) If the Legislature is not in session, the Legislative  
36 Commission.

37 5. As used in this section, "act of terrorism" has the meaning  
38 ascribed to it in NRS 239C.030.

39 **Sec. 12.** NRS 242.122 is hereby amended to read as follows:

40 242.122 1. There is hereby created an Information  
41 Technology Advisory Board. The Board consists of:

42 (a) One member appointed by the Majority Floor Leader of the  
43 Senate from the membership of the Senate Standing Committee on  
44 Finance . ~~[during the immediately preceding session of the~~  
45 ~~Legislature.]~~



(b) One member appointed by the Speaker of the Assembly from the membership of the Assembly Standing Committee on Ways and Means . ~~[during the immediately preceding session of the Legislature.]~~

(c) Two representatives of using agencies which are major users of the services of the Department. The Governor shall appoint the two representatives. Each such representative serves for a term of ~~[2]~~ 4 years. For the purposes of this paragraph, an agency is a "major user" if it is among the top five users of the services of the Department, based on the amount of money paid by each agency for the services of the Department during the immediately preceding biennium.

(d) The Director of the Department of Administration or his or her designee.

(e) The Superintendent of Public Instruction of the Department of Education or his or her designee.

(f) ~~[Three]~~ *The Attorney General or his or her designee.*

(g) *The State Library and Archives Administrator or his or her designee.*

(h) Five persons appointed by the Governor ~~[in July of each odd numbered year]~~ as follows:

(1) ~~[One person]~~ *Three persons* who ~~[represents]~~ *represent* a city or county in this State ~~[:]~~ , *at least one of whom is engaged in the information technology or information security;* and

(2) Two persons who represent the information technology industry but who:

(I) Are not employed by this State;

(II) Do not hold any elected or appointed office in State Government;

(III) Do not have an existing contract or other agreement to provide information services, systems or technology to an agency of this State; and

(IV) Are independent of and have no direct or indirect pecuniary interest in a corporation, association, partnership or other business organization which provides information services, systems or technology to an agency of this State.

2. Each person appointed pursuant to paragraph ~~[(f)]~~ (h) of subsection 1 serves for a term of ~~[2]~~ 4 years. No person so appointed may serve more than 2 consecutive terms.

3. At the first regular meeting of each calendar year, the members of the Board shall elect a Chair by majority vote.

**Sec. 13.** NRS 242.141 is hereby amended to read as follows:

242.141 To facilitate the economical processing of data throughout the State Government, the Department may provide service for agencies not under the control of the Governor, upon the



request of any such agency. ~~If there are sufficient resources available to the Department, it~~ *The Department* may provide services , *including, without limitation, purchasing services, to* ~~counties, cities and towns and to their agencies.~~ *a local governmental agency upon request, if provision of such services will result in reduced costs to the State for equipment and services.*

**Sec. 14.** NRS 242.171 is hereby amended to read as follows:

242.171 1. The Department is responsible for:

(a) The applications of information systems;

(b) Designing and placing those *information* systems in operation;

(c) Any application of an information system which it furnishes to state agencies and officers after negotiation; and

(d) The ~~writing,~~ *security validation, testing , including, without limitation, penetration testing, and* ~~performance of programs,~~ *continuous monitoring of information systems,*

↳ for ~~the state~~ *using* agencies and ~~elected state officers which are required to use its services.~~ *for state agencies and officers which use the equipment or services of the Department pursuant to subsection 2 of NRS 242.131.*

2. The Director shall review and approve or disapprove, pursuant to standards for justifying cost, any application of an information system having an estimated developmental cost of \$50,000 or more. No using agency may commence development work on any such applications until approval and authorization have been obtained from the Director.

3. *As used in this section, "penetration testing" means a method of evaluating the security of an information system or application of an information system by simulating unauthorized access to the information system or application.*

**Sec. 15.** NRS 242.181 is hereby amended to read as follows:

242.181 1. Any state agency or elected state officer which uses the equipment or services of the Department shall adhere to the regulations, standards, practices, policies and conventions of the Department.

2. *Each state agency or elected state officer described in subsection 1 shall report any suspected incident of:*

(a) *Unauthorized access to an information system or application of an information system of the Department used by the state agency or elected state officer; and*

(b) *Noncompliance with the regulations, standards, practices, policies and conventions of the Department,*

↳ *to the Chief of the Office of Information Security of the Department within 12 hours after discovery of the suspected incident. If the Chief determines that an incident of unauthorized*





1 *access or noncompliance occurred, the Chief shall immediately*  
2 *report the incident to the Director. The Director shall assist the*  
3 *Chief in investigating and resolving any such incident.*

4 3. The Department shall provide services to each *state* agency  
5 *and elected state officer described in subsection 1* uniformly with  
6 respect to degree of service, priority of service, availability of  
7 service and cost of service.

8 **Sec. 16.** NRS 242.191 is hereby amended to read as follows:

9 242.191 1. Except as otherwise provided in subsection 3, the  
10 amount receivable from ~~[an]~~ *a state agency or officer or local*  
11 *governmental* agency ~~[availing itself of]~~ *which uses* the services of  
12 the Department must be determined by the Director in each case and  
13 include:

14 (a) The annual expense, including depreciation, of operating and  
15 maintaining the Communication and Computing Division,  
16 distributed among the agencies in proportion to the services  
17 performed for each agency.

18 (b) A service charge in an amount determined by distributing the  
19 monthly installment for the construction costs of the computer  
20 facility among the agencies in proportion to the services performed  
21 for each agency.

22 2. The Director shall prepare and submit monthly to the *state*  
23 *agencies and officers and local governmental* agencies for which  
24 services of the Department have been performed an itemized  
25 statement of the amount receivable from each *state agency or*  
26 *officer or local governmental* agency.

27 3. The Director may authorize, if in his or her judgment the  
28 circumstances warrant, a fixed cost billing, including a factor for  
29 depreciation, for services rendered to ~~[an]~~ *a state agency or officer*  
30 *or local governmental* agency.

31 **Sec. 17.** NRS 242.231 is hereby amended to read as follows:

32 242.231 Upon the receipt of a statement submitted pursuant to  
33 subsection 2 of NRS 242.191, each *state* agency *or officer* shall  
34 authorize the State Controller by transfer or warrant to draw money  
35 from the agency's account in the amount of the statement for  
36 transfer to or placement in the Fund for Information Services.

37 **Sec. 18.** NRS 205.4765 is hereby amended to read as follows:

38 205.4765 1. Except as otherwise provided in subsection 6, a  
39 person who knowingly, willfully and without authorization:

- 40 (a) Modifies;  
41 (b) Damages;  
42 (c) Destroys;  
43 (d) Discloses;  
44 (e) Uses;  
45 (f) Transfers;





- 1 (g) Conceals;
- 2 (h) Takes;
- 3 (i) Retains possession of;
- 4 (j) Copies;
- 5 (k) Obtains or attempts to obtain access to, permits access to or
- 6 causes to be accessed; or
- 7 (l) Enters,
- 8 ➤ data, a program or any supporting documents which exist inside
- 9 or outside a computer, system or network is guilty of a
- 10 misdemeanor.
- 11 2. Except as otherwise provided in subsection 6, a person who
- 12 knowingly, willfully and without authorization:
- 13 (a) Modifies;
- 14 (b) Destroys;
- 15 (c) Uses;
- 16 (d) Takes;
- 17 (e) Damages;
- 18 (f) Transfers;
- 19 (g) Conceals;
- 20 (h) Copies;
- 21 (i) Retains possession of; or
- 22 (j) Obtains or attempts to obtain access to, permits access to or
- 23 causes to be accessed,
- 24 ➤ equipment or supplies that are used or intended to be used in a
- 25 computer, system or network is guilty of a misdemeanor.
- 26 3. Except as otherwise provided in subsection 6, a person who
- 27 knowingly, willfully and without authorization:
- 28 (a) Destroys;
- 29 (b) Damages;
- 30 (c) Takes;
- 31 (d) Alters;
- 32 (e) Transfers;
- 33 (f) Discloses;
- 34 (g) Conceals;
- 35 (h) Copies;
- 36 (i) Uses;
- 37 (j) Retains possession of; or
- 38 (k) Obtains or attempts to obtain access to, permits access to or
- 39 causes to be accessed,
- 40 ➤ a computer, system or network is guilty of a misdemeanor.
- 41 4. Except as otherwise provided in subsection 6, a person who
- 42 knowingly, willfully and without authorization:
- 43 (a) Obtains and discloses;
- 44 (b) Publishes;
- 45 (c) Transfers; or



1 (d) Uses,  
2 ➔ a device used to access a computer, network or data is guilty of a  
3 misdemeanor.

4 5. Except as otherwise provided in subsection 6, a person who  
5 knowingly, willfully and without authorization introduces, causes to  
6 be introduced or attempts to introduce a computer contaminant into  
7 a computer, system or network is guilty of a misdemeanor.

8 6. If the violation of any provision of this section:

9 (a) Was committed to devise or execute a scheme to defraud or  
10 illegally obtain property;

11 (b) Caused response costs, loss, injury or other damage in excess  
12 of \$500; or

13 (c) Caused an interruption or impairment of a public service,  
14 including, without limitation, a governmental operation, a system of  
15 public communication or transportation or a supply of water, gas or  
16 electricity,

17 ➔ the person is guilty of a category C felony and shall be punished  
18 as provided in NRS 193.130, and may be further punished by a fine  
19 of not more than \$100,000. In addition to any other penalty, the  
20 court shall order the person to pay restitution.

21 7. *The provisions of this section do not apply to a person*  
22 *performing any testing, including, without limitation, penetration*  
23 *testing, of an information system of an agency that uses the*  
24 *equipment or services of the Department of Information*  
25 *Technology that is authorized by the Director of the Department of*  
26 *Information Technology or the chief of the Office of Information*  
27 *Security of the Department. As used in this subsection:*

28 (a) *“Information system” has the meaning ascribed to it in*  
29 *NRS 242.057.*

30 (b) *“Penetration testing” has the meaning ascribed to it in*  
31 *NRS 242.171.*

32 **Sec. 19.** NRS 333.310 is hereby amended to read as follows:

33 333.310 1. An advertisement must contain a general  
34 description of the classes of commodities or services for which a bid  
35 or proposal is wanted and must state:

36 (a) The name and location of the department, agency, local  
37 government, district or institution for which the purchase is to be  
38 made.

39 (b) Where and how specifications and quotation forms may be  
40 obtained.

41 (c) If the advertisement is for bids, whether the Chief is  
42 authorized by the using agency to be supplied to consider a bid for  
43 an article that is an alternative to the article listed in the original  
44 request for bids if:



(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) Notice of the preference set forth in NRS 333.3366.

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

➤ The Chief or a designated agent of the Chief shall approve the copy for the advertisement.

2. Each advertisement must be published in *one of the following ways:*

(a) *In* at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

(b) *On the Internet website of the Purchasing Division.*

**Sec. 20.** NRS 333.480 is hereby amended to read as follows:

333.480 The Chief may purchase or acquire on behalf of the State of Nevada, and all officers, departments, institutions, boards, commissions, schools and other agencies in the Executive Department of the State Government, volunteer fire departments, local governments as defined in NRS 354.474, conservation districts or irrigation districts of the State of Nevada, any supplies, *services*, materials or equipment of any kind required or deemed advisable for the state officers, departments, institutions, boards, commissions, schools, volunteer fire departments and other agencies or local governments as defined in NRS 354.474, conservation districts or irrigation districts that may be available pursuant to an agreement with a vendor who has entered into an agreement with the General Services Administration or another governmental agency dealing in supplies, *services*, materials, equipment or donable surplus material if:

1. The prices for the supplies, *services*, materials or equipment negotiated in the agreement that the Chief enters into with the vendor are substantially similar to the prices for those supplies, *services*, materials or equipment that the vendor had negotiated with the General Services Administration or other governmental agency; and

2. The Chief determines that such an agreement would be in the best interests of the State.



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1       **Sec. 21.** Notwithstanding the provisions of NRS 242.122, as  
2 amended by section 12 of this act, the existing members of the  
3 Information Technology Advisory Board who are appointed to  
4 2-year terms by the Governor pursuant to NRS 242.122 may  
5 continue to serve as a member of the Board until the expiration  
6 of their current terms and until the Governor appoints successors to  
7 4-year terms pursuant to NRS 242.122, as amended by section 12 of  
8 this act. If a position on the Board becomes vacant on or after  
9 July 1, 2011, the vacancy must be filled in the manner provided in  
10 NRS 242.122, as amended by section 12 of this act.

11       **Sec. 22.** This act becomes effective on July 1, 2011.

