

# CRS Report for Congress

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## **Nevada Emergency Management and Homeland Security Authorities Summarized**

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# Nevada Emergency Management and Homeland Security Authorities Summarized

## Summary

The primary Nevada emergency management statute, codified in Chapter 414 of the Nevada code, delegates emergency powers and authorities to the governor, emergency management division and political subdivisions. The statute authorizes the creation of local organizations for emergency management in political subdivisions; confers emergency powers upon the governor and executive heads or governing bodies of political subdivisions; assists with rendering of mutual aid among political subdivisions and other states; and authorizes cooperation with the federal government. New legislation enacted in 2003 provides a method for quickly filling congressional vacancies caused by a catastrophe; creates a new commission on homeland security with the ability to hold closed meetings when discussing certain sensitive security issues; and includes provisions for continuity of local government operations. Funding comes primarily from federal assistance and several state emergency and disaster accounts, including contingency and reserve accounts, one of which may be used during fiscal shortfalls to stabilize state government operations.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

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# Nevada Emergency Management and Homeland Security Authorities Summarized

## Entities with Key Responsibilities

*Governor:* The governor is authorized to: assume direct operational control over emergency management; cooperate with the federal government, other states and private agencies; make, amend and rescind necessary orders and regulations; prepare a comprehensive state emergency management plan; coordinate plans for emergency management by political subdivisions; procure supplies and equipment; implement public information programs; order partial or full mobilization of emergency management in advance of an emergency or disaster; order surveys of industries, resources and facilities to ascertain capabilities; compel evacuation; and enter into mutual aid agreements with other states and coordinate mutual aid plans between political subdivisions (Nev. Rev. Stat. §414.060).

The governor and executive officers or governing bodies of political subdivisions are authorized to use the services, equipment, supplies and facilities of existing departments, offices and agencies to the maximum extent practicable (Nev. Rev. Stat. §414.140).

In the event of any emergency the governor may direct the Division of Emergency Management (DEM) to assume control over all or part of the state communications system (Nev. Rev. Stat. § 233F.170).

During a state of emergency or disaster the governor may: enforce all laws and regulations; assume direct operational control of any or all forces; direct the delivery of material or provision of emergency management services; and procure by purchase, condemnation or other means, materials and facilities for emergency management. The governor is also authorized to: procure property and provide compensation provision for takings; compel the evacuation of all or part of the population from any affected or threatened area; and remove from office any public officer having administrative responsibilities under this chapter for willful failure to obey an order or regulation (Nev. Rev. Stat. § 414.070).

*Division of Emergency Management:* The division was created as the state agency for emergency management and civil defense within the Department of Motor Vehicles and Public Safety (Nev. Rev. Stat. §414.040(1)) to deal with emergencies or disasters of unprecedented size and destructiveness resulting from enemy attack, fire, flood, earthquake, storm or other natural causes, or from technological or man-made catastrophes (Nev. Rev. Stat. §414.020). The division is charged with assessing damages and determining whether an event constitutes a disaster when it receives a state agency or local government request for a grant or loan from the disaster relief fund. Division officials must issue regulations that provide

information to be included in a report of damages, including a description of the damage, an estimate of repair costs, and a specification as to whether the purpose of the project is for repair or replacement, emergency response, or mitigation (Nev. Rev. Stat. § 353.2753).

*Local organization for emergency management:* The statute authorizes each political subdivision to establish a local organization for emergency management in accordance with the state plan. A local organization may confer police powers, or authorize the conferral of such powers upon members of auxiliary police. The director of a local organization is appointed by the executive officer or governing body of the unit of government. Each local organization for emergency management is to perform functions of emergency management within its territorial limits and to conduct such functions outside of the territorial limits as may be required under mutual aid agreements. A political subdivision in which any emergency or disaster occurs may enter into contracts and incur obligations necessary to protect the health and safety of persons and property; provide emergency assistance to the victims; employ temporary workers; rent equipment; purchase supplies and materials; levy taxes; and appropriate and expend public funds (Nev. Rev. Stat. § 414.090).

*Board of Search and Rescue; Coordinator of Search and Rescue; Committee on Training:* The statute created the board to provide direction and guidance for the search and rescue coordinator and to formulate policy regarding search and rescue. The board may adopt regulations for the administration of laws regarding searches and rescues. The chief of DEM appoints an employee of the division to be coordinator of search and rescue activities. The coordinator is to: investigate and apply for grants and other financial assistance; coordinate assistance during both intrastate search and rescue missions and those involving two or more counties; provide assistance to sheriffs during search and rescue missions; and establish a communications system for operations. The statute also created a committee on training to establish recommendations for organizations specializing in search and rescue, certify organizations, and coordinate training in search and rescue techniques. The committee may adopt necessary regulations (Nev. Rev. Stat. § 414.170 to § 414.240).

*State Disaster Identification Team:* The statute established this team within the Division of Emergency Management to provide technical assistance and personnel to local authorities to recover, identify and process deceased victims; report the need for medical and health services to establish a temporary morgue; and process and dispose of the remains of deceased victims (Nev. Rev. Stat. § 414.270 to § 414.300).

*Emergency Response Commission:* The commission is authorized to provide grants to local emergency planning commissions and assist in the development of comprehensive response plans (Nev. Rev. Stat. § 459.738, 742).

## **Preparedness**

The governor or a designated representative may create mobile support units as necessary to reinforce emergency management in stricken areas and is authorized to appoint a commander for each unit. Mobile support units may be called to duty upon orders of the governor and perform their functions in any part of the state, or, under

certain conditions, in other states. The statute gives unit personnel the same powers, duties, rights, privileges, and immunities as they are entitled to in their normal employ in a state or political subdivision, and provides compensation, rights and immunities to others. The state may reimburse a political subdivision for compensation and expenses of a mobile support unit (Nev. Rev. Stat. § 414.080).

See “Entities with Key Responsibilities,” *Governor and Division of Emergency Management*.

## **Declaration Procedures**

A state of emergency or disaster may be proclaimed by the governor or by resolution of the legislature if an attack upon the United States has occurred or is anticipated, or a natural, technological or man-made emergency or disaster of major proportions has occurred within the state. The proclamation may be terminated by the governor or by resolution of the legislature (Nev. Rev. Stat. § 414.070).

The governor may declare an actual or impending water or energy emergency if the President or Congress has declared an actual or impending water or energy emergency, or if the health, safety or welfare of the citizens is threatened by an actual or impending acute shortage in usable water or energy resources (Nev. Rev. Stat. §416.050).

## **Types of Assistance**

See “Entities with Key Responsibilities,” *Division of Emergency Management*.

Grants may be awarded to a state agency or a local government for: repair or replacement of public roads, buildings, public utilities, and other infrastructure owned by the state; emergency measures to save lives, protect public health and safety or property (including a crisis involving school violence); removal of debris from publicly or privately owned land and waterways; and administration of a disaster assistance program (Nev. Rev. Stat. §353.274 to 2745). The statute authorizes loans to be provided to local governments for: the same purposes as grants (described above); for overtime worked by an employee of the local government or any other extraordinary expenses incurred; for projects that reduce or prevent the possibility of damage to persons or property from similar disasters in the future; and federal grant matches (Nev. Rev. Stat. §353.2751). The statute requires that an event constitute a disaster, and specifies both conditions to be met in requesting a grant or a loan as well as local government repayment procedures (Nev. Rev. Stat. § 353.2753 to 2765).

## **Mutual Aid**

The Interstate Civil Defense and Disaster Compact (generally referred to as the Emergency Management Assistance Compact, or EMAC) is codified (Nev. Rev. Stat. Chapter 415, et. seq.).

The director of each local organization for emergency management may, in collaboration with others, develop agreements for reciprocal aid and assistance in case of an emergency or disaster. The agreements must be consistent with the state's emergency management plan. In time of emergency or disaster each local organization for emergency management must render assistance in accordance with the provisions of such agreements (Nev. Rev. Stat. §414.100).

The Hazardous Materials Western Interstate Nuclear Compact is codified, including the Rocky Mountain Low-Level Radioactive Waste Compact (Nev. Rev. Stat., Chapter 459 et. seq.).

## **Funding**

The statute authorizes political subdivisions to make appropriations for expenses of its local organization for emergency management and to accept grants from the federal government or others for services, equipment, supplies, materials or funds by way of a gift, grant or loan, for purposes of emergency management (Nev. Rev. Stat. §414.130).

The statute creates the emergency assistance account within the disaster relief fund. The state controller is to transfer the interest earned during the previous fiscal year on the money in the disaster relief fund (not exceeding \$500,000) to the emergency assistance account. The division of emergency management administers the account and must approve expenditures. Account funds must be expended solely to provide supplemental emergency assistance to state or local governments that are severely and adversely affected by a natural, technological or man-made emergency, and for which available resources are inadequate; or to pay actual expenses incurred by the division for administration during an emergency or disaster. The division may, with the approval of the interim finance committee, allocate up to \$250,000 to the state or to a local government to purchase emergency management equipment or supplies, or to provide training. The division must submit a quarterly report of account expenditures to the interim finance committee (Nev. Rev. Stat. § 414.135).

The statute created a disaster relief fund as a special revenue fund administered by the interim finance committee. Funds come from direct legislative appropriation and grants, gifts, or donations, with one-half of the interest earned on the fund allocated for the operation of the state government. When a disaster is declared, the state board of examiners estimates the money available in the fund and the anticipated amount of grants and loans needed for the disaster. If the amount needed exceeds that available, all grants and loans from the fund must be reduced. If reduction of a grant or loan would result in a reduction in the amount of federal money received by a state agency or local government, the reduction may not be made (Nev. Rev. Stat. §353.2705 to 2735). Interest and income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund, with the first \$500,000 deposited in the emergency assistance account (Nev. Rev. Stat. §414.135).

The statute created a special revenue fund to stabilize the operation of the state government. On a quarterly basis, the state controller must transfer an amount equal to one-half of the interest earned on money in the fund (to a maximum of \$500,000 per quarter) to the disaster relief fund “to stabilize the operation of state government during the previous quarter.” Money from the fund may be appropriated only if there is a 5% revenue shortfall, or if the legislature and the governor declare that a fiscal emergency exists (Nev. Rev. Stat. §353.288).

The statute created an emergency account in the state general fund, supported by direct appropriations, from which expenditures may be made (up to \$50,000) for invasions, disasters, epidemic, or other conditions. When the state board of examiners finds that appropriations are deficient to meet an emergency funding need, it may authorize expenditures (Nev. Rev. Stat. § 353.263)).

The statute created a “contingency fund” as a special revenue fund, with money derived from appropriations for emergency use to cover unforeseen expenses (Nev. Rev. Stat. § 353.266)).

A local governing body may establish a fund to stabilize the operation of the local government and mitigate the effects of natural disasters. The fund may be used to mitigate the effects of a natural disaster only if a local government declares that a “natural disaster” exists. Funds may be used to repair or replace public roads, buildings, public utilities, and other infrastructure owned by the local government, for emergency measures to save lives, to protect public health and safety or property, to remove debris from publicly or privately owned land and waterways, for the cost share needed to obtain a grant from a federal disaster assistance agency, and other expenses including revenue shortfalls (Nev. Rev. Stat. § 354.6115).

## **Hazard Mitigation**

See “Entities with Key Responsibilities,” *Division of Emergency Management*.

Funds in the “reserve for statutory contingency account” may be used to pay claims from remedial actions taken when the condition of a dam becomes dangerous (Nev. Rev. Stat. § 353.264(2)(d)).

## **Continuity of Government Operations**

During an emergency resulting from disasters caused by enemy attack the legislature has the power to provide for immediate and temporary succession for public offices, whether filled by election or appointment. The legislature may adopt other measures as necessary to insure the continuity of government operations, including changes in quorum requirements in the legislature and the relocation of the seat of government (Nev. Constitution, Article 4, Sec. 37).

The governor may, on extraordinary occasions, convene the legislature by proclamation, but must state the purpose for the call to both houses. The legislature is prohibited from transacting other legislative business (Nev. Constitution, Article 5, Sec. 9).

## Other

The statute imposes a limitation on civil liability of persons owning or controlling real property or other premises who voluntarily and without compensation permit the property to be used to shelter persons during an actual, impending, mock or practice attack, or during an emergency or disaster (Nev. Rev. Stat. § 414.120).

The statute prohibits the employment of persons in emergency management who advocate a change by force or violence in the constitutional form of the government of the United States or the state or who has been convicted of or is under indictment for a subversive act against the United States, and requires emergency management employees take the loyalty oath of office (Nev. Rev. Stat. § 414.150).

The statute provides immunity to emergency management workers, including volunteers, state or federal employees, or employees of other states or a neighboring country, who perform authorized services (Nev. Rev. Stat. § 414.110).

Requires that a state employee, or an employee of an agency or political subdivision who is an emergency communications technician, be granted a leave of absence of not more than 15 working days in any calendar year for duty as an emergency communications technician. The employee may be called to work anywhere in the state or in California, Oregon, Idaho, Utah or Arizona (Nev. Rev. Stat. § 281.149).

The statute specifies the duties of a principal or other person in charge of a public school if a crisis occurs at a school. A local agency or organization for emergency management is to notify the state division of emergency management and request assistance if the governor determines that the crisis requires state assistance. The statute specifies duties of the Division of Emergency Management to address the immediate crisis and to coordinate local, state and federal resources to provide support services and counseling to pupils, teachers, and parents or legal guardians, and provide support for law enforcement agencies (Nev. Rev. Stat. § 392.648). Similar authority is provided for a principal of a private school (Nev. Rev. Stat. § 394.1696).

The statute requires authorities in charge of private schools to conduct drills to instruct pupils in appropriate procedures to be followed in event of an emergency. Drills may include instruction in the appropriate procedures to be followed in the event of a chemical explosion, related emergencies and other natural disasters (Nev. Rev. Stat. §394.170).

Assembly Bill 441, signed by the governor, created the Nevada Commission on Homeland Security, sets forth the membership and duties of the Commission, and provides certain exceptions to the open meeting law. The statute requires that certain political subdivisions must adopt a response plan and a plan for the continuation of state and local governmental operations. The statute also requires certain utilities to conduct vulnerability assessments and to prepare emergency response plans; requires the Director of the Department of Information Technology to determine the confidentiality of certain records relating to the security of the state; and provides for the confidentiality of certain documents, records and other information. Also, the

statute imposes certain requirements for interoperability of information and communication systems purchased by state and local governments (Nev. Assembly Bill No. 441, Enrolled and delivered to Governor, June 04, 2003).

## Key Terms

**Table 1. Key Emergency Management and Homeland Security Terms Defined in Nevada Statutes, with Citations**

| <b>Terms</b>                                | <b>Citations</b>              |
|---|-------------------------------|
| Catastrophe                                 | Assembly Bill No. 344, Sec. 3 |
| Coordinator                                 | Nev. Rev. Stat. § 414.033     |
| Disappearance                               | Assembly Bill No. 344, Sec. 4 |
| Disaster                                    | Nev. Rev. Stat. § 414.0335    |
| Disaster                                    | Nev. Rev. Stat. §353.271      |
| Emergency                                   | Nev. Rev. Stat. § 414.0345    |
| Emergency management                        | Nev. Rev. Stat. § 414.035     |
| Fund  | Nev. Rev. Stat. §353.272      |
| Grant match                                 | Nev. Rev. Stat. §353.2725     |
| Local organization for emergency management | Nev. Rev. Stat. § 414.036     |
| Mobile support unit                         | Nev. Rev. Stat. § 414.037     |
| Natural disaster                            | Nev. Rev. Stat. § 354.6115    |

## For Further Research

The citations noted above and other elements of the state code for Nevada may be searched at: [<http://www.leg.state.nv.us/NRS/Index.cfm>]