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Nebraska Emergency Management and Homeland Security Authorities Summarized

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Summary

The Nebraska Emergency Management Act delegates powers to the governor, creates the emergency management agency and local emergency management agencies, outlines disaster mitigation and provides for mutual aid agreements. Assistance and funding emanate primarily from federal aid and the Governor's Emergency Cash Fund. State and political subdivisions may enter into mutual aid agreements. The statute provides for participation in the Interstate Civil Defense and Disaster Compact. Constitutional authority gives the legislature power to provide for succession to public offices and to convene with or without a call by the governor. The legislature may select temporary seats of government for state and local governments.

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.

Entities with Key Responsibilities

Governor: During an emergency, the governor may direct the assumption of control over all or part of the state communications system (Neb. Rev. Stat. §81-1120.25). The governor may assume direct control over emergency management functions within the state, and is responsible for carrying out all provisions of the Emergency Management Act. The governor may suspend provisions of any statute or order if strict compliance would negatively affect action in managing a disaster or emergency and may use state resources, commandeer private property, compel evacuation or control movement of population in a stricken or threatened area (Neb. Rev. Stat. §81-829.40).

Nebraska Emergency Management Agency: The agency, established in the office of the adjutant general (Neb. Rev. Stat. §81-829.31), prepares and maintains the state disaster plan, which may include provisions for: mitigation, response, emergency relief, areas of vulnerability, recommendations for preventive and preparedness measures, guidance to state and local officials, organization of manpower and chains of command, and coordination of federal, state, and local emergency management activities. The adjutant general serves as director of the agency (Neb. Rev. Stat. §81-829.41).

Political Subdivisions: Local governments operate within the jurisdiction of the Nebraska Emergency Management Agency and participate in city, village, county, or interjurisdictional emergency management organizations. The statute specifies responsibilities of the director, and allows emergency management organizations to share a director. The governor is to determine which cities need individual emergency management organizations, and may require contiguous local governments to maintain a joint organization (Neb. Rev. Stat. §81-829.46-47). Local governments have the power to make appropriations for the payment of expenses of emergency management organizations (Neb. Rev. Stat. §81-829.49).

Emergency Response Commission: The statute established the State Emergency Response Commission and specifies membership and term provisions. The commission implements provisions of the federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.); designates local planning districts; oversees state emergency planning activities; implements interagency agreements; and monitors the notification system regarding the release of extremely hazardous substances (Neb. Rev. Stat. §81-15,210 to 222).

Preparedness

Emergency Management Act: The statute provides for an emergency management system that embodies all aspects of preparedness, response, recovery, and mitigation, and reduces vulnerability to damage resulting from natural, technological or manmade disasters or emergencies, civil disturbances, or hostile military or paramilitary action. The statute also clarifies the roles of the governor, state agencies, and local governments in mitigation, preparation, response and recovery (Neb. Rev. Stat. § 81-829.36 to 81-829.75). The statute also authorizes cities or villages to send designees to attend any fire training school within the state approved by the State Fire Marshal and the Nebraska Emergency Management Agency (Neb. Rev. Stat. §18-1714).

Declaration Procedures

The governor may declare a disaster or emergency. The governor, or the legislature, by resolution, may terminate the declaration at any time. A gubernatorial declaration activates state and local operational plans and authorizes the deployment and use of any forces, supplies and equipment (Neb. Rev. Stat. §81-829.40).

Types of Assistance

The governor is authorized to establish temporary housing for disaster victims and assist local governments to acquire sites for such temporary housing, and may temporarily suspend or modify any public health, safety, zoning, transportation, or other requirement of law when essential to provide temporary housing for victims for a period of not exceeding 60 days (Neb. Rev. Stat. §81-829.69).

If a unit of local government certifies the need for redevelopment or rehabilitation due to flood, fire, hurricane, earthquake, storm, or other catastrophe, a redevelopment plan may be implemented without adhering to standard redevelopment law (Neb. Rev. Stat. §18-2105).

The statute authorizes local governments to acquire, temporarily or permanently, sites for temporary housing units for disaster, emergency, or civil defense emergency victims (Neb. Rev. Stat. §81-829.70).

During a declared disaster, the governor is authorized to apply to the federal government for aid on behalf of a local government upon demonstrated need for financial assistance. The governor may recommend the cancellation of all or any part of repayment when a unit of local government is unable to meet operating expenses (Neb. Rev. Stat. §81-829.71).

The governor is authorized to accept a grant by the federal government to provide financial assistance essential to individuals or families adversely affected by a disaster, emergency, or civil defense emergency (Neb. Rev. Stat. §81-829.72).

Mutual Aid

Counties, cities and other political subdivisions are encouraged to enter into mutual aid agreements with other public and private agencies. The governor may require an interjurisdictional emergency management agreement if this would better serve the affected areas (Neb. Rev. Stat. §81-829.47-48; 50).

The statute authorizes the state to join with other states in the Interstate Civil Defense and Disaster Compact (Neb. Rev. Stat. §81-829.56).

Funding

The statute established the Governor's Emergency Cash Fund to meet any disaster, emergency, or civil defense emergency. The adjutant general is authorized to administer the fund. Funds may be used for: matching requirements; assistance to political

subdivisions that have suffered severe financial burdens; employment of temporary additional personnel; procurement of necessary supplies and equipment; repair and restoration of infrastructure; supplies; communications; medical services and supplies; costs associated with riots and civil disturbances; training; clearance of debris and wreckage; and aerial fire suppression (\$10,000 limit) (Neb. Rev. Stat. §81-829.42). The state or a political subdivision may accept services, supplies, or funds from the federal government or others. All funds are to be credited to the Governor's Emergency Cash Fund (Neb. Rev. Stat. §81-829.58-59).

Local governments may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes regardless of existing statutory limitations. If the obligations exceed or violate existing statutory requirements, they must be approved by the local governing board as specified (Neb. Rev. Stat. §81-829.51).

Local governments are authorized to make appropriations for the payment of expenses of emergency management organizations (Neb. Rev. Stat. §81-829.49).

Hazard Mitigation

State agencies with responsibilities for specified policy areas (floodplain management, stream encroachment and flow regulation, fire prevention and control, air quality, public works, land use and land use planning, and construction standards) must make studies of prevention-related matters. The governor is to make recommendations for mitigation measures, and may place a new standard or control in effect when necessary. The governor's action is subject to judicial review (Neb. Rev. Stat. §81-829.43).

Continuity of Government Operations

During an emergency, the legislature is authorized to suspend provisions of the state constitution or general law relating to: the length and purposes of legislative sessions; quorum and voting requirements; the location of governmental business; and calling of legislative sessions. The legislature may convene into general or extraordinary session, upon or without a call by the governor, during or after a war or enemy-caused disaster occurring in the United States. The legislature may provide for prompt and temporary succession to powers and duties of all public offices, and for selection of a temporary state seat of government and temporary seats of government for political subdivisions. The constitution directs the selection, reproduction, preservation, and dispersal of public records necessary to the continuity of governmental operations in the event of enemy attack or imminent threat (Neb. Constitution, CIII-29).

Nebraska General Emergency Succession Act: The statute authorizes political subdivisions to utilize the act when deemed appropriate. Each obligated officer must appoint alternates to the powers and duties of his or her office, and must specify their order of succession. Alternates must be qualified to hold the office and take the same oath of office. The statute prohibits persons regularly serving as judges of a court of record from accepting appointments as alternates to another office. Every alternate must keep generally informed as to the powers, functions, duties, procedures, practices, and current business of the officer to whose powers and duties he or she is designated to

succeed, and all officers shall assist their alternates in keeping themselves so informed. The statute provides for a line of succession for officers following an attack. Acting officers must continue to serve until the expiration of the term, unless the officer or a qualified successor becomes available. A higher-ranking alternate who was a deputy in the same office, and who later becomes available, shall become the acting officer. Alternates are not authorized to serve until an attack upon the United States actually has occurred, and their authority terminates two years after the inception of the attack. The governor, by proclamation, or the legislature, by resolution approved by the governor, may terminate the authority of alternates at any time and may extend or restore authority, provided that no single extension or restoration be for more than one year (Neb. Rev. Stat. §84-1101 to 1116).

Other

Volunteer Emergency Responders Recruitment and Retention Act provides benefits, protections, and specifications related to fire and emergency volunteers (Neb. Rev. Stat. §35-1301 to 35-1330).

Political activities of emergency management agencies or employees are generally prohibited (Neb. Rev. Stat. §81-829.61).

Prohibits emergency management personnel from advocating subversive activities against the government (Neb. Rev. Stat. §81-829.62).

The statute grants immunity from civil liability for licensors of shelter space during an actual, impending, mock or practice attack or disaster (Neb. Rev. Stat. §81-829.66).

Employees of the Department of Health and Human Services, State Patrol, State Fire Marshal, and the Nebraska Emergency Management Agency must participate in stress management planning as part of emergency management preparedness (Neb. Rev. Stat. §71-7108).

Key Terms

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

Terms	Citations
Active emergency responder	Neb. Rev. Stat. §35-1303
Active rescue squad member	Neb. Rev. Stat. §35-1303
Civil defense emergency	Neb. Rev. Stat. §81-829.39
Disaster	Neb. Rev. Stat. §81-829.39
Emergency	Neb. Rev. Stat. §81-829.39
Emergency management	Neb. Rev. Stat. §81-829.39

Terms	Citations
Emergency management worker	Neb. Rev. Stat. §81-829.39
Emergency response services	Neb. Rev. Stat. §35-1303
Hazard mitigation	Neb. Rev. Stat. §81-829.39
State emergency response team	Neb. Rev. Stat. §81-829.39
State emergency response teams established	Neb. Rev. Stat. §81-829.52
Technological hazard	Neb. Rev. Stat. §81-829.39

For Further Research

The citations noted above and other elements of the state code for Nebraska may be searched at: [<http://www.unicam.state.ne.us/laws/index.htm>].