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ASSEMBLY BILL NO. 158—ASSEMBLYMAN HETTRICK

MARCH 2, 2005

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Referred to Committee on Government Affairs

**SUMMARY**—Requires state agency to provide notice of access to computer of officer, employee or contractor under certain circumstances. (BDR 23-1008)

**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 state government; requiring a state agency, under certain circumstances, to provide notice to an officer, employee or contractor of the agency when the agency accesses or causes to be accessed a computer assigned or loaned to the officer, employee or contractor; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires a state agency that uses computers to create a written  
2 policy setting forth the appropriate uses of the agency’s computers and to provide a  
3 copy of the written policy to each employee of the agency. (NRS 242.300) Existing  
4 law makes unlawful certain acts regarding computers and information services.  
5 (NRS 205.473-205.513) Pursuant to these existing provisions, an employee is  
6 presumed to have the authority to access and use a computer, system or network  
7 owned or operated by his employer. (NRS 205.509)  
8 This bill requires a state agency to notify an officer, employee or contractor of  
9 the agency if the agency accesses or causes to be accessed a computer assigned or  
10 loaned to the officer, employee or contractor. The notice may be provided either  
11 before or after the access occurs, but not more than 48 hours before or 48 hours  
12 after the access occurs.  
13 This bill provides an exception to the requirement for notice if the state agency  
14 has adopted a procedure for recording in a log the instances in which a computer is  
15 accessed. A log entry must include an explanation of the circumstances justifying  
16 access without notice. The log and its contents are confidential and not subject to  
17 inspection as public records, but must be disclosed upon the order of a court of  
18 competent jurisdiction.



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

1       **Section 1.** Chapter 281 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *Except as otherwise provided in subsection 3, a state*  
4 *agency that accesses or causes to be accessed a computer of the*  
5 *agency that has been assigned or loaned by the agency to an*  
6 *officer, employee or contractor for his exclusive or routine use in*  
7 *carrying out the duties of his position shall notify the officer,*  
8 *employee or contractor of such access.*

9       2. *The notice of access required pursuant to subsection 1*  
10 *must be provided in a uniform and understandable format. The*  
11 *notice may be provided before or after such access occurs, but not*  
12 *more than 48 hours before or 48 hours after such access occurs.*

13       3. *The head of a state agency, and any state officer to whom*  
14 *the head of the state agency reports, may authorize the access of a*  
15 *computer of the agency without providing the notice of access*  
16 *otherwise required by subsections 1 and 2 if:*

17       (a) *The state agency has adopted by regulation a procedure to*  
18 *record such instances of access in a log maintained by the agency*  
19 *for that purpose; and*

20       (b) *The access does not occur until after an entry is recorded*  
21 *in the log, which entry must set forth:*

22       (1) *The date on which the access will occur and, if known,*  
23 *the time at which the access will occur on that date;*

24       (2) *As determined by the head of the state agency or state*  
25 *officer who authorizes the access, a reasonable explanation of the*  
26 *exigent circumstances or other relevant considerations which*  
27 *justify accessing the computer without the knowledge of the*  
28 *officer, employee or contractor to whom the agency has assigned or*  
29 *loaned the computer;*

30       (3) *The name of each person who will be authorized or*  
31 *required to perform the access;*

32       (4) *The name of each person who will be allowed to*  
33 *examine information stored on the computer or retrieved from the*  
34 *computer; and*

35       (5) *The name of each person who will be authorized or*  
36 *required to archive, maintain, store, transfer, transmit or destroy*  
37 *information retrieved from the computer.*

38       ↪ *The log described in this subsection, and any entries in that log,*  
39 *are confidential and not public books or records within the*  
40 *meaning of NRS 239.010, but must be disclosed upon the lawful*  
41 *order of a court of competent jurisdiction.*

42       4. *As used in this section:*



- 1       (a) *“Access” includes, without limitation, adding, copying,*  
2 *deleting, manipulating or observing the files or other information*  
3 *stored on a computer, whether such actions are carried out*  
4 *directly or remotely.*  
5       (b) *“State agency” has the meaning ascribed to it in*  
6 *NRS 242.300.*



