

SENATE BILL NO. 410—SENATOR TITUS

MARCH 19, 2001

Referred to Committee on Government Affairs

SUMMARY—Requires certain larger counties and cities in those counties to establish program for protection of environmentally sensitive areas. (BDR 22-62)

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

CONTAINS UNFUNDED MANDATE (§§ 9, 12)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

AN ACT relating to land use planning; requiring certain larger counties and the cities in those counties to establish a program for the protection of environmentally sensitive areas; setting forth the requirements for such a program; and providing other matters properly relating thereto.

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

- 1     **Section 1.** Chapter 278 of NRS is hereby amended by adding thereto  
2     the provisions set forth as sections 2 to 17, inclusive, of this act.  
3     **Sec. 2.** *The legislature hereby finds and declares that:*  
4     1. *The State of Nevada has an interest in promoting, within the*  
5     *boundaries of this state:*  
6     (a) *The conservation of cultural resources, including, without*  
7     *limitation, archaeological and historic resources;*  
8     (b) *The conservation of natural resources;*  
9     (c) *The conservation of outdoor recreation areas and values; and*  
10    (d) *The protection of the public health, safety and welfare; and*  
11    2. *The interest of the State of Nevada in promoting the objectives set*  
12    *forth in subsection 1 arises not only from the inherent value of the*  
13    *resources and values to be conserved and protected, but also from the*  
14    *need to conserve and protect those resources and values to maintain the*  
15    *status of the State of Nevada as an attractive and viable destination for*  
16    *tourism.*  
17    **Sec. 3.** *The provisions of sections 2 to 17, inclusive, of this act apply*  
18    *only to counties whose population is 100,000 or more and cities located*  
19    *within those counties.*



1     *Sec. 4. As used in sections 2 to 17, inclusive, of this act, unless the*  
2     *context otherwise requires, the words and terms defined in sections 5 to*  
3     *8, inclusive, of this act have the meanings ascribed to them in those*  
4     *sections.*

5     *Sec. 5. 1. "Environmentally sensitive area" means:*

- 6     *(a) An area with an average prevailing slope that exceeds 30 percent;*  
7     *(b) A wetland, as that term is defined in NRS 244.388;*  
8     *(c) An area containing potentially significant concentrations of*  
9     *cultural resources, as indicated by:*  
10    *(1) Previous archaeological and historic surveys;*  
11    *(2) Consultation with the administrator of the office of historic*  
12    *preservation of the department of museums, library and arts; or*  
13    *(3) The use of geographic information systems, predictive modeling*  
14    *or other methods;*  
15    *(d) An area within 1 mile of a national conservation area, national*  
16    *recreation area or a federally designated wilderness or roadless area; or*  
17    *(e) An area within 5 miles of a national conservation area, national*  
18    *recreation area or a federally designated wilderness or roadless area that*  
19    *is visible from public areas within the national conservation area,*  
20    *national recreation area or federally designated wilderness or roadless*  
21    *area.*

22    *2. The term does not include:*

- 23    *(a) An area that is smaller than 1 square mile;*  
24    *(b) An area in which the natural and cultural resources are not*  
25    *threatened with degradation;*  
26    *(c) An urbanized area;*  
27    *(d) Land within the jurisdiction of the Tahoe Regional Planning*  
28    *Agency; or*  
29    *(e) Land held in trust for an Indian tribe.*

30    *Sec. 6. "Management plan" means a management plan that is*  
31    *required to be prepared pursuant to section 12 of this act.*

32    *Sec. 7. "Regional planning commission" means the regional*  
33    *planning commission created pursuant to NRS 278.0262.*

34    *Sec. 8. "Study" means a study that is required to be prepared*  
35    *pursuant to section 9 of this act.*

36    *Sec. 9. 1. In a county whose population is 100,000 or more:*

- 37    *(a) The governing body of the county shall prepare or cause to be*  
38    *prepared a study of the environmentally sensitive areas within the*  
39    *unincorporated areas of the county; and*  
40    *(b) The governing body of each city in the county shall prepare or*  
41    *cause to be prepared a study of the environmentally sensitive areas*  
42    *within the boundaries of the city.*

43    *The study must comply with the requirements set forth in section 10 of*  
44    *this act.*

45    *2. In carrying out the provisions of subsection 1, a governing body*  
46    *may:*

- 47    *(a) Form a steering committee;*  
48    *(b) Procure the services of such experts, researchers and consultants*  
49    *as it determines to be necessary; and*



- 1     (c) Enter into a cooperative agreement with one or more other local  
2 governments pursuant to chapter 277 of NRS.
- 3     3. Upon completion of the preparation of the study, the governing  
4 body shall hold a public hearing on the study and, after receiving public  
5 comment, adopt the study as prepared or with such modifications as it  
6 deems appropriate. A governing body must adopt the study within 1 year  
7 after the date on which the provisions of this section become applicable  
8 to the governing body.
- 9     4. As soon as is practicable but not later than 30 days after the date  
10 of adoption of the study pursuant to subsection 3, the governing body  
11 shall submit the study to the regional planning commission or regional  
12 planning coalition, as applicable, for certification pursuant to section 11  
13 of this act.
- 14     **Sec. 10.** A study prepared pursuant to section 9 of this act must  
15 include:
- 16     1. The identification of each environmentally sensitive area within  
17 the unincorporated areas of the county or within the boundaries of the  
18 city, as applicable; and
- 19     2. For each environmentally sensitive area identified pursuant to  
20 subsection 1:
- 21     (a) A delineation of the boundaries of the environmentally sensitive  
22 area;
- 23     (b) A preliminary inventory of the cultural and natural resources  
24 located in the environmentally sensitive area;
- 25     (c) Guidelines to govern the carrying out of new development within  
26 the environmentally sensitive area pending certification of the applicable  
27 management plan; and
- 28     (d) A list of local, regional, state and federal agencies that manage  
29 land within the environmentally sensitive area or conduct programs  
30 which affect the environmentally sensitive area.
- 31     **Sec. 11.** 1. A study that is adopted and submitted pursuant to  
32 section 9 of this act is not effective until:
- 33     (a) In a county whose population is 100,000 or more but less than  
34 400,000, the regional planning commission has certified that the study is  
35 consistent with the goals and requirements set forth in sections 2 to 17,  
36 inclusive, of this act; or
- 37     (b) In a county whose population is 400,000 or more, the regional  
38 planning coalition has certified that the study is consistent with the goals  
39 and requirements set forth in sections 2 to 17, inclusive, of this act.
- 40     2. If the regional planning commission or regional planning  
41 coalition determines that the study is not consistent with the goals and  
42 requirements set forth in sections 2 to 17, inclusive, of this act, the  
43 regional planning commission or regional planning coalition shall  
44 return the study to the governing body that submitted the study  
45 accompanied by:
- 46     (a) A written explanation of changes that must be made to the study  
47 before the study may be certified in accordance with this section; and
- 48     (b) A statement of the date by which a revised study must be submitted  
49 to the regional planning commission or regional planning coalition. The



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- 1 *regional planning commission or regional planning coalition may extend*  
2 *that date at the request of the governing body.*
- 3 3. *If the governing body fails to submit a study or revised study in a*  
4 *timely manner, the regional planning commission or regional planning*  
5 *coalition shall inform the governor of that fact.*
- 6 4. *Upon the receipt of notice pursuant to subsection 3 that the*  
7 *governing body failed to submit a study or revised study in a timely*  
8 *manner, the governor shall, in accordance with the procedures set forth*  
9 *in NRS 321.770, cause a management plan to be prepared for the city or*  
10 *county, as applicable. A management plan prepared pursuant to the*  
11 *provisions of this subsection:*
- 12 (a) *Must comply with the requirements set forth in section 13 of this*  
13 *act; and*
- 14 (b) *Shall be deemed to have been certified by the regional planning*  
15 *commission or regional planning coalition, as applicable.*
- 16 5. *If the governor causes a management plan to be prepared*  
17 *pursuant to subsection 4:*
- 18 (a) *Such action does not prohibit the governing body on whose behalf*  
19 *the management plan is prepared from submitting a study or revised*  
20 *study to the regional planning commission or regional planning coalition*  
21 *for certification.*
- 22 (b) *Unless and until the governor withdraws the management plan*  
23 *that he caused to be prepared, that management plan takes precedence*  
24 *over any study which the governing body submits subsequently to the*  
25 *regional planning commission or regional planning coalition for*  
26 *certification.*
- 27 6. *The governor may bring legal proceedings to enjoin the*  
28 *construction of buildings or the performance of any other acts within the*  
29 *area covered by the management plan that the governor caused to be*  
30 *prepared pursuant to subsection 4 which would constitute a use of land*  
31 *that the governor determines to be inconsistent with the goals and*  
32 *requirements set forth in sections 2 to 17, inclusive, of this act.*
- 33 **Sec. 12.** 1. *In a county whose population is 100,000 or more:*
- 34 (a) *The governing body of the county; and*
- 35 (b) *The governing body of each city in the county,*  
36 *shall, within 18 months after its study is certified pursuant to section 11*  
37 *of this act, prepare or cause to be prepared a management plan for the*  
38 *environmentally sensitive areas identified in the study. The management*  
39 *plan must comply with the requirements set forth in section 13 of this act.*
- 40 2. *In carrying out the provisions of subsection 1, the governing body*  
41 *may:*
- 42 (a) *Form a steering committee;*
- 43 (b) *Procure the services of such experts, researchers and consultants*  
44 *as it determines to be necessary; and*
- 45 (c) *Enter into a cooperative agreement with one or more other local*  
46 *governments pursuant to chapter 277 of NRS.*
- 47 3. *Upon completion of the preparation of a management plan, the*  
48 *governing body shall hold a public hearing on the management plan*



1 *and, after receiving public comment, adopt the management plan as*  
2 *prepared or with such modifications as it deems appropriate.*

3 *4. A management plan adopted pursuant to subsection 3 constitutes*  
4 *an amendment of the master plan of the city or county whose governing*  
5 *body adopted the management plan.*

6 *5. As soon as is practicable but not later than 30 days after the date*  
7 *of adoption of a management plan pursuant to subsection 3, the*  
8 *governing body shall submit the management plan to the regional*  
9 *planning commission or regional planning coalition, as applicable, for*  
10 *certification pursuant to section 14 of this act.*

11 **Sec. 13.** *A management plan prepared pursuant to section 12 of this*  
12 *act:*

13 *1. Must incorporate the following goals for each environmentally*  
14 *sensitive area identified in the study:*

15 *(a) Attainment and maintenance of all applicable state and federal*  
16 *standards for air and water quality;*

17 *(b) Compliance with all applicable provisions of state implementation*  
18 *plans for the preservation of air quality;*

19 *(c) Conservation of the soil and the minimization of erosion and*  
20 *hydrologic modifications;*

21 *(d) Conservation of cultural resources in a manner that is consistent*  
22 *with all applicable state and federal regulations; and*

23 *(e) The maintenance of the quality of existing daytime and nighttime*  
24 *views from national conservation areas, national recreation areas and*  
25 *federally designated wilderness and roadless areas.*

26 *2. Must not conflict with other programs for the conservation of*  
27 *cultural and natural resources that have been or may foreseeably be*  
28 *adopted, including, without limitation:*

29 *(a) A habitat conservation plan prepared and approved in accordance*  
30 *with the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et*  
31 *seq., as amended; and*

32 *(b) Any applicable plans for the preservation of historic resources, air*  
33 *quality and water quality.*

34 *3. May incorporate by reference a habitat conservation plan*  
35 *prepared and approved in accordance with the federal Endangered*  
36 *Species Act of 1973, 16 U.S.C. §§ 1531 et seq., as amended.*

37 *4. Must include, for each environmentally sensitive area identified in*  
38 *the study:*

39 *(a) An identification of:*

40 *(1) The development that is likely to occur pursuant to land use*  
41 *plans which have been adopted for the city or county; and*

42 *(2) Any additional development that is reasonably foreseeable;*

43 *(b) An assessment of adverse effects on cultural and natural resources*  
44 *that are likely to occur as a result of the development identified pursuant*  
45 *to paragraph (a);*

46 *(c) A list of measures that the governing body will take to monitor,*  
47 *minimize and mitigate the adverse effects described in paragraph (b),*  
48 *including, without limitation, the trading of marketable mitigation*



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1 *credits, the creation of a mitigation fund, the making of payments to that*  
2 *fund, and the acquisition of property or interests in property;*

3 *(d) An identification of the money and other resources that the*  
4 *governing body will use to carry out the measures described in paragraph*  
5 *(c); and*

6 *(e) A description of procedures that the governing body will follow in*  
7 *addressing unforeseen or extraordinary circumstances, including,*  
8 *without limitation:*

9 *(1) Development of a type or on a scale not previously foreseen; and*

10 *(2) The loss of money and other resources that the governing body*  
11 *had planned to use to carry out the measures described in paragraph (c).*

12 **Sec. 14. 1. A management plan that is adopted and submitted**  
13 **pursuant to section 12 of this act is not effective until:**

14 *(a) In a county whose population is 100,000 or more but less than*  
15 *400,000, the regional planning commission has certified that the*  
16 *management plan is consistent with the goals and requirements set forth*  
17 *in sections 2 to 17, inclusive, of this act; or*

18 *(b) In a county whose population is 400,000 or more, the regional*  
19 *planning coalition has certified that the management plan is consistent*  
20 *with the goals and requirements set forth in sections 2 to 17, inclusive, of*  
21 *this act.*

22 **2. If the regional planning commission or regional planning**  
23 **coalition determines that the management plan is not consistent with the**  
24 **goals and requirements set forth in sections 2 to 17, inclusive, of this act,**  
25 **the regional planning commission or regional planning coalition shall**  
26 **return the management plan to the governing body that submitted the**  
27 **management plan accompanied by:**

28 *(a) A written explanation of changes that must be made to the*  
29 *management plan before the management plan may be certified in*  
30 *accordance with this section; and*

31 *(b) A statement of the date by which a revised management plan must*  
32 *be submitted to the regional planning commission or regional planning*  
33 *coalition. The regional planning commission or regional planning*  
34 *coalition may extend that date at the request of the governing body.*

35 **3. If the governing body fails to submit a management plan or**  
36 **revised management plan in a timely manner, the regional planning**  
37 **commission or regional planning coalition shall inform the governor of**  
38 **that fact.**

39 **4. Upon the receipt of notice pursuant to subsection 3 that the**  
40 **governing body failed to submit a management plan or revised**  
41 **management plan in a timely manner, the governor shall, in accordance**  
42 **with the procedures set forth in NRS 321.770, cause a management plan**  
43 **to be prepared for the city or county, as applicable. A management plan**  
44 **prepared pursuant to the provisions of this subsection:**

45 *(a) Must comply with the requirements set forth in section 13 of this*  
46 *act; and*

47 *(b) Shall be deemed to have been certified by the regional planning*  
48 *commission or regional planning coalition, as applicable.*



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1     5. If the governor causes a management plan to be prepared  
2 pursuant to subsection 4:

3     (a) Such action does not prohibit the governing body for which the  
4 management plan is prepared from submitting a management plan or  
5 revised management plan to the regional planning commission or  
6 regional planning coalition for certification.

7     (b) Unless and until the governor withdraws the management plan  
8 that he caused to be prepared, that management plan takes precedence  
9 over any management plan which the governing body submits  
10 subsequently to the regional planning commission or regional planning  
11 coalition for certification.

12     6. The governor may bring legal proceedings to enjoin the  
13 construction of buildings or the performance of any other acts within the  
14 area covered by the management plan that the governor caused to be  
15 prepared pursuant to subsection 5 which would constitute a use of land  
16 that the governor determines to be inconsistent with the goals and  
17 requirements set forth in sections 2 to 17, inclusive, of this act.

18     **Sec. 15.** 1. After a governing body's study has been certified and  
19 before the governing body's management plan is certified, the governing  
20 body shall ensure that any development which takes place within an  
21 environmentally sensitive area that is located within the jurisdiction of  
22 that governing body is carried out in accordance with the guidelines  
23 described in paragraph (c) of subsection 2 of section 10 of this act.

24     2. After a governing body's management plan has been certified, the  
25 governing body shall ensure that any development which takes place  
26 within an environmentally sensitive area that is located within the  
27 jurisdiction of that governing body is carried out in accordance with the  
28 goals and requirements set forth in section 13 of this act.

29     **Sec. 16.** 1. If a governing body determines that significant  
30 changes, including, without limitation:

31     (a) Development of a type or on a scale not previously foreseen; and  
32     (b) The loss of money and other resources that the governing body  
33 had planned to use to carry out the measures described in paragraph (c)  
34 of subsection 4 of section 13 of this act,  
35 have taken place in the circumstances affecting one or more of the  
36 environmentally sensitive areas that are located within the jurisdiction of  
37 that governing body, the governing body shall notify the regional  
38 planning commission or regional planning coalition, as applicable, of  
39 those changes.

40     2. If the regional planning commission or regional planning  
41 coalition determines, independently or by notification pursuant to  
42 subsection 1, that because of changed circumstances the governing body  
43 will be unable to comply with the goals and requirements set forth in  
44 sections 2 to 17, inclusive, of this act, the regional planning commission  
45 or regional planning coalition may:

46     (a) Require that the governing body amend its study or management  
47 plan, or both;

48     (b) Revoke the certification of the governing body's study or  
49 management plan, or both; or



1 (c) Carry out any combination of the actions authorized pursuant to  
2 paragraphs (a) and (b).

3 3. If the regional planning commission or regional planning  
4 coalition, pursuant to subsection 2, requires the governing body of a city  
5 or county to amend its study or management plan or revokes the  
6 certification of the study or management plan, the regional planning  
7 commission or regional planning coalition shall provide to the affected  
8 governing body:

9 (a) A written explanation of changes that must be made to the study or  
10 management plan;

11 (b) A statement of the date by which a revised study or revised  
12 management plan must be submitted to the regional planning  
13 commission or regional planning coalition; and

14 (c) If applicable, a statement setting forth any additional procedures  
15 that the governing body must follow to have its study or management  
16 plan recertified.

17 **Sec. 17.** 1. A governing body may propose amendments to its  
18 certified study or certified management plan, or both.

19 2. An amendment proposed pursuant to subsection 1 is not effective  
20 until:

21 (a) In the case of an amendment to the certified study, the amendment  
22 complies with the requirements of section 10 of this act, is approved by  
23 the governing body and is certified by the regional planning commission  
24 or regional planning coalition as consistent with the goals and  
25 requirements set forth in sections 2 to 17, inclusive, of this act.

26 (b) In the case of an amendment to the management plan, the  
27 amendment complies with the requirements of section 13 of this act, is  
28 approved by the governing body and is certified by the regional planning  
29 commission or regional planning coalition as consistent with the goals  
30 and requirements set forth in sections 2 to 17, inclusive, of this act.

31 **Sec. 18.** NRS 278.010 is hereby amended to read as follows:

32 278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 2*  
33 *to 17, inclusive, of this act*, unless the context otherwise requires, the  
34 words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the  
35 meanings ascribed to them in those sections.

36 **Sec. 19.** NRS 278.150 is hereby amended to read as follows:

37 278.150 1. The planning commission shall prepare and adopt a  
38 comprehensive, long-term general plan for the physical development of the  
39 city, county or region which in the commission's judgment bears relation  
40 to the planning thereof.

41 2. The plan must be known as the master plan, and must be so  
42 prepared that all or portions thereof, except as provided in subsection 3,  
43 may be adopted by the governing body, as provided in NRS 278.010 to  
44 278.630, inclusive, *and sections 2 to 17, inclusive, of this act* as a basis for  
45 the development of the city, county or region for such reasonable period of  
46 time next ensuing after the adoption thereof as may practically be covered  
47 thereby.



1     3. In counties whose population is 100,000 or more, if the governing  
2 body of the city or county adopts only a portion of the master plan, it shall  
3 include in that portion ~~the~~ :

4     ~~(a)~~ *A* conservation plan, a housing plan and a population plan as  
5 provided in NRS 278.160.

6     ~~(b)~~ *A management plan, as that term is defined in section 7 of this act.*

7     **Sec. 20.** The provisions of subsection 1 of NRS 354.599 do not apply  
8 to any additional expenses of a local government that are related to the  
9 provisions of this act.

