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## Office of the Governor

June 1, 2017

The Honorable Jason Frierson  
Speaker of the Nevada State Assembly  
The Nevada Legislature  
401 South Carson Street  
Carson City, NV 89701

### **RE: Assembly Bill 277 of the 79<sup>th</sup> Legislative Session**

Dear Speaker Frierson:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 277 ("AB 277"), which is entitled:

AN ACT relating to land use planning; establishing uniform statewide standards that local governments must strictly comply with when exercising powers of land use planning, subdivision regulation and zoning with regard to certain lands within or surrounding national conservation areas; repealing provisions relating to land use planning, subdivision regulation and zoning with regard to certain national conservation areas, national recreation areas and adjacent lands; and providing other matters properly relating thereto.

Nevada's National Conservation Areas are national treasures. Black Rock Desert-High Rock Canyon Emigrant Trails, Sloan Canyon, and Red Rock Canyon offer visitors unparalleled natural beauty. Protecting these unique landscapes for future generations is a laudable goal that we should all embrace. As some of Nevada's communities continue to grow, I understand and appreciate the heightened risks such growth poses to our conservation areas, and I am sympathetic to efforts to minimize those risks.

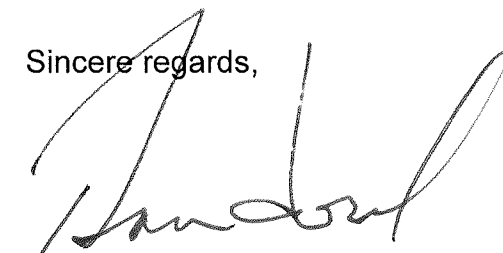
Nevertheless, even well-intended law must meet constitutional requirements, and AB 277 fails to meet those requirements. AB 277 is not the first legislative attempt to protect lands adjoining certain conservation areas. Similar law was passed in 2003 and ultimately deemed unconstitutional by the Nevada Supreme Court in 2013. See *Attorney General v. Gypsum Resources, LLC*, 294 P.3d 404 (2013). In that case, the Court held that the 2003 law was unconstitutional under Article 4, Sections 20, 21, and 25 of the Nevada Constitution.

The Court found the 2003 law to be a "local law" regulating county business in violation of Sections 20 and 21 of the Nevada Constitution. *See also Clean Water Coalition v. The M Resort*, 255 P.3d 247 (2011). The Court also found the 2003 law unconstitutional pursuant to Article 4, Section 25 of the Nevada Constitution because it established a system of county government that was not uniform throughout the state.

It is apparent that AB 277 was drafted with the *Gypsum* and *Clean Water Coalition* decisions in mind. And, to that end, the bill does make some slight improvements on the 2003 law, but it is still constitutionally suspect. Based on the reasoning in *Gypsum* and *Clean Water Coalition*, AB 277 still appears to violate their holdings and thus would be considered unconstitutional. Given these constitutional concerns, I cannot support AB 277, even though I continue to support the intentions behind it.

For these reasons, I veto Assembly Bill 277 and return it without my signature or approval.

Sincere regards,



BRIAN SANDOVAL  
Governor

*Enclosure*

cc:    *The Honorable Mark Hutchison, President of the Senate (without enclosure)*  
      *The Honorable Aaron Ford, Senate Majority Leader (without enclosure)*  
      *The Honorable Barbara Cegavske, Nevada Secretary of State (without enclosure)*  
      *Claire J. Clift, Secretary of the Senate (without enclosure)*  
      *Susan Furlong, Chief Clerk of the Assembly (without enclosure)*  
      *Brenda Erdoes, Esq., Legislative Counsel (without enclosure)*