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SENATE BILL NO. 294—SENATOR NEAL (BY REQUEST)

MARCH 14, 2003

Referred to Committee on Natural Resources

SUMMARY—Makes various changes to enforce sovereign rights of State of Nevada. (BDR 15-713)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

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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 intergovernmental relations; prohibiting a person from exercising the powers of a peace officer in this state unless authorized by state law; prohibiting a person from performing any act relating to the management or control of public lands in Nevada unless the person is an agent of this state; defining the jurisdiction of the State of Nevada; providing criminal penalties and civil remedies for acts relating to storing high-level radioactive waste in this state; providing other criminal penalties and civil remedies; 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 196 of NRS is hereby amended by adding  
2     thereto a new section to read as follows:  
3     *The Legislature hereby finds and declares that:*  
4     1. *The sovereign right of the State of Nevada to exercise*  
5     *police power in this state is being unlawfully usurped in violation*  
6     *of the Ninth and Tenth Amendments to the Constitution of the*  
7     *United States and in violation of the intent and purpose of the*  
8     *provisions of the Constitutional Compact whereby several of*  
9     *the sovereign rights of the State of Nevada are agreed to be*  
10    *exercised by special or limited agencies created by the Constitution*  
11    *of the United States.*



1       2. *The State of Nevada did not delegate to any limited agency*  
2 *or agencies created by the Constitution of the United States the*  
3 *power to store nuclear waste within this state.*

4       3. *The usurpation of the police power of the State of Nevada*  
5 *to protect the health, safety and welfare of the citizens of this state*  
6 *deprives the citizens of this state of the republican form of*  
7 *government required by the Constitution of the United States.*

8       4. *The State of Nevada can protect the health, safety and*  
9 *welfare of the citizens of this state and the republican form of*  
10 *government required by the Constitution of the United States by*  
11 *enforcing the Constitution of the United States.*

12       **Sec. 2.** Chapter 197 of NRS is hereby amended by adding  
13 thereto a new section to read as follows:

14       1. *A person who performs an act of a peace officer in this*  
15 *state, other than as a peace officer as defined in or authorized by*  
16 *state statute, is guilty of a gross misdemeanor.*

17       2. *A person aggrieved by a violation of any provision of this*  
18 *section may commence a civil action against the violator to*  
19 *recover damages suffered as a proximate result of the violation*  
20 *and is entitled to recover \$25,000 or treble the amount of his*  
21 *actual damages, whichever is greater, plus his costs and*  
22 *reasonable attorney's fees in the action.*

23       3. *The board of county commissioners of each county may*  
24 *adopt such ordinances as are necessary to carry out the provisions*  
25 *of this section.*

26       **Sec. 3.** Chapter 321 of NRS is hereby amended by adding  
27 thereto the provisions set forth as sections 4 and 5 of this act.

28       **Sec. 4.** *The State of Nevada, in amending NRS 321.5963,*  
29 *321.599, 328.500 and 459.910 and enacting this section and*  
30 *sections 2 and 5 of this act, is acting as a sovereign state to enforce*  
31 *within its borders the provisions of the Constitution of the United*  
32 *States. In so acting, it is subject only to the original jurisdiction of*  
33 *the Supreme Court of the United States.*

34       **Sec. 5.** 1. *A person who performs any act relating to the*  
35 *management or disposal of public lands in the State of Nevada,*  
36 *other than as an agent of the State of Nevada, is guilty of a gross*  
37 *misdemeanor.*

38       2. *A person aggrieved by a violation of any provision of this*  
39 *section may commence a civil action against the violator to*  
40 *recover damages suffered as a proximate result of the violation*  
41 *and is entitled to recover \$25,000 or treble the amount of his*  
42 *actual damages, whichever is greater, plus his costs and*  
43 *reasonable attorney's fees in the action.*



1 **3. The board of county commissioners of each county may**  
2 **adopt such ordinances as are necessary to carry out the provisions**  
3 **of this section.**

4 **Sec. 6.** NRS 321.5963 is hereby amended to read as follows:  
5 321.5963 As used in NRS 321.596 to 321.599, inclusive, **and**  
6 **sections 4 and 5 of this act**, unless the context otherwise requires:

7 1. "Division" means the Division of State Lands of the State  
8 Department of Conservation and Natural Resources.

9 2. "Public lands" means all lands within the exterior  
10 boundaries of the State of Nevada, **including lands managed or**  
11 **controlled by the Bureau of Land Management and the United**  
12 **States Forest Service**, except lands:

13 (a) To which title is held by any private person or entity;

14 (b) To which title is held by the State of Nevada, any of its local  
15 governments or the University and Community College System of  
16 Nevada;

17 (c) Which are located within congressionally authorized national  
18 parks, monuments ~~[-, national forests]~~ or wildlife refuges or which  
19 are lands acquired by purchase consented to by the Legislature;

20 (d) Which are controlled by the United States Department of  
21 Defense ~~[-, Department of Energy]~~ or **the** Bureau of Reclamation; or

22 (e) Which are held in trust for Indian purposes or are Indian  
23 reservations.

24 **Sec. 7.** NRS 321.599 is hereby amended to read as follows:  
25 321.599 The Attorney General may initiate **an action** or defend

26 ~~[any] an~~ action commenced in any court to carry out or enforce the  
27 provisions of NRS 321.596 to 321.599, inclusive, **and sections 4**  
28 **and 5 of this act**, or seek ~~[any]~~ appropriate judicial relief to protect  
29 the interests of the State or the people of the State in the public  
30 lands. ~~[The right to enforce the provisions of NRS 321.596 to~~  
31 ~~321.599, inclusive, vests exclusively in the Attorney General.]~~ **If the**  
32 **Attorney General refuses to initiate or defend such an action, the**  
33 **district attorney of the appropriate county may do so.**

34 **Sec. 8.** NRS 328.500 is hereby amended to read as follows:

35 328.500 1. The Legislature finds that more than 87 percent of  
36 the land in the State of Nevada is held by the Federal Government,  
37 of which 69 percent is public land, and the actions of federal  
38 agencies and instrumentalities involving the public lands and waters  
39 appurtenant to and public roads over those lands significantly affect  
40 the health, safety, welfare and happiness of the citizens of this state  
41 and may interfere with the traditional sovereign functions of the  
42 State of Nevada with respect to those lands, waters and roads and  
43 their uses.

44 2. Except as otherwise provided in subsection 3, the Attorney  
45 General may:



- 1 (a) On his own initiative or at the request of the Governor or any
- 2 state agency, bring and maintain any action; or
- 3 (b) Intervene on behalf of or bring and maintain an action on the
- 4 relation of, any person in any meritorious case,
- 5 in any court or before any federal agency if any action or proposed
- 6 action by a federal agency or instrumentality with respect to the
- 7 public lands or waters appurtenant to or public roads over those
- 8 lands impairs or tends to impair the sovereignty of the State of
- 9 Nevada.
- 10 3. The Attorney General may bring an action pursuant to this
- 11 section if:
- 12 (a) The Legislature has appropriated sufficient money for the
- 13 operation of his office to permit him to bring and maintain the
- 14 action until its conclusion; or
- 15 (b) He has obtained the permission:
- 16 (1) From the Legislature, if it is in session, expressed by a
- 17 concurrent resolution; or
- 18 (2) If the Legislature is not in session, from the Interim
- 19 Finance Committee.
- 20 4. As used in this section, "public lands" means all lands
- 21 within the exterior boundaries of the State of Nevada, *including*
- 22 *lands managed or controlled by the Bureau of Land Management*
- 23 *and the United States Forest Service*, except lands:
- 24 (a) To which title is held by any private person or entity;
- 25 (b) To which title is held by the State of Nevada, any of its local
- 26 governments or the University and Community College System of
- 27 Nevada;
- 28 (c) Which are located within congressionally authorized national
- 29 parks, monuments ~~[, national forests]~~ or wildlife refuges or which
- 30 are lands acquired by purchase consented to by the Legislature;
- 31 (d) Which are controlled by the United States Department of
- 32 Defense ~~[, Department of Energy]~~ or *the* Bureau of Reclamation; or
- 33 (e) Which are held in trust for Indian purposes or are Indian
- 34 reservations.
- 35 **Sec. 9.** NRS 459.910 is hereby amended to read as follows:
- 36 459.910 1. It is unlawful for any person or governmental
- 37 entity to store high-level radioactive waste in Nevada.
- 38 2. *A person who violates any provision of this section is guilty*
- 39 *of a category C felony and shall be punished as provided in*
- 40 *NRS 193.130.*
- 41 3. *A person aggrieved by a violation of any provision of this*
- 42 *section may commence a civil action against the violator to*
- 43 *recover damages suffered as a proximate result of the violation*
- 44 *and is entitled to recover \$25,000 or treble the amount of his*



1 *actual damages, whichever is greater, plus his costs and*  
2 *reasonable attorney's fees in the action.*

3 *4. The board of county commissioners of each county may*  
4 *adopt such ordinances as are necessary to carry out the provisions*  
5 *of this section.*

6 *5.* As used in this section, unless the context otherwise  
7 requires, "high-level radioactive waste" has the meaning ascribed to  
8 that term in 10 C.F.R. § 60.2.

9 **Sec. 10.** This act becomes effective upon passage and  
10 approval.

