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SENATE BILL NO. 435—COMMITTEE ON FINANCE

(ON BEHALF OF THE DIVISION OF BUDGET AND PLANNING)

MARCH 28, 2011

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Referred to Committee on Finance

**SUMMARY**—Transfers the Office of Historic Preservation from the Department of Cultural Affairs to the State Department of Conservation and Natural Resources. (BDR 18-1173)

**FISCAL NOTE:** Effect on Local Government: No.  
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 the Office of Historic Preservation of the Department of Cultural Affairs; transferring the Office from the Department of Cultural Affairs to the State Department of Conservation and Natural Resources; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law creates the Department of Cultural Affairs and the Office of  
2 Historic Preservation and places the Office within the Department. (NRS 378.008,  
3 383.021) Existing law also creates the State Department of Conservation and  
4 Natural Resources. (NRS 232.020) **Sections 1 and 9** of this bill transfer the Office  
5 of Historic Preservation from the Department of Cultural Affairs to the State  
6 Department of Conservation and Natural Resources.

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

1 **Section 1.** NRS 232.090 is hereby amended to read as follows:  
2 232.090 1. The Department consists of the Director and the  
3 following : ~~divisions:~~  
4 (a) The Division of Water Resources.  
5 (b) The Division of State Lands.  
6 (c) The Division of Forestry.



- 1 (d) The Division of State Parks.
- 2 (e) The Division of Conservation Districts.
- 3 (f) The Division of Environmental Protection.
- 4 (g) *The Office of Historic Preservation.*
- 5 (h) Such other divisions as the Director may from time to time
- 6 establish.

7 2. The State Environmental Commission, the State  
8 Conservation Commission, the Commission for the Preservation of  
9 Wild Horses, the Nevada Natural Heritage Program and the Board  
10 to Review Claims are within the Department.

11 **Sec. 2.** NRS 244A.689 is hereby amended to read as follows:  
12 244A.689 "Project" means:

13 1. Any land, building or other improvement and all real and  
14 personal properties necessary in connection therewith, whether or  
15 not in existence, suitable for:

- 16 (a) A manufacturing, industrial or warehousing enterprise;
- 17 (b) An organization for research and development;
- 18 (c) A health and care facility;
- 19 (d) A supplemental facility for a health and care facility;
- 20 (e) The purposes of a corporation for public benefit; or
- 21 (f) Affordable housing.

22 2. The refinancing of any land, building or other improvement  
23 and any real and personal property necessary for:

- 24 (a) A health and care facility;
- 25 (b) A supplemental facility for a health and care facility;
- 26 (c) The purposes of a corporation for public benefit; or
- 27 (d) Affordable housing.

28 3. Any land, building, structure, facility, system, fixture,  
29 improvement, appurtenance, machinery, equipment, or any  
30 combination thereof or any interest therein, used by any natural  
31 person, partnership, firm, company, corporation, including a public  
32 utility, association, trust, estate, political subdivision, state agency or  
33 any other legal entity, or its legal representative, agent or assigns:

34 (a) For the reduction, abatement or prevention of pollution or for  
35 the removal or treatment of any substance in a processed material  
36 which otherwise would cause pollution when such material is used.

37 (b) In connection with the furnishing of water if available on  
38 reasonable demand to members of the general public.

39 (c) In connection with the furnishing of energy or gas.

40 4. Any real or personal property appropriate for addition to a  
41 hotel, motel, apartment building, casino or office building to protect  
42 it or its occupants from fire.

43 5. Any undertaking by a public utility, in addition to that  
44 allowed by subsections 2 and 3, which is solely for the purpose of



1 making capital improvements to property, whether or not in  
2 existence, of a public utility.

3 6. In addition to the kinds of property described in subsections  
4 2 and 3, if the project is for the generation and transmission of  
5 electricity, any other property necessary or useful for that purpose,  
6 including, without limitation, any leases and any rights to take water  
7 or fuel.

8 7. The preservation of any historic structure or its restoration  
9 for its original or another use, if the plan has been approved by the  
10 Office of Historic Preservation of the *State* Department of ~~{Cultural  
11 Affairs;} *Conservation and Natural Resources*.~~

12 **Sec. 3.** NRS 277.058 is hereby amended to read as follows:

13 277.058 1. A public entity, in consultation with any Indian  
14 tribe that has local aboriginal ties to the geographical area in which  
15 a unique archeological, paleontological or historical site is located  
16 and in cooperation with the Office of Historic Preservation of the  
17 *State* Department of ~~{Cultural Affairs;} *Conservation and Natural  
18 Resources*,~~ may enter into a cooperative agreement with the owner  
19 of any property that contains a unique archeological, paleontological  
20 or historical site in this state or with any other person, agency of the  
21 Federal Government or other public entity for the preservation,  
22 protection, restoration and enhancement of unique archeological,  
23 paleontological or historical sites in this state, including, without  
24 limitation, cooperative agreements to:

25 (a) Monitor compliance with and enforce any federal or state  
26 statutes or regulations for the protection of such sites.

27 (b) Ensure the sensitive treatment of such sites in a manner that  
28 provides for their long-term preservation and the consideration of  
29 the values of relevant cultures.

30 (c) Apply for and accept grants and donations for the  
31 preservation, protection, restoration and enhancement of such sites.

32 (d) Create and enforce:

33 (1) Legal restrictions on the use of real property; and

34 (2) Easements for conservation, as defined in NRS 111.410,

35 ↪ for the protection of such sites.

36 2. As used in this section, “public entity” means any:

37 (a) Agency of this state, including the Office of Historic  
38 Preservation of the *State* Department of ~~{Cultural—Affairs;}  
39 *Conservation and Natural Resources*; and~~

40 (b) County, city or town in this state.

41 **Sec. 4.** NRS 321.5967 is hereby amended to read as follows:

42 321.5967 1. There is hereby created a Board of Review  
43 composed of:

44 (a) The Director of the State Department of Conservation and  
45 Natural Resources;



1 (b) The Administrator of the Division of Environmental  
2 Protection of the State Department of Conservation and Natural  
3 Resources;

4 (c) The Administrator of the Division of Minerals of the  
5 Commission on Mineral Resources;

6 (d) The Administrator of the Division of State Parks of the State  
7 Department of Conservation and Natural Resources;

8 (e) The State Engineer;

9 (f) The State Forester Firewarden;

10 (g) The Chair of the State Environmental Commission;

11 (h) The Director of the State Department of Agriculture;

12 (i) The Chair of the Board of Wildlife Commissioners; and

13 (j) The Administrator of the Office of Historic Preservation of  
14 the *State* Department of ~~{Cultural Affairs.}~~ *Conservation and*  
15 *Natural Resources.*

16 2. The Chair of the State Environmental Commission serves as  
17 Chair of the Board.

18 3. The Board shall meet at such times and places as are  
19 specified by a call of the Chair. Six members of the Board constitute  
20 a quorum. The affirmative vote of a majority of the Board members  
21 present is sufficient for any action of the Board.

22 4. Except as otherwise provided in this subsection, the  
23 members of the Board serve without compensation. The Chair of the  
24 State Environmental Commission and the Chair of the Board of  
25 Wildlife Commissioners are entitled to receive a salary of not more  
26 than \$80, as fixed by the Board, for each day's attendance at a  
27 meeting of the Board.

28 5. While engaged in the business of the Board, each member  
29 and employee of the Board is entitled to receive the per diem  
30 allowance and travel expenses provided for state officers and  
31 employees generally.

32 6. The Board:

33 (a) Shall review and approve or disapprove all regulations  
34 proposed by the State Land Registrar pursuant to NRS 321.597.

35 (b) May review any decision of the State Land Registrar made  
36 pursuant to NRS 321.596 to 321.599, inclusive, if an appeal is taken  
37 pursuant to NRS 321.5987, and affirm, modify or reverse the  
38 decision.

39 (c) Shall review any plan or statement of policy concerning the  
40 use of lands in Nevada under federal management which is  
41 submitted by the State Land Use Planning Agency.

42 **Sec. 5.** NRS 349.510 is hereby amended to read as follows:

43 349.510 "Project" means:

44 1. Any land, building or other improvement and all real and  
45 personal properties necessary in connection therewith, excluding



1 inventories, raw materials and working capital, whether or not  
2 existence, suitable for new construction, improvement, rehabilitation  
3 or redevelopment for:

4 (a) Industrial uses, including assembling, fabricating,  
5 manufacturing, processing or warehousing;

6 (b) Research and development relating to commerce or industry,  
7 including professional, administrative and scientific offices and  
8 laboratories;

9 (c) Commercial enterprises;

10 (d) Civic and cultural enterprises open to the general public,  
11 including theaters, museums and exhibitions, together with  
12 buildings and other structures, machinery, equipment, facilities and  
13 appurtenances thereto which the Director deems useful or desirable  
14 in connection with the conduct of any such enterprise;

15 (e) An educational institution operated by a nonprofit  
16 organization not otherwise directly funded by the State which is  
17 accredited by a nationally recognized educational accrediting  
18 association;

19 (f) Health and care facilities and supplemental facilities for  
20 health and care;

21 (g) The purposes of a corporation for public benefit; or

22 (h) A renewable energy generation project.

23 2. Any real or personal property appropriate for addition to a  
24 hotel, motel, apartment building, casino or office building to protect  
25 it or its occupants from fire.

26 3. The preservation of a historic structure or its restoration for  
27 its original or another use, if the plan has been approved by the  
28 Office of Historic Preservation of the *State* Department of ~~[Cultural~~  
29 ~~Affairs.] *Conservation and Natural Resources.*~~

30 **Sec. 6.** NRS 350.575 is hereby amended to read as follows:

31 350.575 1. Upon the adoption of a resolution to finance the  
32 preservation or restoration of a historic structure, in the manner  
33 provided in NRS 350.087, by a municipality, a certified copy  
34 thereof must be forwarded to the Executive Director of the  
35 Department of Taxation, accompanied by a letter from the Office of  
36 Historic Preservation of the *State* Department of ~~[Cultural Affairs]~~  
37 *Conservation and Natural Resources* certifying that the  
38 preservation or restoration conforms to accepted standards for such  
39 work. As soon as is practicable, the Executive Director of the  
40 Department of Taxation shall, after consideration of the tax structure  
41 of the municipality concerned and the probable ability of the  
42 municipality to repay the requested financing, approve or  
43 disapprove the resolution in writing to the governing board. No such  
44 resolution is effective until approved by the Executive Director of  
45 the Department of Taxation. The written approval of the Executive



1 Director of the Department of Taxation must be recorded in the  
2 minutes of the governing board.

3 2. If the Executive Director of the Department of Taxation does  
4 not approve the financing resolution, the governing board of the  
5 municipality may appeal the Executive Director's decision to the  
6 Nevada Tax Commission.

7 3. As used in this section, "historic structure" means a  
8 building, facility or other structure which is eligible for listing in the  
9 State Register of Historic Places under NRS 383.085.

10 **Sec. 7.** NRS 361A.050 is hereby amended to read as follows:

11 361A.050 "Open-space use" means the current employment of  
12 land, the preservation of which use would conserve and enhance  
13 natural or scenic resources, protect streams and water supplies,  
14 maintain natural features which enhance control of floods or  
15 preserve sites designated as historic by the Office of Historic  
16 Preservation of the *State* Department of ~~Cultural Affairs.~~  
17 *Conservation and Natural Resources*. The use of real property and  
18 the improvements on that real property as a golf course shall be  
19 deemed to be an open-space use of the land. The use of land to lease  
20 surface water rights appurtenant to the property to a political  
21 subdivision of this State for a municipal use shall be deemed to be  
22 an open-space use of the land, if the land was agricultural real  
23 property at the time the lease was granted.

24 **Sec. 8.** NRS 376A.010 is hereby amended to read as follows:

25 376A.010 As used in this chapter, unless the context otherwise  
26 requires:

27 1. "Open-space land" means land that is undeveloped natural  
28 landscape, including, but not limited to, ridges, stream corridors,  
29 natural shoreline, scenic areas, viewsheds, agricultural or other land  
30 devoted exclusively to open-space use and easements devoted to  
31 open-space use that are owned, controlled or leased by public or  
32 nonprofit agencies.

33 2. "Open-space plan" means the plan adopted by the board of  
34 county commissioners of a county to provide for the acquisition,  
35 development and use of open-space land.

36 3. "Open-space use" includes:

37 (a) The preservation of land to conserve and enhance natural or  
38 scenic resources;

39 (b) The protection of streams and stream environment zones,  
40 watersheds, viewsheds, natural vegetation and wildlife habitat areas;

41 (c) The maintenance of natural and artificially created features  
42 that control floods, other than dams;

43 (d) The preservation of natural resources and sites that are  
44 designated as historic by the Office of Historic Preservation of the



1 *State* Department of ~~[Cultural Affairs;]~~ *Conservation and Natural*  
2 *Resources;* and

3 (e) The development of recreational sites.

4 **Sec. 9.** NRS 378.008 is hereby amended to read as follows:

5 378.008 1. There is hereby created the Department of  
6 Cultural Affairs in which is vested the administration of the  
7 provisions of this title and chapter 233C of NRS.

8 2. The Department consists of a Director and the following:

9 (a) The Division of State Library and Archives;

10 (b) The Division of Museums and History;

11 (c) ~~[The Office of Historic Preservation;~~

12 ~~—(d)]~~ The Board of the Nevada Arts Council;

13 ~~[(e)]~~ (d) The Nevada Arts Council;

14 ~~[(f)]~~ (e) The Board of Museums and History;

15 ~~[(g)]~~ (f) The State Council on Libraries and Literacy;

16 ~~[(h)]~~ (g) The State Historical Records Advisory Board; and

17 ~~[(i)]~~ (h) The Commission for Cultural Affairs.

18 **Sec. 10.** NRS 381.197 is hereby amended to read as follows:

19 381.197 Except for action taken under an agreement with the  
20 Office of Historic Preservation of the *State* Department of  
21 *Conservation and Natural Resources* pursuant to NRS 383.430,  
22 and except as otherwise provided in this section, a person shall not  
23 investigate, explore or excavate an historic or prehistoric site on  
24 federal or state lands or remove any object therefrom unless the  
25 person is the holder of a valid and current permit issued pursuant to  
26 the provisions of NRS 381.195 to 381.227, inclusive. Conduct that  
27 would otherwise constitute a violation of this section is not a  
28 violation of this section if it is also a violation of NRS 383.435.

29 **Sec. 11.** NRS 383.011 is hereby amended to read as follows:

30 383.011 As used in this chapter, unless the context otherwise  
31 requires:

32 1. “Administrator” means the Administrator of the Office.

33 2. “Advisory Board” means the Board of Museums and  
34 History.

35 3. “Cultural resources” means any objects, sites or information  
36 of historic, prehistoric, archeological, architectural or  
37 paleontological significance.

38 4. “Director” means the Director of the *State* Department of  
39 ~~[Cultural Affairs;]~~ *Conservation and Natural Resources.*

40 5. “Office” means the Office of Historic Preservation of the  
41 *State* Department of ~~[Cultural Affairs;]~~ *Conservation and Natural*  
42 *Resources.*

43 **Sec. 12.** NRS 384.050 is hereby amended to read as follows:

44 384.050 1. The Governor shall appoint to the Commission:



1 (a) One member who is a county commissioner of Storey  
2 County.

3 (b) One member who is a county commissioner of Lyon County.

4 (c) One member who is the Administrator or an employee of the  
5 Office of Historic Preservation of the *State* Department of ~~Cultural~~  
6 ~~Affairs.~~ *Conservation and Natural Resources.*

7 (d) Two members who are persons licensed as general  
8 engineering contractors or general building contractors pursuant to  
9 chapter 624 of NRS or persons who hold a certificate of registration  
10 to practice architecture pursuant to chapter 623 of NRS.

11 (e) Four members who are persons interested in the protection  
12 and preservation of structures, sites and areas of historic interest and  
13 are residents of the district.

14 2. The Commission shall elect one of its members as Chair and  
15 another as Vice Chair, who shall serve for a term of 1 year or until  
16 their successors are elected and qualified.

17 3. Each member of the Commission is entitled to receive a  
18 salary of not more than \$80, as fixed by the Commission, for each  
19 day's attendance at a meeting of the Commission.

20 4. While engaged in the business of the Commission, each  
21 member and employee of the Commission is entitled to receive the  
22 per diem allowance and travel expenses provided for state officers  
23 and employees generally.

24 **Sec. 13.** 1. Any administrative regulations adopted by an  
25 officer or an agency whose name has been changed or whose  
26 responsibilities have been transferred pursuant to the provisions of  
27 this act to another officer or agency remain in force until amended  
28 by the officer or agency to which the responsibility for the adoption  
29 of the regulations has been transferred.

30 2. Any contracts or other agreements entered into by an officer  
31 or agency whose name has been changed or whose responsibilities  
32 have been transferred pursuant to the provisions of this act to  
33 another officer or agency are binding upon the officer or agency to  
34 which the responsibility for the administration of the provisions of  
35 the contract or other agreement has been transferred. Such contracts  
36 and other agreements may be enforced by the officer or agency to  
37 which the responsibility for the enforcement of the provisions of the  
38 contract or other agreement has been transferred.

39 3. Any action taken by an officer or agency whose name has  
40 been changed or whose responsibilities have been transferred  
41 pursuant to the provisions of this act to another officer or agency  
42 remains in effect as if taken by the officer or agency to which the  
43 responsibility for the enforcement of such actions has been  
44 transferred.





- 1     **Sec. 14.** 1. The Legislative Counsel shall, in preparing the  
2 reprint and supplements to the Nevada Revised Statutes, with  
3 respect to any section which is not amended by this act or is adopted  
4 or amended by another act, appropriately change any reference to an  
5 officer or agency whose name is changed or whose responsibilities  
6 have been transferred pursuant to the provisions of this act to refer  
7 to the appropriate officer of agency.  
8     2. The Legislative Counsel shall, in preparing supplements to  
9 the Nevada Administrative Code, appropriately change any  
10 references to an officer or agency whose name is changed or whose  
11 responsibilities are transferred pursuant to the provisions of this act  
12 to refer to the appropriate officer or agency.  
13     **Sec. 15.** This act becomes effective on August 1, 2011.

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