

1 \$1425
TERRY W. TIERNAY
2 3555 CRAZY HORSE ROAD
RENO, NV 89510
3 775 741-5864
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6 IN THE SECOND JUDICIAL COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE
8

9 TERRY W. TIERNAY

10 Plaintiff,

11 vs.

Case No. CV13 01460

12 RICHARD GAMMICK,

Dept. No. 3

13 BONNIE WEBER,

14 KITTY JUNG, and

15 DAVID HUMKE,

16 Defendants,
17 _____/

18 PLAINTIFF'S COMPLAINT OF NEGLECT OF DUTY/MALFEASANCE AND SUMMARY
19 JUDGEMENT FOR DEFENDANTS REMOVAL FROM OFFICE UNDER NRS 283.440

20 The above listed Washoe County officials actions or lack of action demonstrate neglect of duty (failure to
21 oppose AB545 during the 2011 legislative session) or malfeasance (position supporting AB545): Either action
22 resulted in Washoe residents and local governments losing powers, rights, privileges and burdens that for decades
23 applied exclusively to Clark County residents and governmental entities. It is therefore requested that consideration
24 be given for the removal from office of the above named Washoe County Board of Commissioners and current
25 District Attorney under the provisions of NRS 283.440.

26 This complaint and Exhibits show that various Washoe District Attorneys supported and participated in
27 similar past and 2011 legislative action to raise population thresholds thereby denying Washoe residents and
28

1 government powers granted in POPULATION BASED GENERAL LAWS. The same is true of current and past
2 BoCC members with regard to supporting or not opposing population threshold increases. It is time these abuses of
3 power by the legislature, governor and local officials come to an end. The place to start in correcting abuse of
4 power and disregard of constitutional provisions is at the lowest level with the removal from office of the entire
5 2011/12 BoCC membership and current DA under the provisions of NRS 283.440 for betrayal of public trust,
6 malfeasance. I request that this case be assigned to District Judge Freeman or Stiglich as testimony by Judge
7 Steinheimer before the State Senate Committee on Government Affairs (AB545) supporting changes to population
8 basis shows that her testimony representing Washoe based judges/justices is a conflict of interest. (**Exhibit #1** -
9 pages 28 & 29, State Senate Committee on Government Affairs 9 May 2011 minutes) As Judges Freeman and
10 Stiglich were appointed to the bench after Judge Steinheimer's testimony for Washoe based judges, they are free of
11 apparent conflict of interest. Judge Sattler's close relationship with Gammick is also a disqualifier for this case.

12 The second goal of this filing is a first step in overturning all sections of AB545. Once removed from
13 office, two recently elected commissioners along with appointed replacements for commissioners Jung, Humke and
14 Weber and district attorney Gammick will provide a new Washoe County government the opportunity and means to
15 call the legislature and governor to task on AB545. If a demand to return all population based laws modified by
16 AB545 to thresholds in place prior to the 2011 legislative session is not undertaken by the legislature and governor,
17 court action by Washoe County would be appropriate.

18 **BACKGROUND:** Prior to the start of the 2011 legislative session, Legislative Counsel/LCB drafted AB545
19 (**BDR548**); *AB545 AN ACT relating to classifications based on population; changing the population basis for the*
20 *exercise of certain powers by local governments; and providing other matters properly relating thereto.* This bill
21 was a compilation of 313 individual NRS originally enacted as general laws with "kick in" population thresholds for
22 local governments. Of the 313 NRS, approximately 240 had a direct impact on Washoe County and the cities of
23 Reno and Sparks and address a host of subjects. Every attempt to get the bill drafter, legislative counsel, to reveal
24 the identity of local Washoe, Reno and Sparks officials who participated in the construction and/or passage of
25 AB545 have met with a claim of "confidentiality" by legislative counsel as well as Washoe County officials with the
26 exception of Sheriff Haley (**Exhibit #2** - various Requests for Information).

27 The duty and responsibility of the Washoe BoCC, DA and other local government officials is to know and

1 understand all relevant subjects addressed in AB545. It is the duty of all local officials to act in the public interest,
2 to solicit and coordinate input from all concerned parties, to include; citizens during public hearings, other local
3 governmental entities, businesses and other interest groups. It is the duty of the BoCC to provide the legislature
4 input on each of the approximately 240 sections (NRS) affecting Washoe County. It is the duty of the BoCC, Reno,
5 Sparks and other affected entities to provide realistic FISCAL IMPACT for the numerous relevant sections of
6 AB545. It is the duty of Washoe County officials to review and understand the 1981 case law cited in the Digest
7 Section of AB545 which requires that population based laws meet the following three criteria: 1) if the classification
8 applies prospectively to all counties which might come within its designated class, it is neither local nor special; 2)
9 the use of the population criteria is rationally related to the subject matter and; 3) does not create an odious or absurd
10 distinction. **(EXHIBIT #3 - 1981 and other case law)**. Finally, it is the duty of Washoe County officials to
11 recognize and support the constitutional provisions and requirements for General Laws, Uniform Local
12 Governments and Single Subject bills, all three provisions were violated with the enactment of AB545. The
13 Governor certified Washoe County's population to exceed the 400,000 threshold in 2006 and the BoCC and DA had
14 ample time to prepare for change. They failed to do so and are guilty of neglect of duty and/or malfeasance.

15 Following cited sections of AB545 and additional EXHIBITS support the contention that Washoe County
16 officials asked for the population threshold increases contained in AB545. Testimony to the Senate Government
17 Affairs Committee by Dick Gammick state that POPULATION BASE GENERAL LAWS are in fact LOCAL
18 LAWS designed to apply solely to Clark County and that Washoe County does not want them to apply to Washoe
19 County government. **(Exhibit #1 - pages 21 - 27 Senate Committee on Government Affairs minutes)** While
20 Gammick was providing his testimony, BoCC meeting agendas and minutes from January 2011 through June 2011
21 present a deceptive and false claim that the BoCC did not take a position on AB545 any time prior to enactment.
22 The minutes of those meeting show that AB545 was never publicly discussed during regular meetings of the BoCC.
23 **(Exhibit #4 - BoCC graphics)** The BoCC claim of "no position" as presented in the exhibit is not only disputed by
24 Gammick's Senate testimony, but by Sheriff Haley who states that BoCC members, the DA and Sheriff did in fact
25 meet to discuss AB545. **Exhibit #5 - Sheriff Haley email)** Correspondence between myself and county officials as
26 part of a Request for Information on input to AB545 adds additional evidence that county officials understood the
27 content of that bill. Paul A. Lipparelli, Assistant District Attorney, representative to the BoCC: *"AB 545 of the 2011*

1 Nevada Legislature was significant legislation for Washoe County Any legislative decision to change, or not
2 change, the several hundred Nevada statutes containing references to the population of Nevada counties has
3 significant potential legal effects on Washoe County.” Additionally, AB545 section 314, is a certification by the
4 legislature that each section of the bill was discussed with the affected local governments and further serves to
5 counter the claim of “no position” by Washoe BoCC members.

6 A few examples of what was forfeited through malicious sabotage by the Washoe BoCC and DA follow.
7 Other important subjects not covered below include changes to Redevelopment Districts and STAR Bonds that have
8 proved costly to tax payers and impotent on promised returns.

9 **1. Additional revenues for school construction:** WCSD has been denied millions of dollars in new
10 revenue sources from room rental (AB 545 section 8) and real property transfer taxes (AB 545 sections 181 and 183)
11 which Clark County has enjoyed for decades under population threshold GENERAL LAWS. WCSD officials were
12 never notified by legislative members/staff or Washoe County (BoCC or DA) officials of WCSD’s right to these
13 new revenue sources under the old 400,000 threshold. In fact, WCSD officials first learned of their right, under
14 GENERAL LAWS, to room rental and real property taxes revenues when I emailed the WCSD Board of School
15 Trustees on March 22, 2011. (**Exhibit #6** - WCSD correspondence) After looking into the matter, the WCSD was
16 informed by a member of the LCB that the legislature and Governor made it a practice to adjust population
17 thresholds following decennial census. BoCC members and the DA are guilty of assuming the powers of the WCSD
18 by providing input for all Washoe County entities and not notifying the WCSD of their right to protest the
19 population basis increase in relevant sections of AB545. Although the WCSD has its own legal counsel the DA was
20 negligent by not notifying the Board of Trustees and then coordinating input to relevant sections of AB545. Adding
21 injury to insult, the legislature passed Debbi Smith’s bill, AB376, giving Reno based convention facilities room tax
22 monies, while denying WCSD similar revenue sources. In addition to the sections of AB545 discussed, additional
23 sections of AB545 would have had a positive effect on WCSD but were also “adjusted” to a higher population
24 threshold. WCSD used its sole 2013 BDR request to generate AB46 (AN ACT relating to the funding of capital
25 projects of school districts; providing for the imposition and administration of a new sales and use tax and ad
26 valorem tax in certain counties for the capital projects of the school districts in those counties;). If enacted, AB46
27 will impose higher sales and property taxes during a recovering economy and have a severe financial impact on

1 residents of Washoe County. AB46 is not needed, adherence to constitutional provisions of General Laws will
2 accomplish the same results when AB545 is eventually reversed and stricken as proscribed local legislation.

3 **2. Increased representation on the Washoe BoCC for citizens countywide: Violation of Article 1,**
4 **section 13. Representation apportioned according to population. Representation shall be apportioned according to**
5 **population.** AB545 **Sec. 2.** NRS 244.016 is hereby amended to read as follows:

6 244.016 1. In each county whose population is [400,000] **700,000** or more, the board of county commissioners
7 consists of seven members.

8 2. The board of county commissioners shall establish seven county commissioner election districts which must be as
9 nearly equal in population as practicable, and each of which must be composed entirely of contiguous territory and
10 be as compact as possible.

11 NRS 244.016 is a Legislative mandate and not a power of local government. Washoe County residents have been
12 denied representation according to population three times since 1990.

13 (1) In 1977 the Legislature of Nevada added NRS 244.016 to the list of state statutes. NRS 244.016 was
14 constructed to reflect the growth of population in Clark County, increasing the number of county commissioners
15 from 5 members to seven members.

16 *NRS 244.016 "In each county having a population of 250,000 or more, the board of county commissioners consists*
17 *of seven members.*

18 The population of 250,000 or more made this population classification statute apply only to Clark County on the
19 1977 date of enactment.

20 In 1989, population growth in Washoe County indicated that Washoe would come under the provisions of the
21 threshold of 250,000 and join Clark County with 7 BoCC members. Knowing that the US Census of 1990 would so
22 reflect, the Legislature (AB873, 1989) changed the population threshold for over 50 individual NRS from the
23 threshold of 250,000 to 400,000. This population classification change included NRS 244.016, thereby denying the
24 residents of Washoe County their constitutional right to representation according to population. Washoe County's
25 population was 254,667 in the 1990 US census.

26 (2) In 2006, the Governor certified Washoe County's population as exceeding the 400,000 threshold. According to
27 the Nevada Supreme Court and Attorney General Opinion, both cited below, the Washoe County BoCC was

1 mandated to move to 7 commissioner districts in 2006 as required by NRS 244.016 using the provisions of NRS
2 244.018.

3 *County of Clark v. City of Las Vegas, 92 Nev. 323, 550 P.2d 779 (1976). The court held “it was constitutionally*
4 *impermissible to base an initial apportionment for the new commissioner districts on admittedly outdated and*
5 *inaccurate population estimates when more recent and accurate estimates were just as readily available.” Id. at*
6 333.

7 AND

8 *AGO 98-03 “The Washoe County Commission may reapportion the commissioner election districts more frequently*
9 *than once every ten years when population changes occur.”*

10 Dick Gammick had certain knowledge of the requirement to increase the number of commissioner districts from 5 to
11 7 in 2006 as he was the requestor of AGO 98-03; thereby having knowledge of the 1976 ruling as well as the
12 opinion. The full BoCC had knowledge as I personally read into the record at regular meetings of the BoCC
13 portions of both the 1976 case and AGO 98-03. Not wanting to increase the number of BoCC members as required
14 by NRS, the BoCC chose Gammick’s misinformation over the 1976 Supreme Court ruling and AGO 98-03.

15 **Exhibit #7** contains my 2008 and 2009 address to the BoCC and electronic exchanges with the BoCC and
16 Gammick.

17 (3) In 2011, the Legislature knowing that Washoe County had qualified for the 400,000 population threshold,
18 moved the 400,000 figure to 700,000. The increased population threshold again included NRS 244.016, thereby
19 denying Washoe County it’s right to representation for a third time.

20 *ARTICLE. 4. - Sec: 25. Uniform county and township government. The Legislature shall establish a system of*
21 *County and Township Government which shall be uniform throughout the State.*

22 Continual changing population thresholds for representation violates “uniform throughout the State.” There is
23 nothing local or special that requires Clark County to have 7 members with a population of “greater than 250,000”
24 (raised to 400,000 in 1989 then again to 700,000 in 2011). It is just the policy of legislative members, the 2011
25 BoCC five, and past Washoe commissioners and Gammick to deny Washoe residents constitutionally and statutorily
26 mandated representation of seven BoCC members.

27 **3. Unincorporated resident protection from annexation by cities and resulting forced development of**

1 **rural regions:**

2 ANNEXATION BY CITIES IN CERTAIN COUNTIES

3 *NRS 268.570 Applicability. The provisions of NRS 268.570 to 268.608, inclusive, apply only to cities located in a*
4 *county whose population is 700,000 (400,000) or more.*

5 *NRS 268.572 Legislative declaration. It is hereby declared as a matter of legislative determination that:*

6 *1. Sound urban development is essential to the continued economic development of this State.*

7 ***5. Areas annexed to municipalities should include all of the urbanized unincorporated areas adjacent to***
8 ***municipalities, and piecemeal annexation of unincorporated areas should be avoided, securing to residents***
9 ***within the area proposed to be annexed the right of protest.***

10 *NRS 268.580 General standards of territory to be annexed.*

11 *1. The governing body of any city may extend the corporate limits of the city to include any territory which meets the*
12 *general standards of subsection 2 and every part of which meets the requirements of subsection 3, 4, 5 or 6.*

13 ***2. The total area proposed to be annexed must meet the following standards:***

14 ***(a) It must be contiguous to the annexing city's boundaries at the time the annexation proceedings are instituted.***

15 ***(b) Not less than one-eighth of the aggregate external boundaries must be contiguous to the boundaries of the***
16 ***annexing city.***

17 THIS SECTION OF NRS DOES AWAY WITH "LEAP FROG" ANNEXATION. SPRING MOUNTAIN
18 PLANNED DEVELOPMENT IN WARM SPRINGS VALLEY, 35 MILES FROM RENO CITY BOUNDARIES,
19 WOULD NOT BE ALLOWED. SPHERES OF INFLUENCE ARE NOT ALLOWED IN COUNTIES OVER
20 400,000 (700,000).

21 *NRS 268.592 Disapproval of annexation; adoption of ordinance extending corporate limits.*

22 ***1. If a majority of the property owners protest the annexation, either orally or in writing at the public hearing or***
23 ***in writing within 15 days after the conclusion of the public hearing, the city shall not annex in that proceeding***
24 ***any part of the territory described in the notice. This provision does not preclude a subsequent proceeding with***
25 ***respect to all or part of that territory if that proceeding is commenced more than 1 year after the public hearing.***

26 REGIONAL PLANNING

27 *NRS 278.02514 Regional planning coalition: Establishment. In a county whose population is 700,000 (400,000) or*

1 more, the board of county commissioners and the city council of each of at least the three largest cities in the county
2 shall establish a regional planning coalition by cooperative agreement pursuant to chapter 277 of NRS.

3 NRS 278.02521 Legislative intent.

4 1. The Legislature recognizes the need for innovative strategies of planning and development that:

5 (a) Address the anticipated needs and demands of continued urbanization and the corresponding need to protect
6 environmentally sensitive areas; and

7 (b) Will allow the development of less populous regions of this State if such regions:

8 (1) Seek increased economic development; and

9 (2) Have sufficient resources of land and water to accommodate development in a manner that is
10 environmentally sound.

11 3. It is the intent of the Legislature that each comprehensive regional policy plan adopted or amended pursuant to
12 this chapter should set forth a process of planning which:

13 (a) Allows for:

14 (1) The efficient use of land within existing urban areas; and

15 (2) The conversion of rural lands to other uses, if such other uses are appropriate and consistent with the provisions
16 of this chapter and the master plan of each affected city and county.

17 (b) Uses innovative and flexible strategies of planning and development and creative techniques of land use
18 planning which promote sustainable growth, including, without limitation, **establishment of new towns**, the
19 maintenance of open space and mixed-use development.

20 4. It is the further intent of the Legislature that when the governing body of a local government adopts a master
21 plan or zoning regulation, the plan or regulation should promote a strategy of maximizing the use of existing
22 facilities and services through redevelopment, interspersion of new housing and businesses in established
23 neighborhoods and other mechanisms for urban revitalization.

24 NRS 278.02528 Regional planning coalition to develop comprehensive regional policy plan; consultation; contents
25 of plan; adoption or amendment of plan.

26 3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the
27 adoption or amendment is by resolution of the regional planning coalition:

1 (a) Carried by the affirmative votes of not less than two-thirds of its total membership; and
2 (b) Ratified by the board of county commissioners of the county and the city council of each city that jointly
3 established the regional planning coalition pursuant to NRS 278.02514.

4 (I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise
5 districts

6 UNDER PLANNING REQUIREMENTS IN PREVIOUS THRESHOLD OF 400,000, LAZY 8 CASINO WOULD
7 NOT BE ALLOWED AS THERE IS A REQUIREMENT FOR “CASINO ENTERPRISE DISTRICTS” AND
8 SPANISH SPRINGS HAS NOT BEEN SO DESIGNATED.

9 Lot of talk about *INTENT OF THE LEGISLATURE* that does not translate to Washoe County residents. Clearly not
10 the intent of Washoe, Reno and Sparks either.

11 IMPACT: WASHOE UNINCORPORATED RESIDENTS ARE DENIED THE RIGHT TO SAY NO TO
12 ANNEXATION; RURAL AREAS ARE NOT PROTECTED FROM DEVELOPMENT; WASHOE BOCC DOES
13 NOT HAVE THE INDIVIDUAL AND SINGULAR RIGHT TO CONTROL PLANNING IN THE RURAL
14 AREAS; CITIES ARE NOT REQUIRED TO IN FILL AND REDEVELOP BLIGHTED AREAS. ALL OF
15 THESE PROVISIONS HAVE WORKED WELL IN CLARK COUNTY WITHOUT ADVERSELY IMPACTING
16 GROWTH.

17 **4. Washoe County fuel tax indexing without a statutory right to do so:**

18 History of fuel tax indexing in Washoe County: RTC 5, Washoe BoCC advisory question 2009; SB201 (2009)
19 enacting bill and modification/addition to NRS 373. Washoe can never “grow out” of indexing while the other
20 smaller counties can implement and then stop indexing by advisory vote. SB201 and current NRS 373 section
21 allows for indexing of the FEDERAL portion of fuel taxes in Washoe County. **Exhibit #8** makes it clear that an
22 “index” of the FEDERAL fuel tax can only be authorized by Congress. A state cannot usurp the power of the
23 FEDERAL government and index federal fuel taxes. Another problem is that according to *NRS 0.050 “Population”*
24 *defined. 1. Except as otherwise expressly provided in a particular statute or required by the context, “population”*
25 *means the number of people in a specified area as determined by the last preceding national decennial census*
26 *conducted by the Bureau of the Census of the United States Department of Commerce* Taxes with a population
27 base are defined by the Governor’s annual certification of population to include fuel taxes. Section 4 SB201 (2009)

1 states **that this act must require the allocation, disbursement and use in the county of the proceeds of that tax in**
2 **the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax**
3 **imposed pursuant to NRS 365.180, NRS 365.190, NRS 365.192.** Population for NRS 365 series is the annual
4 population as certified by the Governor. An act or bill of the legislature cannot have dual meaning of population,
5 therefore the definition of population for SB201 must also be the Governor's annual certification of population of
6 counties and cities. As Washoe's population was certified by the governor to have exceeded the 400,000 mark in
7 2006 and SB 201 and corresponding modification to NRS was enacted in 2009, setting the operative population
8 threshold for Washoe County at 400,000, the Washoe BoCC never had statutory power to go ahead and index state
9 and county portion of fuel taxes.

10 In summary, Washoe and state legislative members usurped the power of Congress and Washoe BoCC has collected
11 and/or obligated hundreds of millions of dollars without a statutory right to do so.

12 **5. Loss of increase number of DBRs:** Washoe BoCC, WCSD, Reno and Sparks had previously qualified
13 for a higher number of BDR requests under the old 400,000 threshold as early as 2006 when the governor certified
14 Washoe population exceeding the 400,000 mark. Population in this case is defined in NRS 218D.205 in subsection
15 7 of that statute as the Governor's annual certification of population. Question here is: how can elected officials be
16 so unaware and give up a desirable tool already qualified for? Was it even legal to have and then give it up without
17 public hearings, consultations with Reno, Sparks or WCSD?

18 **AB545 Sec. 76.** NRS 218D.205 is hereby amended to read as follows:

19 *218D.205 1. Except as otherwise provided in subsections 3, 4 and 5, each board of county commissioners, board of*
20 *trustees of a school district and city council may request the Legislative Counsel and the Legal Division of the*
21 *Legislative Counsel Bureau to prepare any legislative measure which has been approved by the governing body of*
22 *the county, school district or city at a public hearing before its submission to the Legislative Counsel Bureau. 2. ...*

23 *3. The board of county commissioners of a county whose population:*

24 *(a) Is [400,000] 700,000 or more shall not request the preparation of more than 4 legislative measures pursuant*
25 *to subsection 1 for a regular legislative session.*

26 *(b) Is 100,000 or more but less than [400,000] 700,000 shall not request the preparation of more than 2*
27 *legislative measures pursuant to subsection 1 for a regular legislative session.*

1 4. *The board of trustees of a school district in a county whose population:*

2 (a) *Is [400,000] 700,000 or more shall not request the preparation of more than 2 legislative measures pursuant*
3 *to subsection 1 for a regular legislative session.*

4 (b) *Is less than [400,000] 700,000 shall not request the preparation of more than 1 legislative measure pursuant*
5 *to subsection 1 for a regular legislative session.*

6 5. *The city council of a city whose population:*

7 (a) *Is [100,000] 150,000 or more shall not request the preparation of more than 3 legislative measures pursuant*
8 *to subsection 1 for a regular legislative session.*

9 (b) *Is less than [100,000] 150,000 shall not request the preparation of more than 1 legislative measure pursuant*
10 *to subsection 1 for a regular legislative session.*

11 7. *As used in this section, "population" means the current population estimate for that city or county as*
12 *determined and published by the Department of Taxation and the demographer employed pursuant to NRS*
13 *360.283.*

14 All Washoe, Reno and Sparks elected officials had to do was show up at legislative hearings and point out that
15 Washoe County, Reno and WCSD had already qualified for the increased number of BDRs and each opposed losing
16 a right already in place. Sparks was close to the old threshold of 100,000 but now must wait till 150,000 population.

17 **6. Water Fluoridation**

18 **Sec. 223.** NRS 445A.055 is hereby amended to read as follows: *445A.055 1. The State Board of Health shall adopt*
19 *regulations requiring the fluoridation of all water delivered for human consumption in a county whose*
20 *population is [400,000] 700,000 or more by a:*

21 (a) *Public water system that serves a population of 100,000 or more; or*

22 (b) *Water authority.* IMPACT: WASHOE COUNTY RESIDENTS DENIED THE BENEFITS OF
23 FLUORIDATION AS RECOMMENDED BY THE US GOVERNMENT AND DENTAL ASSOCIATIONS.

24 **7. DA PD testimony on AB545 sections 43 and 46:**

25 **Exhibit #1** testimony from current District Attorney and Public Defender on AB545 sections 43 and 46, dealing
26 with public attorneys coming under the county personnel merit system, demonstrate a total lack of knowledge of
27 POPULATION BASED GENERAL LAWS. If Mr. Gammick felt that a GENERAL LAW created unneeded

1 financial burdens, consumption of employee time and court services, it was his duty to press the legislature to bring
2 all “at will” public attorneys statewide into the ideal conditions practiced in Washoe County. The citation of the
3 1981 case in the digest of AB545 concerning GENERAL LAWS makes it clear that raising a population threshold to
4 preclude a county from *prospectively coming within* the threshold is an unconstitutional act. Mr. Gammick stated in
5 his testimony (**Exhibit #1**) that AB545 contained approximately 240 population base laws applying to Clark County
6 and the legislature has for decades adjusted population thresholds to preclude other counties from coming under the
7 GENERAL LAWS and, that Washoe County, and all other counties, did not want to come under the laws that
8 govern Clark County. Gammick’s testimony not only presented his own personal views, but indicated that all other
9 counties shared his views on population based laws and that those laws should apply only to Clark County. His
10 statements throughout **Exhibit #1** demonstrate a clear disregard for Article 4 sections 20, 21 and 25. Further, Mr.
11 Gammick’s testimony shows that he was also aware that multiple subjects were covered in AB545; thereby making
12 it his duty as District Attorney to call attention to the single subject requirement set forth in Article 4 section 17.
13 Since Mr. Gammick testified that AB545 sections 43 and 46 imposed a fiscal impact, it was his duty to insist that the
14 financial analysis division of the LCB comply with NRS 218D.435 and amend the introduction section of AB545 to
15 reflect all fiscal impacts, by section, associated with AB545. However if, as Gammick testified, Washoe asked for
16 the population threshold increase, it was a joint duty of the Washoe BoCC and DA to provide fiscal impact for every
17 relevant section of AB545.

18 **Sec. 43.** *NRS 252.070 is hereby amended to read as follows: 252.070*

19 *6. In a county whose population is [400,000] 700,000 or more, deputies are governed by the merit personnel system*
20 *of the county.*

21 **Sec. 46.** *NRS 260.040 is hereby amended to read as follows: 260.040*

22 *6. In a county whose population is [400,000] 700,000 or more, deputies are governed by the merit personnel system*
23 *of the county.*

24 **8. Additional Funds for Shooting Range:** AB545 section 6; NRS244.30710.

25 **Sec. 6.** *NRS 244.30701 is hereby amended to read as follows:*

26 *244.30701 1. The board of county commissioners in a county whose population is [400,000] 700,000 or more may*
27 *adopt, by ordinance, procedures for the sale of naming rights relating to a shooting range that is owned by the*

1 **county, including, without limitation, the sale of naming rights to:**

2 (a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the shooting
3 range; and b) Activities, events and programs held at the shooting range.

4 2. If the board of county commissioners sells naming rights in accordance with the procedures adopted pursuant to
5 subsection 1, **the board shall create an enterprise fund exclusively for the proceeds of the sale of all such naming**
6 **rights, for fees or charges for use of the shooting range and for any gifts, grants, donations, bequests, devises or**
7 **money from any other source received for the shooting range. Any interest or other income earned on the money in**
8 **the fund, after deducting any applicable charges, must be credited to the fund. Money that remains in the fund at**
9 **the end of a fiscal year does not revert to the county general fund and the balance in the fund must be carried**
10 **forward to the next fiscal year. The money in the fund may only be used to pay for expenses directly related to the**
11 **shooting range.**

12 **9. Brew Pub production regulation:** This section of AB545 is not a power of a local government, it is in
13 fact a mandate for businesses.

14 **Sec. 281.** NRS 597.230 is hereby amended to read as follows:

15 597.230 1. In a county whose population is [400,000] **700,000** or more, a person may operate a brew pub: A person
16 who operates one or more brew pubs may not manufacture more than 15,000 barrels_of malt beverages for all the
17 brew pubs he or she operates in that county in any calendar year.

18 2. In a county whose population is less than [400,000,] **700,000**, a person may operate a brew pub: A person who
19 operates one or more brew pubs may not manufacture more than 5,000 barrels_of malt beverages for all brew pubs
20 he or she operates in that county in any calendar year.

21 On this topic Washoe County officials represented Brew Pub businesses without a right to do so.

22 **CONCLUSIONS:** General Laws including POPULATION BASED GENERAL LAWS are not optional, there is no
23 pick and choose, they apply equally throughout the state to all, who *may prospectively come within* the population
24 threshold. Otherwise, the population based law is in fact proscribed local legislation. Each of the sections of
25 AB545 covered above are separate instances of constitutional violations by the Washoe County BoCC and DA.
26 Couple that with the 200 plus additional sections of AB545 specific to Washoe County, the number of constitutional
27 violations by the BoCC and DA are staggering and ample cause for removal from office of those involved.

1 Washoe County officials knowingly betrayed the trust of the people by conspiring among themselves to
2 sabotage the constitutional and statutory rights of residents. Washoe County officials did not hold public hearings
3 on AB545, but instead operated in a secretive manner with the intention to preclude public interaction on the myriad
4 of subject matter contained in AB545. Hundreds of millions of dollars, rights and privileges directly affecting
5 Washoe County citizens have been and will continue to be denied for decades unless the court takes action to
6 remove from office those guilty of betraying the public trust.

7 It is disconcerting that elected officials failed to recognize that AB545 violated numerous constitutional
8 provisions on local legislation (300 plus instances), regulation of county business and uniform county and city
9 governments. **Exhibit #9** provides a history of legislative action to circumvent Article 4 sections 21, 22 and 25 of
10 the Nevada constitution through use of adjusting population based NRS since 1979/80.

11 ***NRS 218D.370 Criteria for amending population classifications. 1. The determination that a***
12 ***classification should be amended must not solely be upon changes in the population of local governments in this***
13 ***State. 2. In determining whether a classification should be amended, the legislature shall consider: (a) The***
14 ***appropriateness of the statute to local governments or other entities of a particular population classification; (d)***
15 ***The testimony of representatives of local governments and other persons indicating a need for and desire to apply***
16 ***the statute to the local government or to exclude the local government from the applicability of the statute.***

17 (Added to NRS by 2011, 1150) The foregoing, added to NRS in 2011, is proof that the legislature plans to continue
18 to draft, the Governor to sign and Washoe officials to ask for and support local laws using population thresholds to
19 circumvent Nevada's constitution.

20
21 DOCUMENT AND EXHIBITS DO NOT CONTAIN SOCIAL SECURITY NUMBERS OF ANY PERSON.

22 I declare under penalty of perjury that the foregoing is true and correct.

23
24 Executed on _____
25 Terry W. Tiernay