

Item # 6

**City of Carson City
Agenda Report**

Date Submitted: September 9, 2008

Agenda Date Requested: September 18, 2008

Time Requested: 10 mins

To: Board of Supervisors

From: Robin Williamson, Supervisor

Subject Title: Review and possible action to support Nevada Association of Counties' (NACO) Bill Draft Requests (BDR) submitted to Legislative Counsel Bureau for the 2009 Legislative Session.

Staff Summary: The BDRs submitted by NACO were on the following subjects: County Government Authority; Indigent Defense; Tax Abatements; Evaluation of At-Will Employees; and, Optional Ad Valorem Tax.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to support Nevada Association of Counties' (NACO) Bill Draft Requests (BDR) submitted to Legislative Counsel Bureau for the 2009 Legislative Session.

Explanation for Recommended Board Action: n/a

Applicable Statue, Code, Policy, Rule or Regulation: n/a

Fiscal Impact: n/a

Explanation of Impact: n/a

Funding Source: n/a

Alternatives: n/a

Supporting Material: NACO's Bill Draft Requests

Prepared By: Robin Williamson, Supervisor

Reviewed By:

[Signature]

(City Manager)

Melanie Boukett

(District Attorney)

Date: 9-8-08

Date: 9-9-08

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
FOR THE
2009 LEGISLATIVE SESSION**

Required Information

Name of Association: Nevada Association of Counties

Person to be consulted if more information is needed:

Name: Jeff Fontaine / Wes Henderson / Jim Spinello

Title: Executive Director / Government Affairs Coordinator / Consultant

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863 / Jim Spinello 702-318-4362

E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

Person to whom a copy of the completed draft should be mailed for review:

Name: Wes Henderson

Title: Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: whenderson@nvnaco.org

Person to be contacted to provide testimony regarding the measure during the legislative session:

Name: Jeff Fontaine / Wes Henderson

Title: Executive Director / Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
FOR THE
2009 LEGISLATIVE SESSION**

Request:

Describe the problem to be solved or the goal(s) of the proposed measure, or both:

Nevada follows "Dillon's Rule" in interpreting the statutory authority afforded county governments. This is understood to mean that only those specific powers expressly stated in statute may be exercised. If the NRS does not specifically state that a county may do something, then it may not do it. This results in innumerable instances in which Nevada counties have to request legislative permission for very mundane activities. This BDR proposes to address several specific instances where Nevada counties require additional authority to address specific problems. It is intended that these various changes be combined into a single BDR on "County Government."

1. BDR is to duplicate AB-221 of the 2007 session, amending NRS 244 to allow counties to impose civil penalties. Current business licensing authority limits counties to the imposition of criminal penalties for violations but does not allow counties to impose civil penalties, despite the fact that Nevada cities have this authority. This places additional, unnecessary burden on district attorneys and courts; can require as much as a year or longer for resolution; and, limits the enforcement options of county officials to license suspension or revocation.

2. BDR is to amend NRS 244 to allow Nevada counties to abate graffiti on the surfaces of residential structures and to obtain reimbursement of costs through special assessments.

Despite the increasing problem of graffiti vandalism, Nevada counties are limited to abating graffiti that appears on the outer perimeter walls of a given residential property but not that which appears on the surfaces of a house itself. This limitation has become especially problematic because of the high rate of foreclosures and home abandonment that occurs in some areas. Every property in a neighborhood is affected when one property is vandalized. County code enforcement officials need the authority to abate graffiti that appears on the surfaces of residential properties, and to obtain reimbursement of expenses through special assessments on that property.

3. BDR is similar to SB-497 of the 2007 session. SB-497 allows Clark county to sell naming rights for its "shooting park." This request is to allow broad authority for all Nevada counties to sell naming rights for parks, related facilities, and events, and to allow the proceeds to be used as determined by the county commission.

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Effective Date:

The proposed measure, if enacted, will become effective on October 1, 2009, unless one of the following dates is specified:

Passage and Approval

July 1, 2009

January 1, 2010

Other _____

Fiscal Notes:

State:

Would this measure, if enacted, create or increase any fiscal liability of state government or decrease any revenue of state government which appears to be in excess of \$2,000?

Yes No Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in the state prison or make release on parole or probation from the state prison less likely?

Yes No Unknown

Local:

Would this measure, if enacted, reduce revenues or increase expenditures of a local government?

Yes No Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in county or city jail or detention facility or make release on probation therefrom less likely?

Yes No Unknown

Unfunded Mandate:

Would this measure, if enacted, have the effect of requiring one or more local governments to establish, provide or increase a program or service which is estimated to cost more than \$5,000 per local government and a specified source for the additional revenue to pay the expense is not authorized by this measure or another specific statute?

Yes No Unknown

Signature of Person Submitting Request: _____

Jeffrey Fontana

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
FOR THE
2009 LEGISLATIVE SESSION**

Optional Information
(Use continuation sheet if necessary.)

Suggested Language or Proposed Solution to Problem:

Included in above descriptions or referenced previous legislation. Refer to BDR as regarding county government authority.

Special Instructions (e.g., disfavored wording):

Please avoid the use of "Dillon's Rule" and "Home Rule" as in "repeal of Dillon's Rule" or "county Home Rule".

NRS Title, Chapter and Sections, Nevada Constitutional Provisions, Administrative Regulations (NAC) Affected:

Included in above descriptions.

Federal Law/Court Cases/Attorney General Opinions Involved:

N/A

Similar Measures from Current or Previous Sessions:

Included in above descriptions.

**ASSOCIATION OF COUNTIES OR CITIES
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FOR THE
2009 LEGISLATIVE SESSION**

Similar Statutes in Other States:

Unknown

Related Newspaper or Periodical Articles:

N/A

Copies of supporting information may be attached.

Please Note: Pursuant to Senate Bill No. 490 (2007), subsection 3 of NRS 218.2415 now provides that all legislative measures requested by an association of counties or cities must be prefiled on or before December 15 preceding the regular legislative session. A measure that is not prefiled on or before that date is deemed by statute to be withdrawn. There is no authority for anyone to waive this provision.

Please submit completed Bill Draft Request form by mail to: Brenda Erdoes, Legislative Counsel, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701, by e-mail at erdoes@lcb.state.nv.us or by fax at (775) 684-6761.

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2009 LEGISLATIVE SESSION**

Required Information

Name of Association: Nevada Association of Counties

Person to be consulted if more information is needed:

Name: Jeff Fontaine / Wes Henderson
Title: Executive Director / Government Affairs Coordinator
Mailing Address: 201 S. Roop Street, Suite 101
Phone Number: 775-883-7863
E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

Person to whom a copy of the completed draft should be mailed for review:

Name: Wes Henderson
Title: Government Affairs Coordinator
Mailing Address: 201 S. Roop Street, Suite 101
Phone Number: 775-883-7863
E-mail Address: whenderson@nvnaco.org

Person to be contacted to provide testimony regarding the measure during the legislative session:

Name: Jeff Fontaine / Wes Henderson
Title: Executive Director / Government Affairs Coordinator
Mailing Address: 201 S. Roop Street, Suite 101
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E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

**ASSOCIATION OF COUNTIES OR CITIES
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Request:

Describe the problem to be solved or the goal(s) of the proposed measure, or both:

Under current law, counties with populations under 100,000 have the option of creating a public defender's office by themselves or with other counties or of using the State Public Defender's Office to provide constitutionally mandated defense counsel for indigent defendants. Counties with populations over 100,000 are required to create public defender's offices. Demand for indigent defense services has increased with the state's burgeoning population. Concerns about the adequacy of defense counsel provided to indigent defendants as a result of the increased demand have been raised and studied by the Nevada Supreme Court (see ADKT No. 411). During the course of the study, it was repeatedly pointed out the the United States Supreme Court, in *Gideon v. Wainwright* (372 U.S. 335 (1963)), ruled that the right to counsel was "made obligatory upon the States [not counties] by the Fourteenth Amendment" (*supra* at 342). This measure would retain the current options for providing indigent defense services, remove the limitation that only counties with populations under 100,000 may choose to utilize the State Public Defender's Office, and require that the state fully fund its constitutional mandate to provide indigent defense regardless of method of delivery.

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Passage and Approval

July 1, 2009

January 1, 2010

Other _____

Fiscal Notes:

State:

Would this measure, if enacted, create or increase any fiscal liability of state government or decrease any revenue of state government which appears to be in excess of \$2,000?

Yes

No

Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in the state prison or make release on parole or probation from the state prison less likely?

Yes

No

Unknown

Local:

Would this measure, if enacted, reduce revenues or increase expenditures of a local government?

Yes

No

Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in county or city jail or detention facility or make release on probation therefrom less likely?

Yes

No

Unknown

Unfunded Mandate:

Would this measure, if enacted, have the effect of requiring one or more local governments to establish, provide or increase a program or service which is estimated to cost more than \$5,000 per local government and a specified source for the additional revenue to pay the expense is not authorized by this measure or another specific statute?

Yes

No

Unknown

Signature of Person Submitting Request: _____

Jeffrey M. Tauri

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
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2009 LEGISLATIVE SESSION**

Optional Information
(Use continuation sheet if necessary.)

Suggested Language or Proposed Solution to Problem:

NRS 260.010(1) - delete subsection. NRS260.010(2) - delete up to "boards" NRS 260.010(3) - delete reference to subsection 4, delete "odd-numbered", NRS 260.010(4) - delete entire subsection, NRS 260.065 - change "may contract" to "may utilize". Add new subsection providing for submission of expenses to state for payment. NRS 180.040(2) - change "may" to "shall", change "necessary to perform his duties" to "in every county electing to use the State Public Defender". NRS 180.110 - delete subsection. Renumber sections as needed.

Special Instructions (e.g., disfavored wording):

NRS Title, Chapter and Sections, Nevada Constitutional Provisions, Administrative Regulations (NAC) Affected:

NRS 260.010, NRS 260.065, NRS 180.040(2) NRS 180.110

Federal Law/Court Cases/Attorney General Opinions Involved:

Sixth and Fourteenth Amendments to the United States Constitution, Gideon v. Wainwright (372 U.S. 335, 342 (1963)), Nevada Supreme Court ADKT No. 411

Similar Measures from Current or Previous Sessions:

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
FOR THE
2009 LEGISLATIVE SESSION**

Similar Statutes in Other States:

Thirty states fully fund indigent defense (AL, AK, AR, CO, CT, DE, FL, HI, IA, LA, KY, MA, MD, ME, MN, MO, MT, NC, ND, NH, NJ, NM, OR, RI, TN, VA, VT, WI, WV, WY) For example see Alabama Code Title 15 Chapter 12, Montana Code Annotated Title 47, New Mexico Statutes Chapter 31 Article 16, Oregon Revised Statutes Chapter 151

Related Newspaper or Periodical Articles:

Copies of supporting information may be attached.

Please Note: Pursuant to Senate Bill No. 490 (2007), subsection 3 of NRS 218.2415 now provides that all legislative measures requested by an association of counties or cities must be prefiled on or before December 15 preceding the regular legislative session. A measure that is not prefiled on or before that date is deemed by statute to be withdrawn. There is no authority for anyone to waive this provision.

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
FOR THE
2009 LEGISLATIVE SESSION**

Required Information

Name of Association: Nevada Association of Counties

Person to be consulted if more information is needed:

Name: Jeff Fontaine / Wes Henderson

Title: Executive Director / Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

Person to whom a copy of the completed draft should be mailed for review:

Name: Wes Henderson

Title: Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: whenderson@nvnaco.org

Person to be contacted to provide testimony regarding the measure during the legislative session:

Name: Jeff Fontaine / Wes Henderson

Title: Executive Director / Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

**ASSOCIATION OF COUNTIES OR CITIES
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Request:

Describe the problem to be solved or the goal(s) of the proposed measure, or both:

The Commission on Economic Development has the authority to grant partial abatements of certain taxes to new or expanding businesses. These abatements can be granted by the Commission without the approval of the affected county commission. The Commission has only to request a letter of acknowledgement of the request for abatement from the affected county. This measure would establish a procedure for approval of the abatement by the county commissioners of the affected county before an abatement could be granted. The Commission would be required to notify the affected county commission of the application for the tax abatement by certified mail with return receipt requested. A waiver of the requirement for county commission approval would be implemented if the commission failed to respond within 60 days of receipt of notification.

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July 1, 2009

January 1, 2010

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Fiscal Notes:

State:

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Yes No Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in the state prison or make release on parole or probation from the state prison less likely?

Yes No Unknown

Local:

Would this measure, if enacted, reduce revenues or increase expenditures of a local government?

Yes No Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in county or city jail or detention facility or make release on probation therefrom less likely?

Yes No Unknown

Unfunded Mandate:

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Yes No Unknown

Signature of Person Submitting Request: Jeffrey Fontana

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
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2009 LEGISLATIVE SESSION**

Optional Information
(Use continuation sheet if necessary.)

Suggested Language or Proposed Solution to Problem:

NRS 360.750(3)(a) - delete all language after "the Commission has," Insert new subsection (NRS 360.750)(3)(a) (1) - notified the governing body of any affected county, school district, city or town by registered mail of the application for tax abatement, and; [(3)(a)(2)] received a letter of approval for the tax abatement from the county commission of the affected county, or, [(3)(a)(3)] the county commission of the affected county has not responded within 60 days of receipt of notification thereby waiving its right of prior approval.

Special Instructions (e.g., disfavored wording):

NRS Title, Chapter and Sections, Nevada Constitutional Provisions, Administrative Regulations (NAC) Affected:

NRS 360.750(3)(a)

Federal Law/Court Cases/Attorney General Opinions Involved:

Similar Measures from Current or Previous Sessions:

**ASSOCIATION OF COUNTIES OR CITIES
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Similar Statutes in Other States:

Related Newspaper or Periodical Articles:

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Required Information

Name of Association: Nevada Association of Counties

Person to be consulted if more information is needed:

Name: Jeff Fontaine / Wes Henderson

Title: Executive Director / Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

Person to whom a copy of the completed draft should be mailed for review:

Name: Wes Henderson

Title: Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: whenderson@nvnaco.org

Person to be contacted to provide testimony regarding the measure during the legislative session:

Name: Jeff Fontaine / Wes Henderson

Title: Executive Director / Government Affairs Coordinator

Mailing Address: 201 S. Roop Street, Suite 101

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E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

**ASSOCIATION OF COUNTIES OR CITIES
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Request:

Describe the problem to be solved or the goal(s) of the proposed measure, or both:

Under current law performance evaluations of county, city, town, and general improvement district managers and other at-will employees that are direct reports of local governing bodies must be conducted in a public forum. Conducting these evaluations in public may result in a less than frank review of the performance of the employee or cause undue harm to the public's faith in the employee's ability to carry out his responsibilities. This measure would allow for performance evaluations of the managers of counties, cities, towns, and general improvement districts, as well as other at-will, direct report employees to be conducted in private unless the individual requests the evaluation be held in an open meeting. In addition, this proposal would create a requirement that a summary of the evaluation including, at a minimum, the overall rating given the individual, any change in salary or benefits, and any bonus awarded during the evaluation be made public within 30 days of the evaluation.

Suggested Language (continued from below)

NRS 241.031(1)(b) - delete "an appointed public official or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, including, without limitation," add "and" after "Education", delete "a county manager and a city manager."

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Passage and Approval

July 1, 2009

January 1, 2010

Other _____

Fiscal Notes:

State:

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Local:

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Yes No Unknown

Unfunded Mandate:

Would this measure, if enacted, have the effect of requiring one or more local governments to establish, provide or increase a program or service which is estimated to cost more than \$5,000 per local government and a specified source for the additional revenue to pay the expense is not authorized by this measure or another specific statute?

Yes No Unknown

Signature of Person Submitting Request: _____

Jeffrey McIntire

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
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2009 LEGISLATIVE SESSION**

Optional Information
(Use continuation sheet if necessary.)

Suggested Language or Proposed Solution to Problem:

NRS 241.030 - Insert a new subsection (NRS 241.030(1)(a)(1) - "If the person being evaluated is a county, city, town or general improvement district manager, or an at-will employee of a local governing authority, a summary of the evaluation including, at a minimum, the overall rating given the individual, any change in salary or benefits, and any bonus awarded during the evaluation must be made public within 30 days of the evaluation." NRS 241.031(1)(b) - see request section above for suggestion.

Special Instructions (e.g., disfavored wording):

NRS Title, Chapter and Sections, Nevada Constitutional Provisions, Administrative Regulations (NAC) Affected:

NRS 241.030, NRS 241.031(1)(b)

Federal Law/Court Cases/Attorney General Opinions Involved:

Similar Measures from Current or Previous Sessions:

**ASSOCIATION OF COUNTIES OR CITIES
BILL DRAFT REQUEST
FOR THE
2009 LEGISLATIVE SESSION**

Similar Statutes in Other States:

Related Newspaper or Periodical Articles:

Copies of supporting information may be attached.

Please Note: Pursuant to Senate Bill No. 490 (2007), subsection 3 of NRS 218.2415 now provides that all legislative measures requested by an association of counties or cities must be prefiled on or before December 15 preceding the regular legislative session. A measure that is not prefiled on or before that date is deemed by statute to be withdrawn. There is no authority for anyone to waive this provision.

**ASSOCIATION OF COUNTIES OR CITIES
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2009 LEGISLATIVE SESSION**

Required Information

Name of Association: Nevada Association of Counties

Person to be consulted if more information is needed:

Name: Jeff Fontaine / Wes Henderson/Mary Walker

Title: Executive Director / Government Affairs Coordinator/Lobbyist

Mailing Address: 201 S. Roop Street, Suite 101

Phone Number: 775-883-7863

E-mail Address: jfontaine@nvnaco.org / whenderson@nvnaco.org

Person to whom a copy of the completed draft should be mailed for review:

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**ASSOCIATION OF COUNTIES OR CITIES
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Request:

Describe the problem to be solved or the goal(s) of the proposed measure, or both:

This legislative proposal would enable the boards of county commissioners to levy a tax ad valorem at a rate not to exceed 10 cents per \$100 of assessed valuation to pay for vital public safety, health and welfare services within their respective counties. Due to the current decline in county tax revenues, many vital public safety, health and welfare services are being jeopardized. This proposal would provide the counties the flexibility to raise revenues to pay for these vital services which are currently being jeopardized.

This proposal does not require the State to raise any taxes. The proposal only enables counties the ability to increase their tax revenues using existing AB 489 precedent by exempting the new tax levy from the 3%/8% AB 489 limitations the first year in which the tax is imposed as currently is provided under the AB 489 annexation limitations. This proposal would give back to the counties some of the revenue raising flexibility it had for 140 years prior to the implementation of AB 489 in 2005.

This proposal would be very similar to SB 146 from the 2007 Session and would include the following:

- 1) It would affect all counties statewide.
- 2) It would be outside the AB 489 3%/8% cap the first year of enactment (same as annexations are) as follows:
The amount of any ad valorem tax imposed pursuant to subsection 2 of NRS 354.59818 is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724 for the first fiscal year in which the tax is imposed, but is thereafter subject to each of those partial abatements from taxation.
- 3) Not to exceed 10 cents (can raise it partially or all at once)
- 4) Would require 2/3rds vote of the board of county commissioners
- 5) Would require an ordinance to levy the tax which would take 2 public hearings. The ordinance
 - a) Must not be applied or administered in any manner that reduces the revenue of any other governmental entity that is entitled to receive money from taxes ad valorem levied in the county; and
 - b) Must be reviewed by the board of county commissioners at least once every 10 years.
- 6) The tax bill of each affected taxpayer must separately state:
 - a) That the tax is a county-imposed tax for the specific service
 - b) The rate of the tax;
 - c) The amount of the tax liability resulting from the levy of the tax
- 7) The tax would be outside the 3.64 tax cap.
- 8) The tax would be for the following services: public safety, health and welfare services

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Fiscal Notes:

State:

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Yes No Unknown

Would this measure, if enacted, increase or newly provide for a term of imprisonment in the state prison or make release on parole or probation from the state prison less likely?

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Yes No Unknown

Signature of Person Submitting Request: _____

Jeffrey M. Fucini

**ASSOCIATION OF COUNTIES OR CITIES
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Optional Information
(Use continuation sheet if necessary.)

Suggested Language or Proposed Solution to Problem:

Please see answer to "Request"

Special Instructions (e.g., disfavored wording):

NRS Title, Chapter and Sections, Nevada Constitutional Provisions, Administrative Regulations (NAC) Affected:

NRS 354

Federal Law/Court Cases/Attorney General Opinions Involved:

Similar Measures from Current or Previous Sessions:

SB 146 from the 2007 Session

**ASSOCIATION OF COUNTIES OR CITIES
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Similar Statutes in Other States:

Related Newspaper or Periodical Articles:

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