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NEVADA ASSOCIATION OF COUNTIES

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**TESTIMONY OF THE NEVADA ASSOCIATION OF COUNTIES
BEFORE THE ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS
ON SB 145
MAY 7, 2003**

Introduction. Senate Bill 145 addresses the issue of County flexibility and extending the authority of counties in certain areas to address issues of local concern in a timely manner so long as such authority does not conflict with provisions of the Nevada Revised Statutes.

Background. The powers of local governments throughout the nation have been greatly influenced by Judge John Dillon, Chief Justice of the Iowa Supreme Court Justice in the late 1800's. The 1868, Justice Dillon authored Merriam v. Moody's Executors, 25 Iowa 163 (1868), an opinion that was interpreted over time to sharply limit the powers of local governments.

"[I]t must be taken for settled law that a municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable; fourth, any fair doubt as to the existence of a power is resolved by the courts against the corporation – against the existence of the power."

Merriam v. Moody's Executors, 25 Iowa 163, 170 (1868). This passage became known as "Dillon's Rule" and was interpreted over time to limit the authority of county governments to those powers specifically delegated by the state legislature. Today, only a handful of states still operate under Dillon's Rule. Of the forty-eight states with viable county governments, thirty-seven of them have granted some measure of self-governance to counties (Logan, Scott. Dillon's Rule or Not, National Association of Counties, July 1999). This is normally in the form of enabling "home rule" or "charter county" legislation. Nevada is one of the eleven states that has not enacted such legislation.

Senate Bill 145. Senate Bill 145 seeks county authority in an area that is vital to the expansion of recreational opportunities in Clark County. This bill would allow counties to accept land grants, leases, and patents from the Bureau of Land Management and the United States Forest Service pursuant to certain federal laws. Under current NRS provisions, counties are not allowed to comply with certain terms in federal land use or conveyance contracts.

Action Requested. Passage of SB 145 is of the highest priority to the Nevada Association of Counties and our membership. We respectfully request that counties be afforded flexibility in the manner outlined by SB 145 and urge your favorable support and prompt passage.

ASSEMBLY GOVERNMENT AFFAIRS
DATE: 5-7-03 ROOM: 3143 EXHIBIT D
SUBMITTED BY: ANDREW LIST
PAGE 1 of 1