

Senate
ENVIRONMENT AND PUBLIC RESOURCES COMMITTEE

April 8, 1975

The meeting was called to order in Room #213 at 7:40 p.m. on Tuesday, April 8, 1975, with Senator Thomas Wilson in the chair.

PRESENT: Senator Wilson
Senator Sheerin
Senator Blakemore
Senator Neal
Senator Dodge

ABSENT: Senator Bryan
Senator Gojack

OTHERS PRESENT: See Exhibit "A"

This is a continuation of the meeting which took place on April 7, 1975.

Mr. Harry Gallaway continued speaking on A.B. 138. Mr. Gallaway addressed himself to Senator Dodge's question about determination of an injurious product as it pertains to Section 3, paragraph 1. Paragraph 2 and 3 set forth if its an added material or a food additive it comes under the Federal Food and Cosmetic Act. If its not an added material, the only thing you can say is "Did the cow die?" Mr. Gallaway said the only thing that would come under the other would be if someone knowingly used spoiled grain in the feed. Senator Dodge said that would not be an added substance. Mr. Gallaway said the bill drafter took the wording from the uniform law and changed words around. He said he didn't know if that changed the meaning. He read the uniform law, the section on adulteration. "A commercial feed shall be deemed to be adulterated if it bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case a substance is not an added substance such commercial feed shall not be considered to be adulterated under this subsection if the quantity of such substance, in a commercial feed does not ordinarily render it injurious to health. Senator Wilson asked if there was a criminal penalty attached to the uniform act and if it was needed. Senator Dodge said if it is inlawful to do something in Nevada, it is a misdemeanor.

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Senator Blakemore suggested that the language from the model act be substituted for paragraph one, section 3. Mr. Gallaway said the bill drafter, through his choice of words, he switched around the meaning. Mr. Gallaway continued reading from the model act. Senator Dodge said there was a problem on line 28, page 2. He asked if they were talking about a less valuable ingredient as far as feed analysis or cost. Senator Dodge stated that commonly large companies operate on a least cost basis. Mr. Gallaway said he would have to interpret this to mean the food value of the feed. Senator Dodge said this was not a subject of adulteration. Senator Sheerin asked why the bill was needed and Senator Dodge said he didn't think it was needed. Mr. Gallaway said it was needed because now the only thing they have is mislabeling of ingredients. Senator Wilson said if it adulterated or misbranded that would be in the present law. He said you could prohibit that. There was a short committee discussion after which the following action was taken.

Senator Blakemore moved to postpone indefinitely.

Senator Sheerin seconded the motion.

Senators Wilson, Blakemore, Sheerin, and Neal voted aye. Senator Dodge did not vote. Senators Gojack and Bryan were absent.

A.B. 139: Requires notification to state sealer of weights and measures when any weight measure, instrument or device is purchased, installed or placed in use.

Harry Gallaway, Nevada Department of Agriculture, testified in favor of A.B. 139. He stated this bill was intended to correct a problem. Under present Rates and Measures Act, a person that does repair work or sells a device, installs it, is to report to the department so it can be placed on a listing and schedule for inspections. There is no provision in the law for a person who buys a device, installs it himself to do any notification. This only applies to a device that is being placed into commercial use.

Senator Neal moved do pass.

Senator Dodge seconded the motion.

The motion carried unanimously with Senators Gojack and Bryan absent.

A.B. 140: Makes certain changes in laws regulating custom application of pesticides.

Harry Gallaway, Nevada Department of Agriculture, testified in favor of A.B. 140. This bill is to make certain amendments as it applies to definitions and other factors as it relates to the custom application. This would be the individual that does pest con-

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trol for hire. It redefines what custom application of pesticide means. Under section 6 of the act, for the purpose of carrying out the provisions of their custom pest control act, their right of entry for the purpose of inspection, record storage, disposal, etc. This brings it into compliance so that they can make the proper inspection, which they will be forced to do under the Pest Control Act of the Federal Government.

Senator Blakemore moved do pass.
Senator Neal seconded the motion.

Before the vote Senator Wilson asked a question about Paragraph 1, Section 4, line 25, page 2. He said the provisions apply no matter where you apply them. Senator Dodge said this was taking out the application by a man on his own property. Senator Dodge asked if this precluded the man doing his own work. Mr. Gallaway said no. Senator Wilson said it took out the limitation.

The vote was then taken on the motion and it was unanimous. Senators Gojack and Bryan absent.

A.B. 214: Regulates application of restricted use pesticides.

Harry Gallaway, Nevada Department of Agriculture, testified about A.B. 214. Senator Dodge wondered if you were getting into trouble when you talk about custom applicators in A.B. 140 and in A.B. 214 you talk about a commercial applicator. He said that maybe the language and definitions should be conformed. Mr. Gallaway said the difference was that a commercial applicator is defined by federal law as any individual who is not a private applicator. A commercial applicator by federal law and by their definitions under A.B. 214 would make even Mr. Gallaway, a supervisor for the state, a commercial applicator. He said the words commercial and custom have two complete and separate meanings. A custom applicator is anyone doing it for hire, under state law. Senator Wilson asked why there needed to be two terms. Mr. Gallaway said they had their licensing requirements for a custom applicator. He has to have insurance. Now under the federal law there are two different levels of competency as it applies to certified applicators. One is the certified commercial applicator and he is required to have more detailed examination and proof of competency than the private applicator. What they will have in operation is the custom applicator who will apply or use restricted use pesticides. He will also have to become a certified commercial applicator.

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A.B. 214 establishes the procedures for the certification of applicators, both private and commercial in the State of Nevada. There will be between 1,000 and 1,300 persons in the state who will have to be certified. This is required by the Federal Environmental Pesticide Control Act of 1972. By October of 1976 the Environmental Protection Agency will have to have classified all pesticides as to general use or restricted use. After that date no person will be allowed to use a restricted use pesticide except a certified applicator or under the direction of the same. If they don't establish this procedure, in October 1976 no one in the state will be able to use restricted pesticides. Senator Dodge asked if this would rule out the private garden use. Mr. Gallaway said they will be taken off the market.

Senator Sheerin asked if the bill would have to be re-referred to Finance Committee. Mr. Gallaway said yes because there is a fiscal impact. The fiscal note for the first year, 1975-1976, is \$29,849 and for 1976-1977, \$25,000. He said he didn't have the manpower in Southern Nevada. The money is for another agriculturist in Southern Nevada and a clerk typist in Reno to handle the paperwork involved. There is also some in-state travel and equipment costs.

Senator Blakemore asked who was going to make the determination whether its faulty or unsafe equipment. Mr. Gallaway said his staff would, or in the case of an airplane, the FAA.

Senator Dodge moved to re-refer to Finance Committee and do pass.
 Senator Blakemore seconded the motion.
 The vote was unanimous with Senators Gojack and Bryan absent.

A.B. 213: Makes certain changes in provisions relating to registration and distribution of fertilizers.

Harry Gallaway, Nevada Department of Agriculture, testified about A.B. 213. This is an amendment to their commercial fertilizer and agriculture mineral act to add a word "substance." This is used in the act and there was never a meaning applied to it. Under Section 3, add subparagraph 2. This will simplify labeling.

Senator Blakemore moved do pass.
 Senator Neal seconded the motion.
 The vote was unanimous with Senators Gojack and Bryan absent.

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A.B. 202: Establishes authority in state department of agriculture to regulate and control vertebrate pests.

Harry Gallaway, Nevada State Department of Agriculture, testified regarding A.B. 202.

This bill amends the Department's authority to investigate the prevalence of certain pest conditions to add vertebrate pest, the definition being other than predatory animals. Since 1971 the rodent population, especially in Northern Nevada, has been increasing severely. In the fall of 1973 a group of farmers came to the Department and asked if they could do something to control the rodents. Mr. Gallaway was ordered by the Department to make a study of the problem and report back to them as to what was the cause. The cause really stems back to the environmental impact of some federal orders. The President in 1972 prohibited the use of all toxicants for predatory animals. Following that the Environmental Protection Agency cancelled the use of toxicants for predatory animals. Following that action, the Department of Interior took action to prohibit the use of toxicants on D of I land. As a result of this, the Pocatello Depot where the State of Nevada used to be able to get stricnine treated baits at a reasonable price, was dried up and they could no longer get these. As the demand for toxicants diminished, there were only five places left to get them and the prices went way up. Another problem is that the program as it is operated by Rodent and Pest Control has always been an extension type program. They are strictly information.

Senator Neal asked how they would control the rodents. Mr. Gallaway replied through the use of toxicants by making them available. Mr. Gallaway said his report back to the Department was that there is definite need for action against vertebrate pests in the State. There is a need to have someone who is trained in vertebrate pest control who can go into the area, make recommendations, and organize and oversee the actual application.

Senator Neal moved a do pass and re-refer to Finance Committee
Senator Sheerin seconded the motion.
The vote was unanimous with Senators Gojack and Bryan absent.

A.B. 288: Requires state board of agriculture to appoint representative to National Livestock and Meat Board.

Harry Gallaway, Nevada State Department of Agriculture, testified regarding A.B. 288.

Senator Dodge also commented and said he had been asked to do so by a representative of the State Cattlemen's Association. They are in complete support of this bill and they pay the cost. Mr. Gallaway said the State Board of Agriculture will make the appointment and the monies to pay for travel will come out of the Cattlemen's five cents an animal fee.

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Senator Neal moved do pass.

Senator Dodge seconded the motion.

The vote was unanimous with Senators Gojack and Bryan absent.

S.B. 158 was discussed briefly. It has been amended and will be re-referred to committee.

S.C.R. 28 was commented on by Senator Dodge. He said to hold that until they see what the disposition of the other bill is. It will be held until the next meeting. This was discussed on the day the hearings were held on S.B. 158 and the committee thought there should be some further review of that area. This resolution asks the state engineer to review this resource.

There was a short discussion about the State Land Use Planning bill. Senator Dodge felt that it should be reconstructed so that the counties are the primary planning agency. The state functions should be outlined and there are many where they would be helpful. There was a short discussion about committee introduction of a bill. It was decided to have Mr. John Meder come in the following meeting to discuss this.

Senator Sheerin discussed the bottle bills briefly and said he felt something should be processed on them. Senator Blakemore stated he had a bill in drafting that would double the penalty for littering. Senator Wilson said an interim study could be requested.

Senator Dodge moved that the committee request an interim study of recycling of solid waste as far as practicality and potential in the State of Nevada.

There was a short discussion about the motion.

Second by Senator Sheerin

The vote was unanimous with Senators Gojack, Bryan, and Neal absent.

Senator Wilson said he had received some material from the State Health Division on the question of the automobile exhaust testing. They said it is burdensome now. Senator Dodge said the testing in Las Vegas is very bad. Senator Wilson said the Division wants to do something with it and that there should be a seperation of functions.

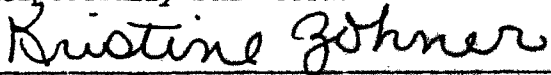
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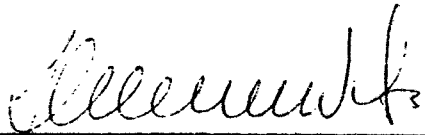
It was decided to hear some testimony in the next meeting.

There being no further business, the meeting was adjourned at 8:50 p.m.

Respectfully submitted:


Kristine Zohner, Committee Secretary

APPROVED BY:


Senator Thomas Wilson, Chairman

AN OVERVIEW OF APPLICATOR CERTIFICATION

INTRODUCTION

Pesticide users who apply certain products, classified for "restricted" use only, should become familiar with certification requirements that have been developed by the U.S. Environmental Protection Agency (EPA). Final regulations establishing standards for applicator certification were published in the Federal Register by EPA on October 9, 1974.

Applicator certification is required by the Federal Insecticide, Fungicide and Rodenticide Act of 1947 as amended in 1972. After October 21, 1976, most pesticides classified for restricted use may be applied only by or under the direct supervision of certified applicators.

The certification program is designed to ensure that users of restricted pesticide products are properly qualified to handle and apply these materials without harming themselves, other people or the environment.

Actual certification of applicators will be done by each State. However, States that wish to certify applicators must develop and administer certification programs that conform with the standards recently set forth by EPA.

LEGISLATIVE BACKGROUND

In 1947, Congress passed the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to regulate the marketing of pesticides, which were then termed "economic poisons," and devices using these substances. The law required Federal registration of pesticides shipped across State lines and made it unlawful to sell in interstate commerce unregistered pesticides or substances that had been misbranded or adulterated. Although the 1947 law also made it unlawful to detach, alter, deface or destroy labels on pesticides and provided for Federal inspection of products being shipped across State lines, it did not address itself to actual pesticide use. Nor did the 1947 FIFRA control pesticides produced and used within the same State.

Over the years between 1947 and 1972, problems of pesticide misuse and overuse were noted despite extensive labeling and use instructions. Sometimes these incidents caused serious effects on man and the environment.

In 1972, Congress amended the FIFRA to deal with these problems. The amended FIFRA extends Federal regulation to cover all pesticides used in the United States instead of only those products shipped across State lines. It also provides stronger enforcement provisions, makes pesticide misuse unlawful, and contains a number of other key regulatory provisions.

The most important of the latter to pesticide users are provisions (1) that EPA must classify all pesticide products for either "general" or "restricted" use and then (2) "restricted use" pesticides may be used only by, or under the direct supervision of, certified applicators or under such other regulatory restrictions as EPA may require. Congress specified that the amended FIFRA should be fully implemented by October 21, 1976.

CLASSIFICATION OF PESTICIDES

General use pesticides are those that will not ordinarily cause unreasonable adverse effects on the user or on the environment when used in accordance with their label instructions. Such products will be available to the public without further restrictions other than those specified on the label.

Restricted use pesticides are those which may cause adverse effects on the environment or the applicator unless applied by competent persons who have shown their ability to use these products safely and effectively. Such persons will be identified through applicator certification programs.

TYPES OF APPLICATORS

The amended FIFRA provides for two types of certified applicators, commercial and private. Commercial applicators will generally be those who apply pesticides for a livelihood, and they are defined as those who use or supervise the use of restricted pesticides on any property other than as provided by the definition of "private applicator."

A private applicator is, in most cases, a farmer, rancher, orchardist, or other applicator who uses or supervises the use of restricted pesticide products to produce an agricultural commodity on property owned or rented by him or his employer or (if the pesticide is applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

STATE CERTIFICATION PLANS

Although EPA was given responsibility for developing and publishing standards of competence, the amended FIFRA reflects

Congressional intent that States assume primary responsibility for certification of applicators. State certification plans must be reviewed and approved by EPA. Therefore, State plans should be submitted to EPA by October 21, 1975 if a State wishes to certify applicators by the 1976 deadline. Guidelines applying to the development and submission of State plans are being formulated by EPA.

CATEGORIES OF COMMERCIAL APPLICATORS

The regulations establish 10 occupational categories for commercial applicators. In developing their State plans, States may adopt these categories as needed, propose establishment of necessary subcategories or deletion of unneeded categories. States may also request the EPA Administrator's approval to add major categories to meet local conditions.

The 10 categories are: (1) agricultural pest control; (2) forest pest control; (3) ornamental and turf pest control; (4) seed treatment; (5) aquatic pest control; (6) right-of-way pest control; (7) industrial, institutional, structural and health-related pest control; (8) public health pest control; (9) regulatory pest control; and (10) demonstration and research pest control.

COMMERCIAL APPLICATOR REQUIREMENTS

Competence of commercial applicators will be determined by written examinations and, as appropriate, by performance testing. All commercial applicators are required to demonstrate practical knowledge of the principles and practices of pest control and the safe use of pesticides.

Testing will be based on examples of problems and situations pertaining to the particular category or subcategory of the applicator's certification and will include the following: (1) label and labeling comprehension; (2) safety; (3) environmental factors and the consequences of use and misuse of pesticides; (4) knowledge of pests; (5) knowledge of pesticides and types of formulations, including hazards associated with residues; (6) equipment use; (7) application techniques; and (8) applicable State and Federal laws and regulations.

Commercial applicators must be particularly qualified with respect to practical knowledge within their category, and the standards further specify special areas of knowledge for each of the major occupational categories.

PRIVATE APPLICATOR REQUIREMENTS

Private applicators, whether they are farmers, ranchers, plant propagators, orchardists or other producers of agricultural commodities, are normally confronted with a rather narrow range of recurring pest problems. Accordingly, the private applicator standards reflect the need for practical knowledge of pest problems associated with their particular farming operations.

As a minimum requirement for certification, a private applicator must show that he possesses a practical knowledge of pest problems associated with his agricultural operation plus the proper storage, use, handling and disposal procedures for the pesticides that he needs, including proper disposal of used pesticide containers. This practical knowledge includes the ability to: (1) recognize common pests and pest damage; (2) read and understand labels and labeling information, including any specific disposal procedures; (Testing procedures for persons who cannot read are permitted if approved by the EPA.) (3) apply pesticides in accordance with label instructions and warnings, including ability to prepare proper dilutions; (4) recognize local environmental situations that must be considered; and (5) recognize poisoning symptoms and know what to do in case of an accident.

Competence of private applicators is to be verified by the responsible State agency using a system to ensure that such persons are qualified to use restricted pesticide products. Written or oral tests, or other equivalent systems as approved in the State plan, may be used.

SUPERVISION OF NON-CERTIFIED APPLICATORS

The amended FIFRA provides that under certain circumstances a restricted use pesticide may be applied by competent persons under the direct supervision of a certified applicator. Certified applicators who have supervisory duties must know State and Federal supervisory requirements. Availability of the certified applicator must be directly related to the hazard involved. In many situations where actual presence of the certified applicator is not required, "direct supervision" may consist of verifiable instruction to the competent person on applying the pesticide properly and instructions for contacting the certified applicator in the event he is needed. In some situations, the label or additional State regulations may require actual physical presence of the certified applicator.

IMPACT OF CERTIFICATION

Standards for certification of pesticide applicators reflect the intent of Congress in amending the FIFRA to bring about a better balance between the risks and benefits inherent in pesticide use.

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The overall thrust of applicator certification is to allow more efficient use of those pesticides needed for the production of the Nation's food supply, and for the preservation of our other natural resources, while protecting both the public and the environment from possible ill-effects of improper pesticide use.

Limiting the use of certain highly toxic or persistent pesticides to certified applicators who have demonstrated their ability to properly handle such materials may allow continued utilization of certain products that would otherwise have to be withdrawn from the market to keep them out of the hands of inexperienced persons.

For more information on certification of private or commercial applicators, contact your County or State Cooperative Extension Service office or your State or local pesticide regulatory officials. The latter may be located in the State Department of Agriculture, State Department of Natural Resources, State Environmental Office, or similar agencies. Also, you may contact any of EPA's ten Regional Offices across the country or write to the Environmental Protection Agency, Washington, D.C. 20460.

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

A. B. 80

ASSEMBLY BILL NO. 80—COMMITTEE ON
GOVERNMENT AFFAIRS

JANUARY 28, 1975

Referred to Concurrent Committees on Agriculture
and Health and Welfare

SUMMARY—Makes various changes in provisions concerning milk and
milk products. Fiscal Note: No. (BDR 51-143)

EXPLANATION—Matter in *italics* is new; matter in brackets [] is
material to be omitted.

AN ACT relating to milk and milk products; providing that milk and milk products imported from outside the State of Nevada may be sold in this state without inspection by the health division of the department of human resources if certain requirements are satisfied; authorizing the health division to conduct certain inspections; transferring the power to deny, suspend or revoke sellers' permits from the state board of health to the health division; increasing the length of time milk samples must be retained by the milk tester; 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. NRS 584.205 is hereby amended to read as follows:
- 2 584.205 1. In addition to the initial inspection of new applicants, the
- 3 state board of health shall, *except as provided in subsection 2*, direct a
- 4 periodic inspection, not less than annually, of all facilities belonging to
- 5 permittees in order to ascertain whether or not the services, facilities and
- 6 equipment continue to comply with the regulations referred to in NRS
- 7 584.180 and 584.195.
- 8 2. *Milk and milk products imported from outside the State of Nevada*
- 9 *may be sold in this state without inspection by the health division of the*
- 10 *department of human resources if:*
- 11 (a) *The milk and milk products have been produced, pasteurized, proc-*
- 12 *essed, transported and inspected under statutes or regulations substantially*
- 13 *equivalent to the Nevada milk and milk products statutes and regulations;*
- 14 *and*
- 15 (b) *The milk and milk products have been awarded an acceptable milk*
- 16 *sanitation, compliance and enforcement rating by a state milk sanitation*
- 17 *rating officer certified by the United States Public Health Service.*
- 18 3. *Whenever the health division has reasonable grounds to believe*

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 424

SENATE BILL NO. 424—COMMITTEE ON ENVIRONMENT
AND PUBLIC RESOURCES

APRIL 1, 1975

Referred to Committee on Environment and Public Resources

SUMMARY—Requires certification by division of water resources as to water quantity in subdivisions. Fiscal Note: No. (BDR 10-1377)

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to subdivision and condominium maps and plans; requiring certification by the division of water resources as to water quantity for all subdivisions and condominiums; 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. NRS 116.040 is hereby amended to read as follows:
2 116.040 1. The map or plat shall be certified by the surveyor making
3 the same, which certificate shall be substantially as follows:
4 I,(surveyor's name), do hereby certify that this plat
5 is a true and accurate map of the land surveyed by me and laid out into
6 blocks, lots, streets, alleys and public places at the instance of
7(give name of owner or trustee); that the location of the
8 blocks, lots, streets, alleys and public places has been definitely estab-
9 lished and perpetuated in strict accordance with the law and as shown
10 hereon; that the blocks, lots and public places shown hereon are situate
11 wholly within(give description by metes and bounds or by
12 legal subdivision); that the survey was completed on the day of
13(give date).
14 2. The map or plat shall:
15 (a) Be acknowledged by the owner or owners, or trustee, before some
16 officer authorized by law to take the acknowledgment of conveyances of
17 real property; and
18 (b) Contain signed and acknowledged evidence by the owner or owners
19 of their grant of permanent easements for utility installations and access,
20 as designated on the map, together with a statement approving such ease-
21 ments, signed by each public utility company or agency in whose favor the
22 easements are granted or whose utility services are to be required for the
23 platted parcels.

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S. B. 327

SENATE BILL NO. 327—SENATORS SHEERIN AND BLAKEMORE

MARCH 11, 1975

Referred to Committee on Environment and Public Resources

SUMMARY—Authorizes governing body of Tahoe Regional Planning Compact to acquire land by gift, purchase or eminent domain and establishes cause of action for property owner affected by governing body's regulations. Fiscal Note: No. (BDR 22-884)



EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to the Tahoe Regional Planning Compact; authorizing the governing body to acquire land by gift, purchase or eminent domain; establishing a cause of action for a property owner affected by the governing body's regulations; 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. NRS 277.200 is hereby amended to read as follows:
2 277.200 The Tahoe Regional Planning Compact is as follows:

3 Tahoe Regional Planning Compact

4
5 ARTICLE I. Findings and Declarations of Policy

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7
8 (a) It is found and declared that the waters of Lake Tahoe and other
9 resources of the Lake Tahoe region are threatened with deterioration or
10 degeneration, which may endanger the natural beauty and economic pro-
11 ductivity of the region.

12 (b) It is further declared that by virtue of the special conditions and
13 circumstances of the natural ecology, developmental pattern, population
14 distribution and human needs in the Lake Tahoe region, the region is
15 experiencing problems of resource use and deficiencies of environmental
16 control.

17 (c) It is further found and declared that there is a need to maintain an
18 equilibrium between the region's natural endowment and its manmade
19 environment, to preserve the scenic beauty and recreational opportunities
20 of the region, and it is recognized that for the purpose of enhancing the
21 efficiency and governmental effectiveness of the region, it is imperative
22 that there be established an areawide planning agency with power to