MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON NATURAL RESOURCES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 23, 1981

The Senate Committee on Natural Resources was called to order by Chairman Norman Glaser at 2:00 P. M., Monday, March 23, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Norman Glaser, Chairman
Senator Wilbur Faiss, Vice Chairman
Senator James H. Bilbray
Senator Lawrence E. Jacobsen
Senator Joe Neal

COMMITTEE MEMBER ABSENT:

Senator Floyd R. Lamb

GUEST LEGISLATORS:

Senator Thomas R. C. Wilson
Assemblyman Thomas J. Hickey

STAFF MEMBERS PRESENT:

Robert E. Erickson, Senior Research Analyst
Carolyn L. Freeland, Committee Secretary

Senate Bill No. 381

Senator Wilson, the primary sponsor of this bill, was the first speaker. He said the bill will require amending in some respects. The bill has two purposes. One is to vest the executive department with the jurisdiction to negotiate with the federal government and to obtain payment of impact expenses, either anticipated or experienced by both the state and local governments. The second is to suggest a unified policy, agreed to by both the legislature and the executive department, that if the MX should become a fact and

become deployed within the state, expenses directly or indirectly caused by the deployment and construction of the MX system, be paid for by the federal government.

Senator Wilson stated this measure in no way carries endorsement of, or invitation to facilitate by any means, the MX system.

Senator Wilson pointed out the bill as drafted in its present form requires a number of amendments, and a certain amount of license was taken in preparing the bill. There are some provisions contained with which Senator Wilson does not agree; line 10, providing for annual payment, may be acceptable, but it may well be the bill should have language providing for payment in other increments. On line 14, the agreement should not have a term of four years as the Congress would not ratify it, and the Air Force might not agree with it. He is not certain a four-year contract is in the interests of the state; he does not feel the executive should be locked into a negotiating position which limits its ability to agree to a four-year term. In Section 3, line 22, Senator Wilson does not feel the negotiations should be only for expenses already incurred, but they should be for prospective expenses as well as retrospective ones. The negotiating agreement should be broad enough to embrace, if possible, not just expenses incurred, but expenses anticipated.

Senator Wilson pointed out this bill vests in the executive, specifically the chief executive's office, the mandate to carry out the policy by negotiating accordingly not just upon behalf of the state sovereign, but upon behalf of the local governments.

Senator Wilson distributed to committee members a series of amendments prepared by the office of Mr. Steve Bradhurst, MX Project Director. (Exhibit C) Senator Wilson said the amendments would make the bill more specific in the mechanism for determining the impact to be experienced by local governments, and for determining what is measurable and what is not. He then explained the recommendations set forth by Mr. Bradhurst. He said much of the language in the amendments addresses the creation of a board for the purpose of determining the nature and extent of MX impact for improving the governor's position when he negotiates, and then to determine how the funds are to be distributed among the political subdivisions and the state agencies in the event the entire amount of the sum is not paid.

Senator Wilson referred to the composition of the board; he feels representation on such a board could be named by the executive;

however, if it is the desire of the committee to deal with it by statute and vest it with jurisdiction, such authority may be written into this bill. He said that regardless of whether the excutive office or a board meets with local governments and state agencies, the process will need to be formalized. He also feels the body which makes the determination of need should be the same body which makes the determination of distribution of monies received.

Senator Wilson recommended local government have representation on a board, if a board is decided to be the responsible body to determine the impact which a political subdivision might experience from the MX system.

Senator Jacobsen asked if there might be another board now in existence which might be able to handle review, instead of appointing another board. Senator Wilson replied this might be a possibility; he said local government had expressed interest in having direct representation on any board sitting in the capacity described above, and making sure determinations are made in an even-handed manner. The board is going to have responsibility for not just determining local impact, but for determining impact on the budgets of state agencies.

Senator Wilson continued, saying the process of determining impact must be handled as is any budget hearing; it has to be defensible and supportable; it has to be objective, or it will not have creditability with the Department of Defense or the Congress. Creditability is especially necessary if the amount appropriated by the Congress does not fund the full amount of the state's demand, in which case the governor or the board will have to determine distribution of funds.

Senator Wilson, in response to a question from Senator Neal, said it is best to prepare for the advent of the MX system, even if it is not advocated.

Mr. Steve Bradhurst, Mx Project Director, explained the amendments in Exhibit C, saying they are in conceptual form. He said, from speaking with people in Washington, they do not want to receive a large number of requests, but would rather have a unified statement prepared and sent to them for impact aid. Mr. Bradhurst said there would be many applications coming from local governments; the board which has been added to this bill would evaluate these applications in light of eligibility criteria. The board would then prepare one package to be submitted to the Department of Defense to be inserted in its overall budget.

He referred to funding mechanisms, saying a block grant funding mechanism seems to have the support of the two states and the local jurisdictions involved in MX.

Senator Neal asked what appeal procedure would be recommended if a local entity's application was refused--if any thought had been given to appealing against an unjust decision.

Mr. Bradhurst replied such procedure had not been considered, saying this is a conceptual format, to be reviewed by the legal department of the legislature, and he is not familiar with what appeal process might be best. However, he feels the best avenue would be some sort of appeal on the federal level.

Senator Neal asked just how the term "mitigation" is being used in the context of this bill. Mr. Bradhurst replied mitigation would be adverse impact, as identified by a state or local jurisdiction.

Senator Neal asked if there would be a record-keeping process to be submitted to the federal agency receiving the applications. He feels some type of record should be developed in order to support decisions made regarding impact applications. Mr. Bradhurst replied such a process would be necessary and the federal government would lay out the eligibility criteria for mitigation funds. He stressed creditability is of supreme importance in this matter.

Senator Jacobsen asked how disbursements have been handled to date. Mr. Bradhurst explained the allocation system used to this point.

Chairman Glaser said the board could be created by executive order or by statute. He feels if the governor appoints the board, if there is a legislative mandate to establish the board, it might give such a board more stature in the eyes of the federal government. Mr. Bradhurst agreed, saying it would demonstrate the legislature is in accord with the executive branch.

Senator Neal asked for the rationale behind the composition of the committee or board. Mr. Bradhurst said such board makeup is primarily to keep membership even, and to provide equal representation from the cities as well as the counties. He said it is somewhat arbitrary at this point, and again stressed this is on a conceptual basis. The state agencies will be impacted, so it will be important to have key departments involved.

Senator Glaser questioned the language "three state representatives" pointing out the word "agency" had been omitted for purposes of clarification.

Mr. Bradhurst then briefly discussed the remainder of the board or committee membership, and there were miscellaneous questions in this regard.

Assemblyman Thomas Hickey said there is a need for some type of structure for appeal if funds are refused. He said it is necessary to deal with the federal government with a unified voice, and suggested an involvement of the legislature including the administrative department. Senator Bilbray asked if perhaps a select committee, similar to the one for the Sagebrush Rebellion, might not meet this need. Mr. Hickey said perhaps, but he would prefer to see someone selected for the board from the leadership of each House. He would also like to see the governor on the board. He feels the way the board is organized in the bill is not good organizational structure.

Mr. Mike Fogliani, Local Oversight Committee Chairman, also a county commissioner in Lincoln County, said they are opposed to Senate Bill No. 381 as it is presently written. He said there is not too much problem with Mr. Bradhurst's conceptual revisions, but they would like to have time to comment on the amendments. He explained the membership of the Local Oversight Committee; it is composed of seven counties, comprising two-thirds of the state's land area, with 60% of the population. Mr. Fogliani distributed a draft funding format and process for the Nevada and Utah MX Community Impact Assistance Program (Exhibit D), setting forth the Committee's requests and recommendations, and explained its contents. There was discussion on the membership of the Local Oversight Committee, and its effectiveness.

Mr. G. P. Etchevery, Nevada League of Cities, said he takes some exception to Senate Bill No. 381 as it is written, but the proposed amendments do more clearly define the position of the League. He said he has been involved for a long time in the MX project, and has formerly indicated the desire of the cities and counties to be participants in whatever impact the MX has on the state. He said there were people present from a few of the cities who wished to testify on this bill. He said it is not a matter of endorsement of MX but the acceptance that MX is here now and it is vital to consider its ramifications. He referred to caps on local governments and the need for a mechanism for those areas to receive funds to circumvent the capping procedure. Referring to the makeup of the board as proposed by the amendments, Mr. Etchevery said the cities want equal representation with the counties, and the school districts should be included. He pointed out the Indian tribes had been excluded from any consideration in the makeup of the board, and some representative from the tribes should be involved.

Mr. Ashley Hall, representing the City of Las Vegas, distributed a report prepared for this hearing (Exhibit E) and discussed some of its highlights.

Mr. John Vitteil, representing the City of North Las Vegas, used the blackboard to illustrate two points which he wished to make. He feels it is necessary to speak with a single voice to the federal government, and also to eliminate the possibility of administrative overhead. He endorses the concepts presented by Mr. Hall.

He said there should be a clearing house for impact requests, sending to the federal government, specifically the Secretary of Defense, a prioritized list of the requests. Based upon an analysis of the requests, the Secretary of Defense and his staff would deliver the funds back to the State of Nevada. When the funds are returned, according to Senate Bill No. 381, they would be cleared through the same clearing house referred to previously, and then distributed to the local entities. Mr. Vitteil feels the funds should be sent directly to the impacted agencies, thereby eliminating any administrative overhead involved in fund distribution.

Mr. Alex Fittinghoff, from the City of Sparks, said his comments are unofficial at this point as the city officials had not yet seen the draft of the proposed amendments. However, he feels they would concur in his remarks. He said the City of Sparks had conducted its own investigation into the impact of MX upon the city, reviewing similar projects impact upon other areas. He supports one state clearing house; he feels every community within the state which can demonstrate to the federal government the presence of MX impact in its area should be allowed to do so, not restricting earmarking of funds to areas where actual construction might take place.

Mr.Etchevery concluded by asking that the cities as a whole be considered in the decision-making process, and that representation at all levels and stages is desired. He added the League stands ready to work with any group to facilitate proper legislation towards this goal.

Mr. Michael Dial, Senior Management Analyst in the County Manager's Office of Clark County, said he supports the statements of Mr. Fogliani and Mr. Hall, and would work with them in unity on this matter. He is opposed to Senate Bill No. 381 as introduced and feels more time is needed to work out priority-setting mechanisms. He expressed the desire to come to mutually beneficial agreements; he said every agency which feels it is going to be impacted should be able to compete for available funds, and that a mechanism should be devised to satisfy all concerns regarding priorities.

Mr. Tom Polikalas, Nevadans Opposed to MX, said his group strongly endorses Senate Bill No. 381, believing without the impact funds Nevada would be economically and fiscally ruined. He referred to the example of the Trident Project in Washington state. He stated the bill makes the federal government accountable for the damage it will cause the state and urged its implementation.

Chairman Glaser asked how soon the results of the April third meeting in Washington, relative to MX, would be known. Mr. Bradhurst said the matter being considered today does not have a bearing on the Washington meeting.

Mr. Chuck Neely, representing the Clark County School District, said his district is in favor of the block grant concept referred to in earlier testimony (see Exhibit D). He said the county would prefer to have impact funds come directly to it, but added they are in agreement with the concept of proposals made at this meeting. He addressed the board composition, noting there would be only one school district member serving. He would recommend there be at least two school board members serving on the board, one representing the small counties and one the large counties which would be impacted by the MX project.

Ms. Evelyn Summers, speaking on behalf of herself and the environment, supports this bill with the exception of Section 1, line 9. She would like omitted the words "use his best interest." She would like it to read, "The governor shall enter into an agreement..." Referring to the matter of Indian tribes participating in the committee, she said contact should be made with Harold Wyatt, Executive Director of the Inter-tribal Council. However, Ms. Summers feels it is entirely possible the tribes would not choose to participate in a committee of this sort.

There being no further testimony on Senate Bill No. 381, the hearing was concluded.

Assembly Bill No. 28

Mr. William Newman, State Engineer, supports this bill as amended. He discussed the more pertinent points of the bill. On page 2, line 3, it gives the state engineer authority to deny applications to appropriate water without any further processing, if there had already been applications denied for that same purpose in that same basin. This means the applications do not have to be published and there is no protest to be filed, cutting down the amount of time required to process the applications, when the ultimate result will be denial. Senator Bilbray asked if there is a time limit and Mr. Newman answered there is not.

There was a discussion on the matter of liability on the part of a rig owner if he allows an unlicensed driller to operate the rig without the owner being present, and if conceivably it would mean the rig owner could thereby lose his license; also, any person who drills a well without a license shall be ordered by the state engineer to plug that well. Those points were clarified by

Mr. Newman, who suggested the words..."allows an unlicensed person to drill or perform any work in connection with well drilling unless under direct supervision of a licensed well driller."

Mr. Roland Westergard, Director of the Department of Conservation and Natural Resources, said the amendments suggested on pages 2 and 3 are particularly significant, and he explained the language in lines 3 through 6 on page 2 and lines 16 through 18, page 13.

He referred to subparagraph 6, lines 12 through 15, page 4, saying there is no intent to preclude a licensed driller from hiring a person to assist him as long as there is a licensed driller on the rig at all times.

There being no further testimony on Assembly Bill No. 28, the hearing was concluded.

Senate Bill No. 176

There was consideration of, and discussion on, the extensive amendments made to this bill. Mr. Will Crockett, Deputy Legislative Counsel, presented a general review of the changes which had been made. He noted the change in the summary (title), saying the word "acquisition" had been deleted. He pointed out that in Section 2, item 1, the application to obtain a cession of concurrent criminal jurisdiction is only a formality, and the state is not giving to the federal government something it does not already have. Mr. Crockett said Section 5 was redrafted at the suggestion of the Attorney General's Office. He referred to a change needing to be made on page 5 of the amendments, the language referring to "328.100", the seventh line in that paragraph, insertion of the word "clerk" following the word "chief." Another correction is to be made on page 6 of the amendments, referring to sec. 12, page 7, following line 14, by deleting the word "even" in the fourth line of that paragraph.

Mr.Crockett said the heart of the bill is the cession of concurrent criminal jurisdiction, repeating it does not cede to the federal government anything more than it is entitled to.

In summary, Mr. Crockett said what this bill would provide for would be procedures: (1) to concede concurrent criminal jurisdiction; (2) for the federal government to apply to close a public road on public land; (3) to apply to the state engineer to appropriate water for public lands; (4) to apply to the state land use planning agency if a use of public land conflicts with state sovereignty.

Mr. Harry Swainston, Deputy Attorney General, made a few comments pertaining to the water question. He said the case laws have about

settled that land and water are to be handled separately. He said now the state is dealing with the question wherein the federal government is trying to have land and water handled as one matter, and that is why there is a major effort to obtain water applications by the Bureau of Land Management. Once the land and the water are united again, there will never be divestiture. He feels it is appropriate at this time for the legislature to address the question. He said what has been done is to try to give the United States minimal jurisdiction which it would ordinarily have under law if it does not come to the state under the application process to try to obtain additional jurisdiction.

Mr. Swainston continued the taxing power is to the extent permitted by law; he said the savings clause is necessary. In regard to roads, it is important to recognize the private uses of roads, the need for compensation for loss of such use, and a parallel need for a mechanism for compensation hearings.

Chairman Glaser commended Mr. Crockett and Mr. Swainston on the fine work they had done in connection with amending this bill, adding the committee appreciates their efforts.

Senator Bilbray felt perhaps the bill should be referred to the Senate Committee on Judiciary due to the concurrent jurisdiction problems, and Chairman Glaser added it might be a good idea. There ensued a discussion; it was the consensus the Senate Committee on Natural Resources is the correct group to act on this bill.

Senator Neal moved to Amend and Do Pass Senate Bill No. 176.

Mr. Swainston made a comment with respect to the water question, noting the amendments had not been reviewed by the state engineer, and suggested it might be well to obtain his suggestions.

The Chairman said the bill could be amended and be re-referred the committee, or the amendments could be submitted for review to Mr. Westergard and Mr. Newman for their comments.

Mr. Shaw, Director of the Division of State Lands, agreed the state engineer, Mr. Newman, should have an opportunity to review the amendments, along with Mr. Stone of the Department of Transportation. Mr. Shaw also said he had thought the amendment process would have been simpler, but he would go along with what has been recommended.

Mr. Crockett felt that, in a federal-state relationship, it would be appropriate for decisions to be made by the senior person in authority in respect to the subject matter.

Chairman Glaser therefore decreed to hold Senator Neal's motion,

and have the state engineer and the Department of Transportation review the amendments. If they have suggested changes, they will be made in the amendments prior to having the bill reprinted.

Mr. Erickson noted Mr. Westergard had some concerns about the original bill. Chairman Glaser directed Mr. Erickson to provide Mr. Newman, Mr. Stone and Mr. Westergard with copies of the amendments for their comments and return to the committee. The committee will then review the amendments before the bill is reprinted.

There being no further discussion, the hearing on Senate Bill No. 176 was concluded.

Senate Bill No. 347

Chairman Glaser stated he does not wish to tamper with the Tahoe bill; the changes recommended are merely technical ones, correcting certain clerical errors.

Senator Neal moved Do Pass Senate Bill No. 347. (Exhibit F)

Senator Faiss seconded the motion.

The motion carried unanimously. (Senator Lamb was absent for the vote).

The Chairman referred to Senate Bill No. 14, now on the Secretary of the Senate's desk, saying he had the proper amendments for this bill. He said if it was agreeable with the committee, he would put the bill on General File the following day for amending. There was no dissent.

Regarding Assembly Bill No. 13, the access bill, the Chairman announced it would have to go to conference as the committee had amended it. Mr. Erickson said the amendment language had been modified from that approved by the committee; Chairman Glaser said there would be conference in order to restore the original language of the amendment to the bill.

There was discussion of the date of a field trip to Lake Lahontan and it was agreed Wednesday, April 15 would be a satisfactory date for such a tour. Senator Jacobsen is to make arrangements and report back to the committee.

Senator Jacobsen stated he would like to move Senate Joint Resolution No. 16 off the Secretary of the Senate's desk, as he feared delaying it would lessen its priority with the federal government. It was the decision of the committee to put the bill on the Senate Board for action on the Floor.

Senate Committee on Natural Resources
March 23, 1981

Mr. Erickson noted he had amendments to Senate Bill No. 241 which Mr. Russ McDonald had provided. It was decided to consider the bill with the amendments at the next meeting on March 25, 1981.

There being no further business, the meeting was adjourned at 4:40 P. M.

Respectfully submitted by:

Carolyn L. Freeland

Carolyn L. Freeland, Secretary

APPROVED BY:

Norman Glaser

Senator Norman Glaser, Chairman

DATE: March 27, 1981

REVISION

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on NATURAL RESOURCES, Room 323.

Day Monday, Date March 23, Time 1:30 P.M.

S. B. No. 381--Directs governor to contract with Federal Government for money to ameliorate financial effects of "MX" missile project.

A. B. No. 28--Changes various provisions relating to appropriation of underground water.

CONSIDERATION OF AMENDMENTS TO SENATE BILL NO. 176--Provides for legislative or gubernatorial approval of acquisitions or uses of certain lands by Federal Government.

FINAL ACTION:

S. B. No. 347--Corrects errors made in amendment of Tahoe Regional Planning Compact.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON NATURAL RESOURCES

DATE: March 23, 1981

EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
Steve Bradhurst	State MX Office	885-5960
Mike Fogliani	Lobbyist for [illegible]	[illegible]
[illegible]	[illegible]	885-5300
C. P. Mahoney	Nev League of Cities	882-2121
Nick Oreman	City of Fly	289-2430
Leslie Sherwood	Nev League of Cities	882-2121
Debi [illegible]	City of Reno	785-2215
[illegible]	[illegible]	[illegible]
Glen Frank	Carson City	882-7555
Alex Fittinoff	City of [illegible]	356-2349
Bob Crittenden	U.S. Forest Service	784-5331
John Uttell	City of Nc Cas Vegas	
[illegible]	City of [illegible]	
Tom Rikalo	Nevadans Opposed to MX	322-5762
Chuck Neely	Clark County School Dist	883-1850
Evelyn Summerlin	Self	856-9547
William J. Newman	State Engineer	885-4880
[illegible]	[illegible]	
Harry J. Swainston	Deputy Attorney General	885-4170
[illegible]	[illegible]	
	Mary [illegible]	

SENATE BILL NO. 381--SENATORS WILSON, GIBSON AND GLASER

March 9, 1981

Referred to Committee on Natural Resources

EXHIBIT C

SUMMARY--Directs governor to [contract with Federal Government for money to ameliorate financial effects of "MX" missile project. (BDR S-1235)] receive money from the Federal Government to ameliorate the adverse financial effects the state and its local government will experience in meeting the costs of providing increased services and facilities including their initial maintenance and operation, to the residents of the state and those expected to reside in the state as a result of "MX" missile project construction and operation. And, creates a state/local "MX" impact mitigation funding approval and disbursement process.

FISCAL NOTE: EFFECT ON LOCAL GOVERNMENT: NO.
Effect on the State or on Industrial Insurance: No.

EXPLANATION--Matter in bold print is new; matter in brackets [] is material to be omitted.

AN ACT directing the governor to [contract with the Federal Government for money to] receive money from the Federal Government to ameliorate the financial effects of the "MX" missile project on state and local government. And, creates a state/local MX impact mitigation funding approval and disbursement process.

WHEREAS, The construction and operation of the "MX" missile system in Nevada will have an adverse financial effect upon the state and its local governments because of the increase in demand for public services and facilities, and their maintenance and operation; now, therefore,

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. The governor shall [use his best efforts to enter into an agreement with appropriate federal agencies to provide for an annual payment of money by the Federal Government] receive money from the Federal Government on a periodic basis to ameliorate the adverse financial effects which the construction and operation of the "MX" missile system in Nevada will have upon the state and its local governments. [This agreement is to be effective for 4 years and renewable upon expiration.

SECTION 2. [1. The terms of the agreement must direct that all payments under its terms be made to the department of taxation.

2.] The department of taxation shall deposit the money it receives from the Federal Government into the state treasury to the credit of the account to ameliorate the effects of the "MX" missile project which is hereby created in the state general fund.] The Governor shall deposit the money received from the Federal Government into the state treasury to the credit of a special account in the state general fund to ameliorate the adverse financial effects of the "MX" missile project or into a special fund to be created to ameliorate the effects of the "MX" missile project.

SECTION 3. [Any money in the account may be used to offset the expenses incurred by the state resulting from the construction and operation on the "MX" missile system and may be distributed, upon proper legislative authorization, to local governments for similar purposes.] Any money in the special account or fund may be used to meet the costs of providing increased services and facilities, including support necessary for the initial

operating and maintenance of new and expanded facilities and services, to the residents of the state and those expected to reside in the state as a result of "MX" missile project construction and operation and shall be distributed upon proper authorization by the State MX Impact Mitigation Board.

SECTION 4. [This act shall become effective upon passage and approval.] 1. The State MX Impact and Mitigation Board shall review and approve all state and local government applications for Federal Government "MX" missile project impact aid and transmit the approved applications to the Federal Government.

2. The State MX Impact Mitigation Board shall be composed of thirteen (13) members--three (3) county and three (3) city representatives from the "MX" missile deployment area, one (1) school district member from the "MX" missile deployment area, three (3) state representatives, and three(3) Department of Defense representatives. The governor shall appoint members who will serve two (2) year terms with possibility for additional terms. Also, the governor will appoint a chairman from the thirteen (13) member State MX Impact Mitigation Board.

SECTION 5. This act shall become effective upon passage and approval.

DRAFT

NEVADA AND UTAH

MX COMMUNITY IMPACT

ASSISTANCE PROGRAM

EXHIBIT D

DRAFT

MX BLOCK FUNDING

PROCESS

March 20, 1981

INTRODUCTION:

This report presents a draft funding format and process for the Nevada and Utah MX Community Impact Assistance Program.

This proposed funding mechanism and program has been prepared in a coordinated effort which included representation from the Nevada seven-county Local Oversight Committee, City of Las Vegas, Clark County, State of Nevada MX Field Office, the Utah MX Coordination Office, and the Utah MX Missile Policy Board

The size and the scope of the proposed MX missile system is by all standards enormous and potentially overwhelming. The states, counties and communities which may play host to this system will undergo dramatic changes in their current life styles and physical setings. With the recognition of these projected impacts and increased demands for services, the states, counties and cities which lie within the impacted area have been working closely with the Federal government formulating and developing a funding mechanism for impact aid which will assure mitigation of MX community impacts.

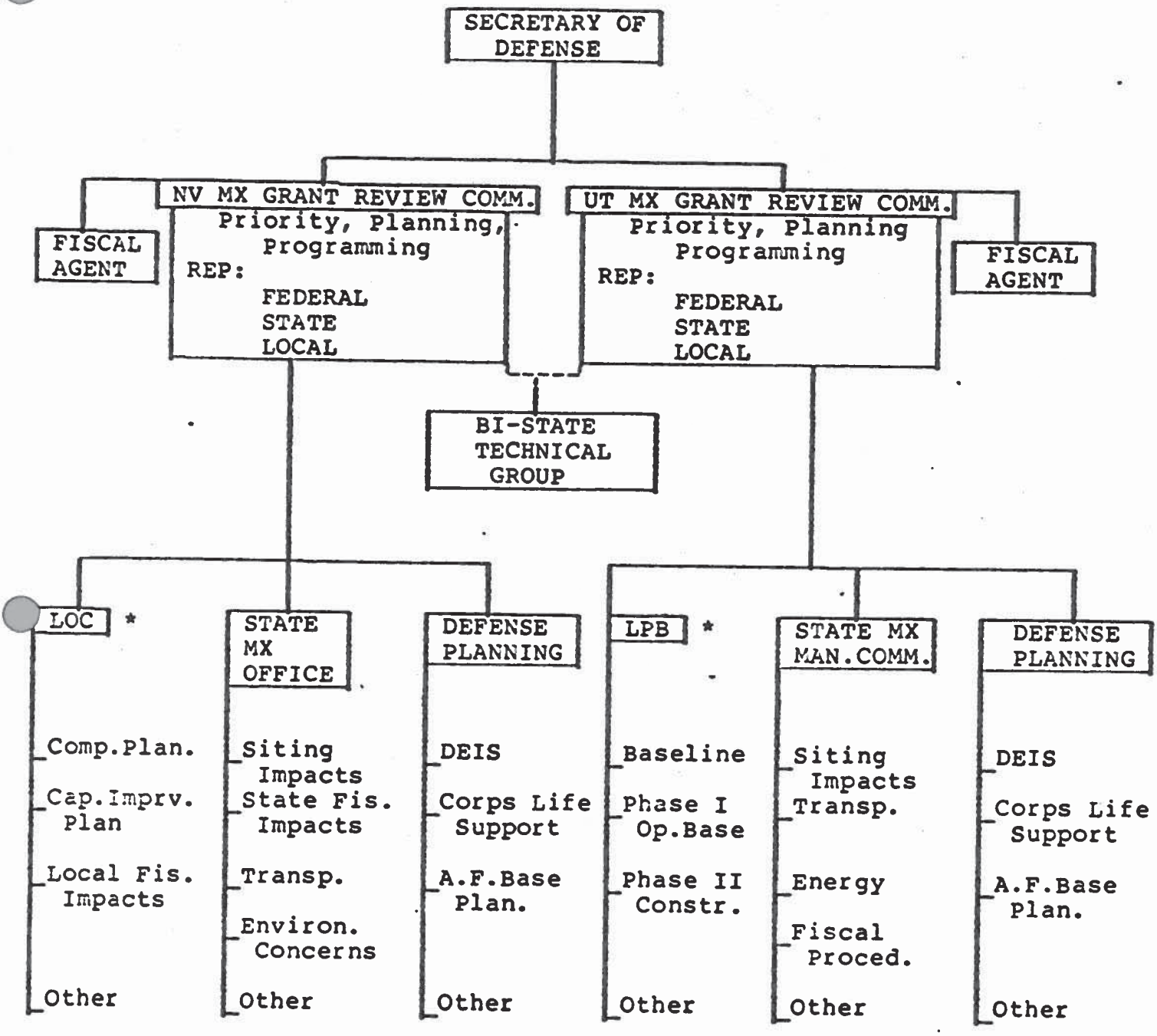
After months of review and comment by all parties, the following draft funding legislation and process has been developed.

MX FUNDING REQUEST PROCESS

The following pages detail the process and procedures which jurisdictions and service districts would follow in preparation of a unified request for MX Impact Community Assistance Fund.

This section will identify the different entities which are involved in the funding priority and planning program and generally explain these actions and interactions within the MX Block Grant program.

MX BLOCK GRANT FUNDING PROCESS



* LOC = Local Oversight Committee
LPB = Local Policy Board

I. FUNDING REQUEST PROCESS

INTERACTION BETWEEN PLANNING ACTIVITIES AND AGENCY PROGRAMS

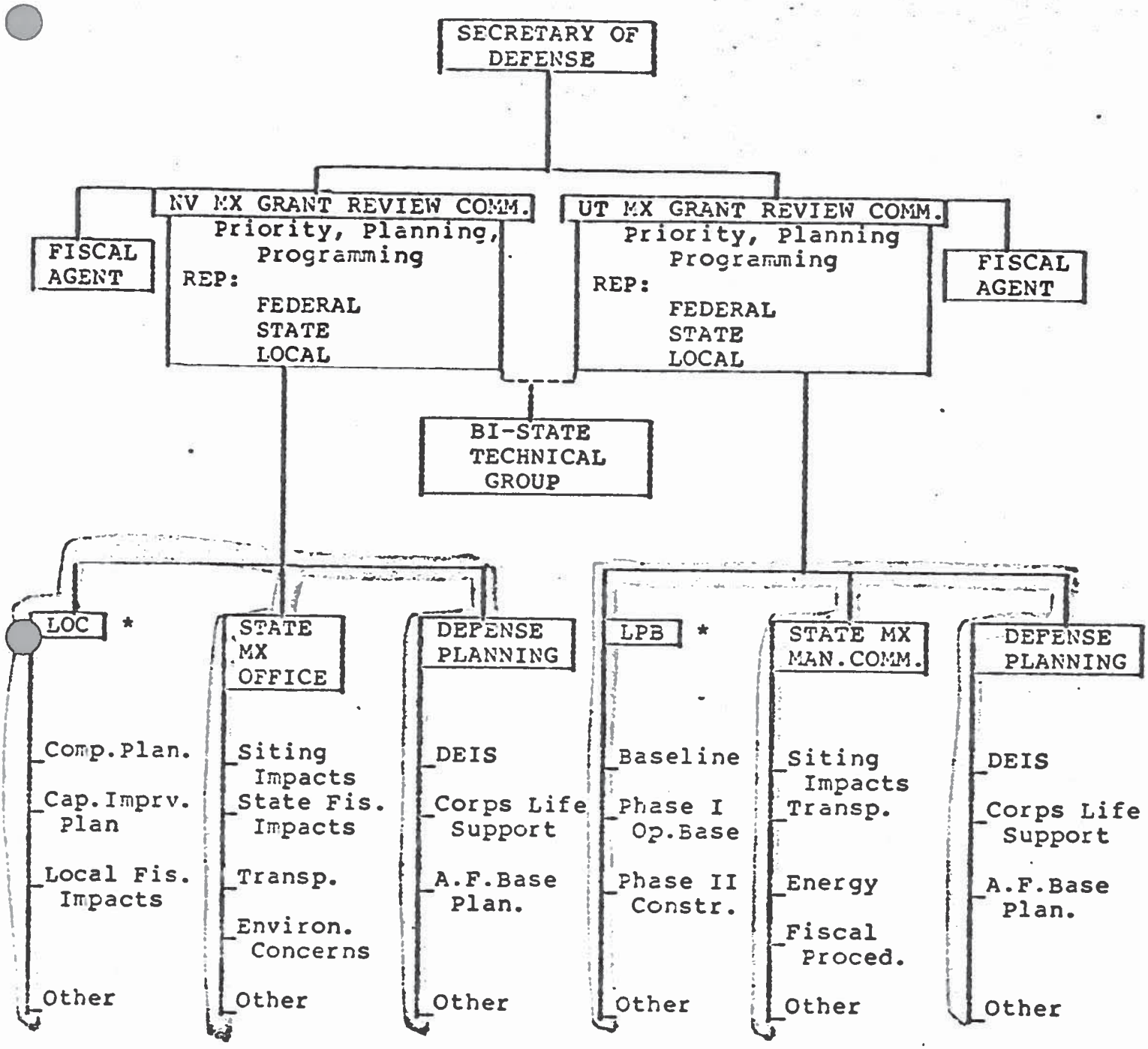
The identification of need for community impact assistance is a direct result of the affected counties, cities and service districts recognizing their service levels constraints and limitations. This portion of the funding request process recognizes the need for planning entities concerned with MX.

To identify the specific public work programs which will need to be expanded or developed to assure wanted and coordinated community growth, this level of analysis will translate Defense Department planning information into understandable local and state impact needs.

The product at this level of interaction will be a multi-year, regional capital facility improvement plan. This capital improvement plan would represent an agreement by all State and local entities on those programs that should be funded in a specific year or time frame.

Besides the positive aspects of coordinating the the numerous jurisdictions requests, this regional capital improvement plan will act as a master program guide to the higher level of MX grant review. For the purpose of this draft, we are calling this entity, the MX Grant Review Committee. An explanation of this Committee follows.

MX BLOCK GRANT FUNDING PROCESS



* LOC = Local Oversight Committee
LPB = Local Policy Board

II. FUNDING REQUEST PROCESS

MX GRANT REVIEW COMMITTEE

The Department of Defense has expressed concern that grant requests from the various counties, cities, and service districts may overload the funding system. This Block Grant concept eliminates that concern. We propose establishment of an MX Grant Review Committee, which would act as the funding request agency to the Department of Defense.

The MX Grant Review Committee would request a single transfer of funds from the Department of Defense to the designated fiscal agent.

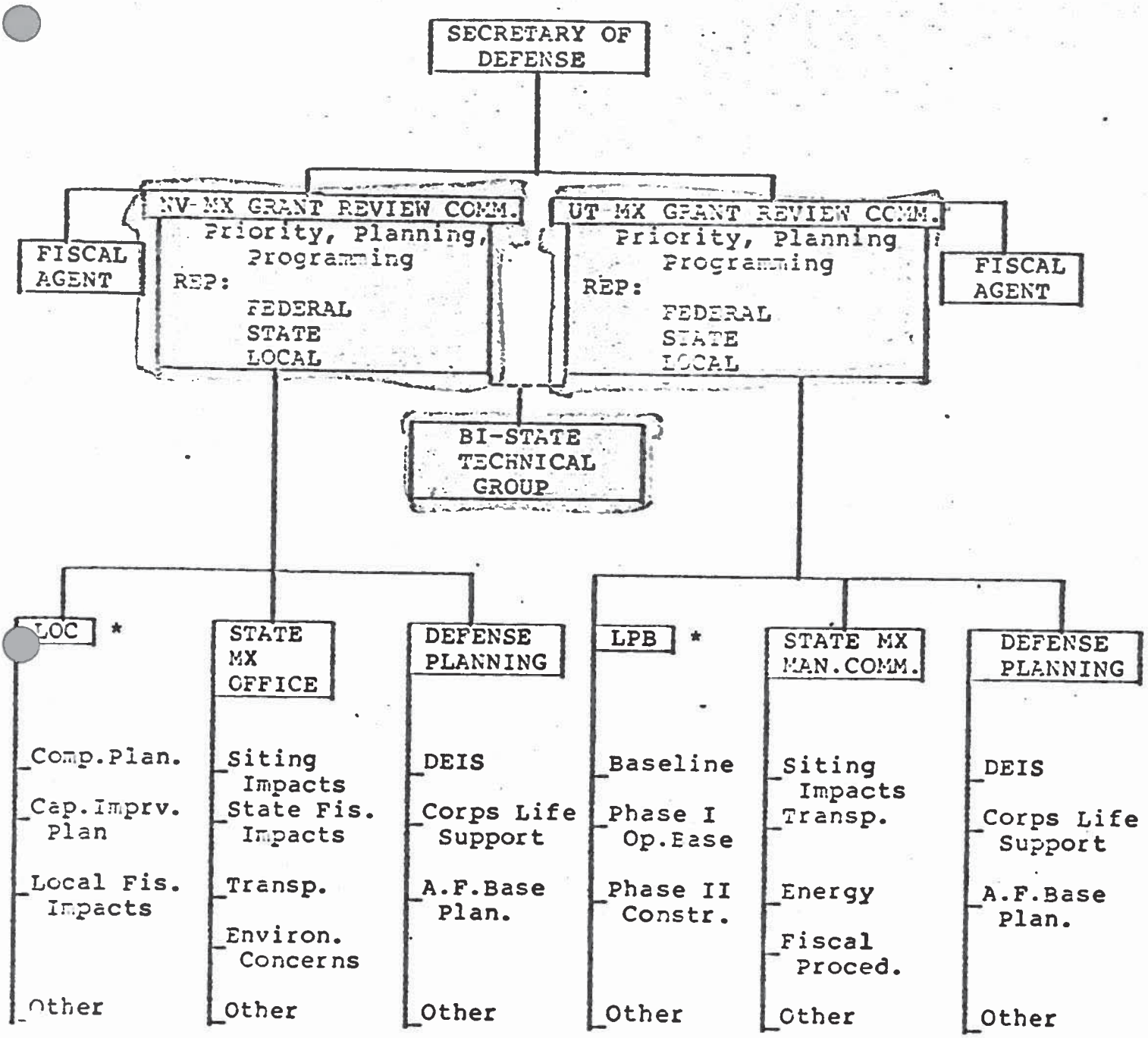
The Committee fund transfer request would be based on the yearly funding requests identified in the adopted regional capital facilities improvement program.

Establishment of this Committee gives those appointed members from the Federal, State, and local level an opportunity for a yearly review of Mx grant requests.

With the MX system encompassing a two-state area, there must also be a means to coordinate the two-states' Grant Review Committees. This funding request process recognizes this need, and allows for a Bi-State MX technical group.

The Bi-State group will assure the coordination of the yearly requests of both States to the Department of Defense.

MX BLOCK GRANT FUNDING PROCESS



* LOC = Local Oversight Committee
LPB = Local Policy Board

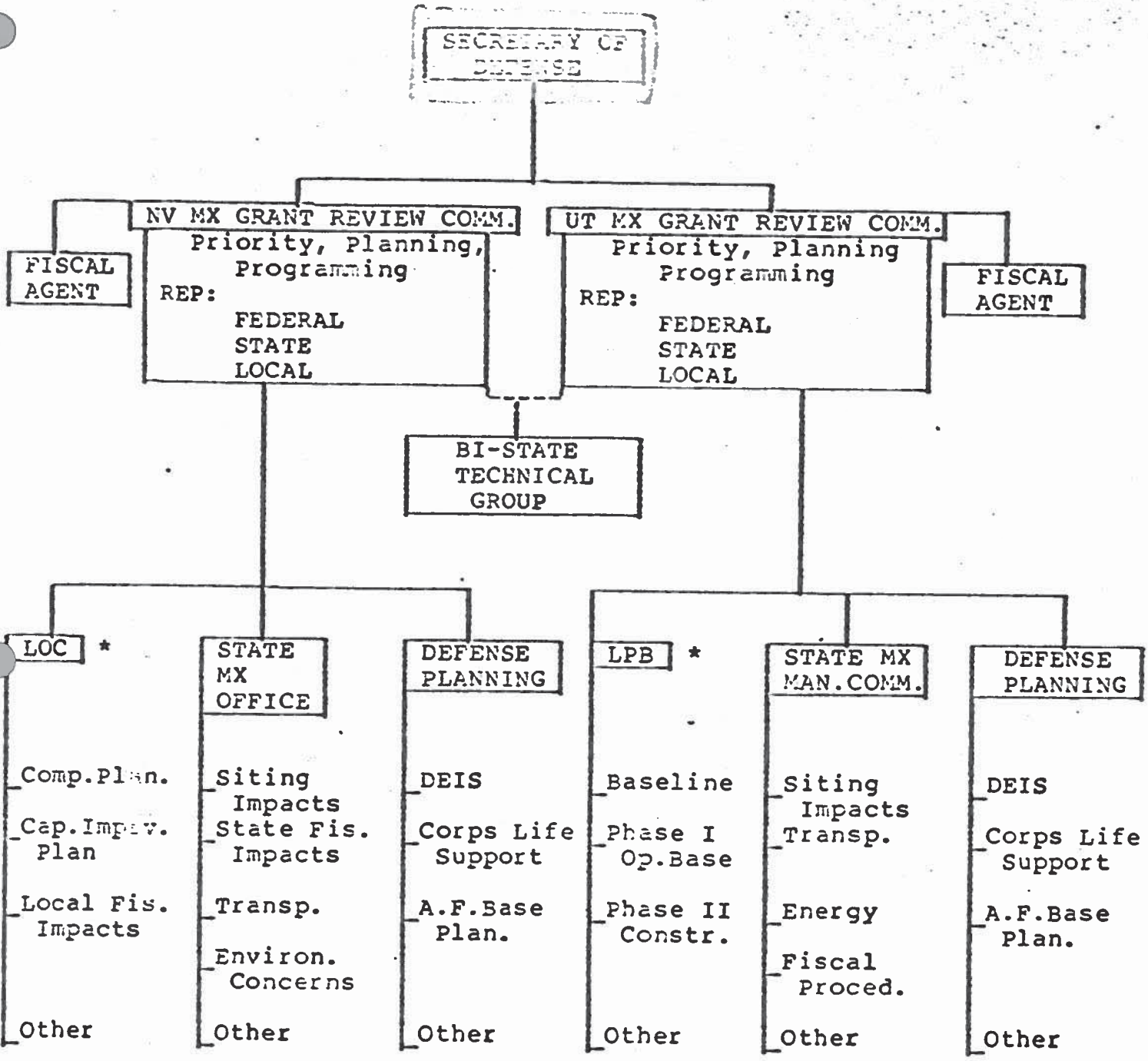
III. FUNDING REQUEST PROCESS

SECRETARY OF DEFENSE

The Secretary of Defense will be authorized by the special MX Block Grant Legislation to make block grant to states governments, counties, cities, school districts and multi-jurisdictional associations of local government located near the MX weapon system deployment area.

After approval of the yearly funding request from the MX grant review committee, the Secretary of Defense will transfer designated funding amounts to the specified fiscal agent.

MX BLOCK GRANT FUNDING PROCESS



* LOC = Local Oversight Committee
LPB = Local Policy Board

IV. FUNDING DISTRIBUTION PROCESS

SECRETARY OF DEFENSE/FISCAL AGENT

The distribution of Block Grant funds is a fairly simple procedure. The main direction and purposes of the block grant process is to allow sufficient funding to be provided in a direct manner to the applicant in need.

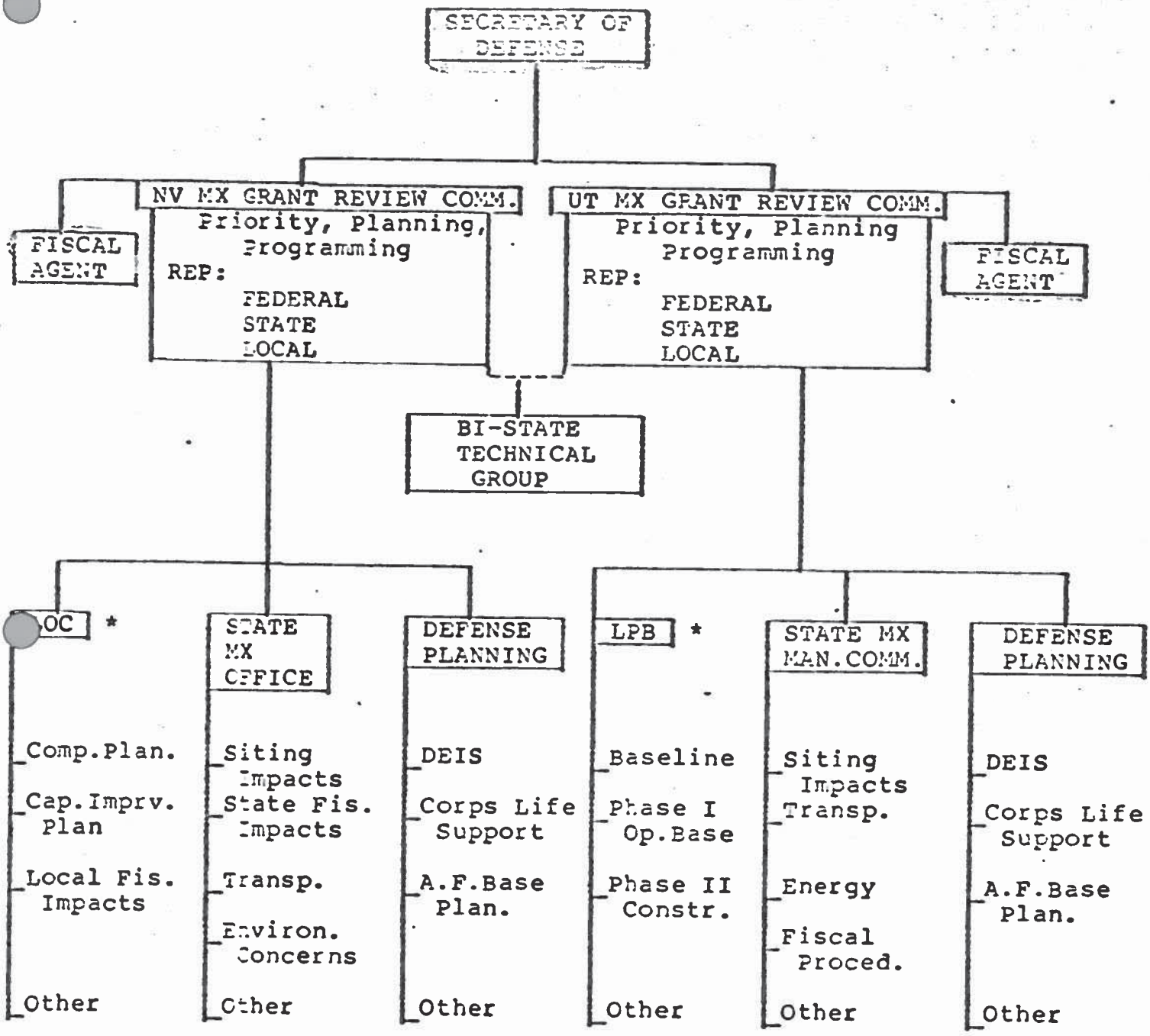
This streamline funding process must be created in a fashion which will assure the Department of Defense, and the federal government in general, fiscal accountability.

This Block Grant Funding process proposes to use a specific fiscal agent to act as an administration point for all MX impact funding. This fiscal agent (yet unidentified) would provide the necessary audit accountability needed in the processing of federal funds.

For those larger jurisdictions which may already have these administrative capabilities, this procedural step would be modified to a pass through action by the fiscal agent.

The fiscal agent upon receipt of impact funds would in a timely manner administer and appropriate those funds to those agencies or service districts which were specified as grant recipients in the regional capital facilities plan.

MX BLOCK GRANT FUNDING PROCESS



* LOC = Local Oversight Committee
LPB = Local Policy Board

Testimony before Senate Natural Resources Committee
Regarding Senate Bill 381

EXHIBIT E

Mr. Chairman, members of the Senate Natural Resources Committe, thank you for allowing us the opportunity to present our thoughts today on SB 381. My name is Ashley Hall, and I am the Deputy City Manager for Supportive Services with the City of Las Vegas.

Knowing what we do at this point about the proposed MX Missile Program, I think it is reasonable to assume that this project -- or any project of this scale -- will bring significant impacts to our State. If deployed as currently planned, these impacts will be felt most severely in Southern and East-Central Nevada. Virtually every community in our part of the state will experience unprecendented change. The Las Vegas metropolitan area will be the major urban center for MX, and as such, will undoubtedly play a key role in absorbing population influx, acting as service link for MX construction activities, and providing support industry and business to the MX program. May I read the editorial from the Las Vegas Review Journal of March 22, 1981, which addresses the expected MX impact on the Las Vegas metropolitan area:

Las Vegas Review-Journal -- Sunday, March 22, 1981 -- Opinion

"Growth in Vegas causes problems"

If all the construction going on around the city didn't convince you, then the latest statistics released by the Census Bureau should -- metropolitan Las Vegas is growing by huge leaps and bounds.

In fact, it grew by more than 69 percent during the '70s, the second highest growth rate in the nation.

Our expansion is due to many things, not the least of which is the national trend to move into the Sunbelt. Our gaming industry is a big draw for the unemployed, and our reputation as the Entertainment Capital of the World attracts retired persons and others seeking a leisurely lifestyle.

But if you think the growth rate in the '70s was high, watch our for the '80s. The national movement toward the Sunbelt will probably continue unabated, and the MX missile program, billed as the largest construction project ever undertaken by man, will pull in thousands of new workers and their families.

With this expansion will come prospertiy. Land values will continue to soar, new businesses will open daily and economic opportunities will abound.

But growth at this pace also causes problems -- big problems. We already have one of the highest crime rates in the nation, but what are we doing about it? Murders, rapes, robberies and assaults top the headlines every day, and continued rapid growth will only exacerbate the problem.

Air polution also worsens each month, and the car registration lines at the Department of Motor Vehicles keep getting longer. One solution might be mass transit, but the federal funds we had hoped would help finance that program have dried up. Right now, chances are slim that we will see a viable mass transit program in the next 10 years.

Our school system will come under increasing stress in the next few years, as financial support dwindles at the same time the number of students is increasing. Social pressures will also make their presence known in our educational system, as an increasingly divergent population makes all sorts of different demands on teachers and administrators.

Traditionally, this is the point in an editorial where a solution to problems presented earlier is proposed. We have no solution.

But, we are concerned about our city's attitude that problems ignored are problems which disappear. We seem in such a rush to march into the future that the troubles we leave in our wake are left behind to fester.

We are, at times, "a Sunbelt city on the make," in the words of one of our critics.

That attitude will have to change in the next few years if we are to handle enormous growth without a serious deterioration in the quality of life which makes Las Vegas a special place to live. (End of editorial.)

As the representative of the citizens of Las Vegas, it is the City's responsibility to do everything it can to protect and improve the quality of life for its residents. To us, this means handling the impacts of MX by maximizing any benefits the System might bring and minimizing any hardships.

Meeting the unprecedented impact expected by MX can only be done through the aid of federal impact assistance funds. Although Las Vegas is used to growth, we cannot expect to manage a project the size of MX without help. We, like other MX-impacted communities, will need federal impact assistance funds to plan and deliver the facilities and services required as a result of MX. At present we are caught in a "catch-22" position -- on one hand, we are limited in our ability to meet the expected impact of MX due to a limitation on revenues; at the same time, we are told to plan and prepare for impacts of a project that, in terms of size, will be the greatest in history. Thus, any proposal that slows or encumbers the timely process necessary to move funds from the federal government to the impacted entity is not wise thinking.

The City also recognizes that MX impacts will span the jurisdictions of many cities, of counties and of the State. If we are to make the best use of federal impact assistance funds, if we are to avoid duplication of effort, if we are to truly represent the interests of all Nevadans, the governments affected by MX must coorinate our activities and work together to maximize impact assistance, while maintaining a good quality of life for all Nevadans.

To this end, the City will participate with other governments to do everything it can to assure coordinated planning for MX. The necessity of such coordination has been emphasized to us in meetings with the Nevada Congressional Delegation. Senator Laxalt, Senator Cannon, and Congressman Santini have all made it clear that the cities, the counties, and the State must work together to develop a mechanism for handling impact assistance funding. Put very simply, Washington does not want to play madiator between cities, counties, and the State.

As with any other large-scale program that affects more than one governmental entity, coordination and cooperation on MX planning has not been without its problems. Currently there are two entities authorized by Congress to receive MX planning assistance funds: the MX Local Oversight Committee and the State MX Project Field Office. The MX Local Oversight Committee is currently comprised principally of counties, cities having only two of 21 votes on that committee. This situation is not equitable for the cities, but something we hope to work out as part of a cooperative effort now underway between the entities.

However, my purpose in relating this to you is not to complain. Instead, I am pleased to be able to say that while we have had our difficulties, we are now making significant progress in resolving these difficulties and in working together toward a common goal. In fact, we feel that a major turning point has been reached.

To give you a bit of historical perspective,, in the summer of 1980, representatives from cities, counties, and the states of Nevada and Utah began discussing how governments could receive planning and impact aid from the federal government in an efficient manner. After months of hard work, many pages of draft proposals, and innumerable meetings, we have finally, as a group, agreed to language for draft legislation which will be presented to the Congress before the House Military Construction Subcommittee on April 3, 1981, by a joint delegation of cities, counties, and the State governments of both Nevada and Utah.

This proposal is entitled "Community Impact Assistance Legislative Proposal". It provides for impact aid through a Block Grant process directly to cities, counties, the State, school districts, and multi-jurisdictional associations of local government such as the MX Local Oversight Committee.

Not only are we pleased that the proposed legislation reflects the consensus of representatives from all levels of government (city, county, and State), as requested by the Nevada Congressional Delegation, but we are also cognizant of the fact that the proposal is in line with President Reagan's philosophy to streamline the grant process, making it more cost-effective, less cumbersome, and more timely, thereby reducing the costs of grant administration.

The proposed federal legislation represents, to us, a significant step towards cooperation and coordination between city, county, and state governments. And we feel that this agreement is but a beginning. Already, further discussions are underway which address equal representation between cities, counties, and the state on MX planning, grant administration, and funding decisions. We feel that these discussions will reach fruition, for they are taking place in sincere recognition of the fact that each entity's individual interest will be best served through cooperative efforts. The message from Washington is clear, and we are taking it to heart.

Which brings me to the bill under consideration today. As currently written, SB 381 would virtually destroy the combined efforts of Nevada and Utah reflected in the draft Community Impact Assistance legislative proposal. Where we have finally agreed to a key decision that incorporates the participation of all three forms of government, SB 381 would remove that participation and place these decisions in the hands of only one government -- the State. Secondly, in contadicting this cooperative effort, passage of SB 381 would severely jeopardize our credibility with those members of the Nevada and Utah delegation and other members of Congress with whom we have been working for the past year. This credibility is couched in the perception by Washington that Nevada governments can and will work with each other. SB 381 defies that perception.

Finally, and perhaps most important, SB 381 represents a step backward. We have worked hard to develop a trust between all levels of governments; we have worked hard to find a path we can all agree to. Now that we are making progress, it would be absurd to adopt a measure which negates all that work, and which, in doing so, puts us right back where we were when this all started.

For these reasons, the City of Las Vegas has joined other local governments here today in opposition of SB 381 as it is presently written. We are hopeful that the 1981 Legislature will adopt measures that help us handle the MX Missile Program, and we feel that MX should be one of the key issues of this session. The support and concern of our legislators in developing and passing bills that will protect the interests of Nevadans with respect to MX is essential.

SB 381, however is not a good bill. For one thing, there will be key decisions made in Washington in the coming weeks to which the Legislature may need to respond. An excellent example is the Congressional hearings on impact

assistance funding mechanisms that will be taking place in late March, culminating with testimony by Nevada and Utah representatives on April 3. If adopted as currently proposed, SB 381 would fracture the unified voice we have achieved in the proposed Congressional legislation, thereby seriously reducing the effectiveness of Nevada's participation in those hearings.

MX is too big, the impacts too severe, and the decisions too important to the lives of our citizens for us, as government officials, to allow anything less than full participation by all governments affected. SB 381 represents something less than full participation. With MX, we have the opportunity in Nevada to demonstrate to the rest of the country that cities, counties, and state governments <u>can</u> work together for the common good. We have the opportunity to demonstrate to our citizens that we do put their interests first. Let's use that opportunity wisely in forming any laws affecting our ability to meet the expected impacts of MX!

Three important items for meeting the MX <u>head on</u>:

1. Revolving fund of up to $10,000,000 -- (pass through only)
2. Decisions from Air Force:
   a. Date it will come?
   b. How much?
3. Air Force construction timetable -- showing impact areas!

EXHIBIT F

S. B. 347

SENATE BILL NO. 347—COMMITTEE ON NATURAL RESOURCES

MARCH 3, 1981

Referred to Committee on Natural Resources

SUMMARY—Corrects errors made in amendment of Tahoe Regional Planning Compact. (BDR 22-368)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to the Tahoe Regional Planning Compact; correcting errors made in the enactment of amendments to the Compact; and providing other matters properly relating thereto.

WHEREAS, The State of California enacted amendments to the Tahoe Regional Planning Compact in Senate Bill 82 of the 1979-1980 regular session of the California legislature; and

WHEREAS, the State of Nevada enacted the same amendments in Assembly Bill 1 of the 14th special session of the Nevada legislature; and

WHEREAS, Subdivision (g) of Article IV in both bills contains an incorrect internal reference to a subdivision of Article VI; and

WHEREAS, In both bills the amendments to the compact contained errors in describing the number of residential units authorized in Douglas County, Nevada, in 1978 and in describing objects that cannot be taxed by the Tahoe transportation district; and

WHEREAS, The correct number of residential units authorized in Douglas County, Nevada, in 1978 is 529 rather than 339 which, by inadvertence, is incorrectly stated in paragraph (3) of subdivision (c) of Article VI of the Compact; and

WHEREAS, The words "or gaming" in the phrase "on gaming or gaming tables and devices" which describes objects that cannot be taxed under paragraph (6) of subdivision (d) of Article IX of the Compact failed to appear in the printed versions of the California and Nevada bills because of typographical errors; and

WHEREAS, The State of Nevada desires to correct these errors; now, therefore,

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. NRS 277.200 is hereby amended to read as follows:

277.200 The Tahoe Regional Planning Compact is as follows:

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I. Findings and Declarations of Policy

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal Government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its manmade environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. Definitions

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact

or the occurrence of a vacancy on the governing body for that state the governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than $1,000.

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than $1,000.

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of state and director of the state department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All

meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) Four of the members of the governing body from each state constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to

reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision [(h)] *(j)* of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the state department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the state department of conservation and natural resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. Planning

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the states of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the states of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and

regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that plan. The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or

county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined) 252
2. Placer County 278
3. Carson City ..... -0-
4. Douglas County ..... [339] *529*
5. Washoe County 739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined) 64,324
2. Placer County 23,000
3. Carson City ..... -0-
4. Douglas County 57,354
5. Washoe County 50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, 33 U.S.C. § 1251 et seq., and the applicable state law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District # 1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is 3.0 million gallons per day. Such modification or alteration is not a "project"; is not subject to the requirements of Article VII; and does not

require a permit from the agency. Before commencing such modification or alteration, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the states of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or

other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraphs (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area,

except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commerical use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the legislative auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Impact Statements

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. Finances

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion $75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay $18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay $12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. Transportation District

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer;

(2) One member of the city council of the City of South Lake Tahoe;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County;

(4) One member of the board of supervisors of Carson City;

(5) The director of the California Department of Transportation; and

(6) The director of the department of transportation of the State of Nevada.

Any director may designate an alternate.

(c) The vote of at least five of the directors must agree to take action. If at least five votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.

(d) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Acquire upon mutually agreeable terms any public transportation system or facility owned by a county, city or special purpose district within the region.

(3) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(4) Fix the rates and charges for transit services provided pursuant to this subdivision.

(5) Issue revenue bonds and other evidence of indebtedness.

(6) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way. The district is prohibited from imposing an ad valorem tax, a tax measured by gross or net receipts on business, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming *or gaming* tables and devices.

Any such proposition must be submitted to the voters of the district and shall become effective upon approval of two-thirds of the voters voting on

the proposition. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.

(7) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

(e) The legislatures of the states of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

SEC. 2. This act shall become effective upon passage and approval.