

The
Journal of the
Assembly

OF THE

FOURTEENTH SPECIAL SESSION

OF THE

LEGISLATURE OF THE
STATE OF NEVADA

1980

BEGUN ON SATURDAY, THE THIRTEENTH DAY OF
SEPTEMBER, AND ENDED ON SATURDAY, THE
THIRTEENTH DAY OF SEPTEMBER



ARRANGEMENT AND CONTENTS OF VOLUME

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ASSEMBLY LEGISLATIVE CALENDAR

Calendar Day	Date	Page Number
1.....	September 13, 1980.....	1

LISTING OF ASSEMBLY BILL AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

No. *Summary, Introducer and Page Reference*

1....An act to amend the title of and to amend an act entitled, "An act relating to the Tahoe Regional Planning Agency; changing the composition of its governing body and the requirements for making decisions; restricting certain gaming activities to certain places within the region; changing penalties; and providing other matters properly relating thereto." Fiscal Note: Local Government Impact: No. State or Industrial Insurance: Contains appropriation. Dini, Mello, Sena, Barengo, Craddock, Jeffrey, Glover, Horn, Bremner, Hickey, Polish, Coulter, Getto, Weise, Wagner, Harmon, FitzPatrick, Robinson, Bedrosian, Hayes, Fielding, Prengaman, Rhoads, Brady, Stewart, Tanner, Bennett, Chaney, Westall, Webb, Malone, Rusk, Marvel, and Vergiels. 5, 9-15, 16,* 17-119.

LISTING OF ASSEMBLY RESOLUTION AND ACTION THEREON

No. *Summary, Introducer and Page Reference*

1....Providing for the appointment of Assembly attaches. Committee on Legislative Functions. 5, 119.

LISTING OF SENATE BILL

(For summary of Senate Bill see Senate Journal.)

No.

1...6,* 119.

PERSONNEL OF THE NEVADA STATE ASSEMBLY

Fourteenth Special Session, 1980

<i>District</i>	<i>Name and Party</i>	<i>Mailing Address</i>
Carson City		
(Part).....	Glover, Alan H. (D).....	230 S. Iris St., Carson City 89701
Clark, No. 1.....	Cavnar, Peggy (R).....	301-A Misty Isle Lane, Las Vegas 89107
Clark, No. 2.....	Mann, Lloyd W. (D).....	6113 Elton Ave., Las Vegas 89107
Clark, No. 3.....	Bremner, Roger (D).....	821 Fairway Dr., Las Vegas 89107
Clark, No. 4.....	Malone, Mike (R).....	1750 N. Rancho Dr., Las Vegas 89106
Clark, No. 5.....	Brady, Bill D. (R).....	6480 Darby Ave., Las Vegas 89102
Clark, No. 6.....	Bennett, Marion D. (D).....	1911 Goldhill Ave., Las Vegas 89106
Clark, No. 7.....	Chaney, Lonie (D).....	504 Kasper Ave., Las Vegas 89106
Clark, No. 8.....	Robinson, Robert E. (D).....	3000 W. Charleston Blvd., Suite 5, Las Vegas 89102
Clark, No. 9.....	Tanner, Darrell D. (R).....	1420 S. 8th St., Las Vegas 89104
Clark, No. 10.....	Vergiels, John M. (D).....	3555 Algonquin Dr., Las Vegas 89109
Clark, No. 11.....	Banner, James J. (D).....	2223 Poplar Ave., Las Vegas 89101
Clark, No. 12.....	FitzPatrick, Michael T. (R).....	1405 Vegas Valley Dr., Apt. 116, Las Vegas 89109
Clark, No. 13.....	Hayes, Karen W. (D).....	6010 Euclid Ave., Las Vegas 89120
Clark, No. 14.....	Stewart, Janson F. (D).....	400 E. Stewart, Suite 906, Las Vegas 89101
Clark, No. 15.....	Horn, Nicholas J. (D).....	2543 Boise St., Las Vegas 89121
Clark, No. 16.....	Harmon, Harley L. (D).....	P.O. Box 42849, Las Vegas 89104
Clark, No. 17.....	Price, Robert E. (D).....	1809 Renada Circle, North Las Vegas 89030
Clark, No. 18.....	Hickey, Thomas J. (D).....	805 Glendale Ave., North Las Vegas 89030
Clark, No. 19.....	May, Paul W. (D).....	3309 Wright Ave., North Las Vegas 89030
Clark, No. 20.....	Craddock, Robert G. (D).....	6090 E. Lake Mead Blvd., Las Vegas 89110
Clark, No. 21.....	Sena, Nash M. (D).....	144 Victory Road, Henderson 89015
Clark, No. 22.....	Jeffrey, John E. (Jack) (D).....	340 E. Chaparral Dr., Henderson 89015
Douglas, Carson		
City (Part).....	Bergevin, Louis W. (R).....	P.O. Box 188, Gardnerville 89410
Elko, Less Carlin		
Township.....	Rhoads, Dean A. (R).....	Tuscarora 89834
Esmeralda,		
Mineral, Nye.....	Fielding, Jack F. (D).....	P.O. Box 12, Pahrum 89041
Humboldt, Eureka, Lander & Carlin		
Township.....	Marvel, John W. (R).....	P.O. Box 432, Battle Mountain 89820
Lincoln,		
White Pine.....	Polish, John M. (D).....	675 Murray St., Ely 89301
Lyon, Storey, Churchill		
(Part).....	Dini, Joseph E., Jr. (D).....	104 N. Mountain View, Yerington 89447
Pershing,		
Churchill		
(Part).....	Getto, Virgil M. (R).....	1400 Lovelock Highway, Fallon 89406

PERSONNEL OF THE NEVADA ASSEMBLY—Continued

<i>District</i>	<i>Name and Party</i>	<i>Mailing Address</i>	
Washoe, No. 23.....	Weise, Robert L. (R).....	P.O. Box 1847, Carson City	89701
Washoe, No. 24.....	Bedrosian, Tod (D).....	1181 Wagon Wheel Circle, Reno	89503
Washoe, No. 25.....	Wagner, Sue (R).....	845 Tamarack Dr., Reno	89509
Washoe, No. 26.....	Pregaman, Paul (R).....	1510 Model Way, Reno	89502
Washoe, No. 27.....	Coulter, Steven A. (D).....	P.O. Box 13877, Reno	89507
Washoe, No. 28.....	Rusk, Robert F. (R).....	1338 Jones St., Reno	89503
Washoe, No. 29.....	Barengo, Robert R. (D).....	P.O. Box 1074, Reno	89504
Washoe, No. 30.....	Mello, Donald R. (D).....	2590 Oppio St., Sparks	89431
Washoe, No. 31.....	Westall, Peggy (D).....	211 Galleron Way, Sparks	89431
Washoe, No. 32.....	Webb, Doug (R).....	295 Kietzke Lane, Reno	89502

Journal

OF THE

ASSEMBLY OF THE STATE OF NEVADA

FOURTEENTH SPECIAL SESSION, 1980

THE FIRST DAY

CARSON CITY (Saturday), September 13, 1980

Pursuant to the provisions of the Constitution and Statutes, the Assembly was called to order by Secretary of State William D. Swackhamer at 8 a.m.

Prayer by the Chaplain, Father Robert G. Pumphrey.

Pledge of allegiance to the Flag.

Mr. Secretary of State requested Mrs. Mouryne B. Landing to serve as temporary Chief Clerk of the Assembly.

Roll called.

Present: Assemblymen Banner, Barengo, Bedrosian, Bennett, Bergevin, Brady, Bremner, Cavnar, Chaney, Coulter, Craddock, Dini, Fielding, FitzPatrick, Getto, Glover, Harmon, Hayes, Hickey, Horn, Jeffrey, Malone, Mann, Marvel, May, Mello, Polish, Prengaman, Price, Rhoads, Robinson, Rusk, Sena, Stewart, Tanner, Vergiels, Wagner, Webb, Weise and Westall.

Mr. Secretary of State announced that there would be no temporary organization of the Assembly, and that all nominations were in order for permanent appointment.

Mr. Secretary of State declared that nominations were in order for Speaker.

Assemblyman Mello nominated Assemblyman May for Speaker.

Assemblyman Weise moved that nominations be closed.

Mr. Secretary of State declared Assemblyman May to be Speaker of the Assembly.

Mr. Secretary of State appointed Assemblymen Harmon and Barengo as a committee to escort Mr. Speaker to the rostrum.

Mr. Speaker presiding.

Assemblyman Vergiels moved that Secretary of State Swackhamer be given a unanimous vote of thanks for his services to the Assembly.

Motion carried unanimously.

Mr. Speaker appointed Assemblymen Robinson and Pregelman as a committee to escort Secretary of State Swackhamer to the bar of the Assembly.

The appointed committee escorted Secretary of State Swackhamer to the bar of the Assembly.

Mr. Speaker declared that nominations were in order for Speaker pro Tempore.

Assemblyman Bremner nominated Assemblyman Barengo for Speaker pro Tempore.

Assemblyman Coulter moved that nominations be closed.

Motion carried unanimously.

Mr. Speaker declared Assemblyman Barengo to be Speaker pro Tempore of the Assembly.

Mr. Speaker declared that nominations were in order for Chief Clerk.

Assemblyman Banner nominated Mrs. Mouryne B. Landing for Chief Clerk.

Assemblyman Chaney moved that nominations be closed.

Motion carried unanimously.

Mr. Speaker declared Mrs. Mouryne B. Landing to be Chief Clerk of the Assembly.

Assemblyman Harmon moved that the Standing Rules of the Assembly of the Sixtieth Session, as amended, be adopted by the Assembly of the Fourteenth Special Session.

Remarks by Assemblymen Harmon and Weise.

Motion carried unanimously.

Assemblyman Harmon moved that the Joint Rules of the Senate and Assembly of the Sixtieth Session, as amended, be adopted by the Assembly of the Fourteenth Special Session.

Motion carried unanimously.

Mr. Speaker appointed Assemblymen Sena, Price and Brady as a committee to inform the Senate that the Assembly was organized and ready for business.

Mr. Speaker appointed Assemblymen Glover, Bedrosian and Rusk as a committee to inform the Governor that the Assembly was organized and ready for business.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker announced the following standing committees, the first named member of each committee being the chairman:

Agriculture—

Hickey, Price, Chaney, Dini, Fielding, Mann, Getto, Marvel, Tanner.

Commerce—

Jeffrey, Robinson, Bennett, Bremner, Chaney, Horn, Sena, FitzPatrick, Rusk, Tanner, Weise.

Education—

Vergiels, Craddock, Banner, Hayes, Stewart, Westall, Malone, Wagner, Webb.

Elections—

Horn, Bedrosian, Barengo, Harmon, Hickey, Cavnar, Malone.

Environment and Public Resources—

Coulter, Fielding, Bedrosian, Dini, Polish, Price, Bergevin, Prengaman, Rhoads.

Government Affairs—

Dini, Harmon, Bedrosian, Craddock, Jeffrey, Robinson, Westall, Bergevin, FitzPatrick, Getto, Marvel.

Health and Welfare—

Bennett, Chaney, Craddock, Glover, Brady, Cavnar, Getto.

Judiciary—

Hayes, Stewart, Banner, Coulter, Fielding, Horn, Polish, Sena, Brady, Prengaman, Malone.

Labor and Management—

Banner, Bennett, Bremner, Fielding, Jeffrey, Robinson, Brady, Rhoads, Webb.

Legislative Functions—

Westall, Mello, Barengo, Glover, Harmon, Vergiels, Rusk, Tanner, Weise.

Taxation—

Price, Craddock, Chaney, Coulter, Dini, Mann, Bergevin, Marvel, Rusk, Tanner, Weise.

Transportation—

Sena, Glover, Hayes, Polish, Stewart, Westall, FitzPatrick, Prengaman, Wagner.

Ways and Means—

Mello, Bremner, Barengo, Glover, Hickey, Mann, Vergiels, Cavnar, Rhoads, Wagner, Webb.

Mr. Speaker announced that Mr. Harmon had been designated Majority Floor Leader, and that Mr. Weise had been designated Minority Floor Leader.

A committee from the Senate composed of Senators Don Ashworth, Hernstadt and McCorkle appeared before the bar of the Assembly and announced that the Senate was organized and ready for business.

Assemblyman Hickey moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table:

ASSOCIATED PRESS: Tom Gardner, Barbara Herman, John Rice, Brendan Riley; LAS VEGAS REVIEW JOURNAL: Ed Vogel; LAS VEGAS SUN: Jeff Adler, Len Butcher, Ruthe Deskin, Brian Greenspun, Hank Greenspun, Mike O'Callaghan; NEVADA APPEAL: Craig Fougner, Mike Grundmann, John Hayes, Dorothy Kosich, Sue Morrow, Andre Ney, Terry Wade; NORTH LAS VEGAS VALLEY

TIMES: Linda Cooper, Ned Day; RENO EVENING GAZETTE—NEVADA STATE JOURNAL: Lee Adler, Doug Dill, Martin Griffith, Lance Iverson, Marilyn Newton, Sue Volek; SACRAMENTO BEE: Jeff Rabin, Guy Shieler (also KOH-Radio); TAHOE DAILY TRIBUNE: Grey Nichols, Tony Wather; UNITED PRESS INTERNATIONAL: Geoff Dornan, Russ Nielson, Cy Ryan; KRLT RADIO, SOUTH LAKE TAHOE: Bruce Robinson; KOLO RADIO, RENO: Patrice Bingham; KVBC-TV, LAS VEGAS, Rick Smith, Hank Tester; KCRL-TV, RENO: John Close, Dale Scott, Ralph Wood; KOLO-TV, RENO: Harry Gilbert; KTVN-TV, RENO: Dennis Myers; KKBC, RENO: Adrian Abbott.

Motion carried.

Mr. Speaker announced that if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:17 a.m.

ASSEMBLY IN SESSION

At 8:28 a.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Sena reported that his committee had informed the Senate that the Assembly was organized and ready for business.

Assemblyman Glover reported that his committee had informed the Governor that the Assembly was organized and ready for business.

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY

A PROCLAMATION BY THE GOVERNOR:

WHEREAS, Section 9 of Article V of the Constitution of the State of Nevada provides that "The Governor may, on extraordinary occasions, convene the Legislature, by proclamation, and shall state to both houses, when organized, the purpose for which they have been convened; and the Legislature shall transact no legislative business except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in session."; and

WHEREAS, Believing that an extraordinary occasion now exists and one which the Legislature, being a coordinate branch of the state government, is best prepared to solve;

Now, Therefore, I, ROBERT LIST, *Governor of Nevada*, by virtue of the authority vested in me by Section 9 of Article V of the Constitution of the State of Nevada, hereby convene the Legislature into a Special Session to begin at 8 a.m. on Saturday, September 13, 1980, to consider only an appropriation for the expense of the Session, amendment of the Tahoe Regional Planning Compact, and legislation incident to such an amendment which would regulate the use of land in the Tahoe Basin until the amendment of the compact becomes effective.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the

State Capitol in Carson City, this fifth day of September, in the year of Our Lord one thousand nine hundred eighty.

ROBERT LIST
Governor

By the Governor:

W. D. SWACKHAMER
Secretary of State

STATE OF NEVADA
EXECUTIVE CHAMBER
Carson City 89710
September 12, 1980

THE HONORABLE PAUL W. MAY, *Speaker of the Assembly, Legislative Building, Carson City, Nevada 89710*

DEAR SPEAKER MAY: This will confirm my intention to deliver a message to the Fourteenth Special Session of the Nevada Legislature.

It is my understanding I am expected to make my remarks before a joint session of the Legislature at 9:00 a.m., Saturday, September 13, 1980.

You have my warm good wishes.

Sincerely,

ROBERT LIST
Governor

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Functions:

Assembly Resolution No. 1—Providing for the appointment of Assembly attaches.

Assemblyman Harmon moved the adoption of the resolution.

Resolution adopted unanimously.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Dini, Mello, Sena, Barengo, Craddock, Jeffrey, Glover, Horn, Bremner, Hickey, Polish, Coulter, Getto, Weise, Wagner, Harmon, FitzPatrick, Robinson, Bedrosian, Hayes, Fielding, Prengaman, Rhoads, Brady, Stewart, Tanner, Bennett, Chaney, Westall, Webb, Malone, Rusk, Marvel and Vergiels:

Assembly Bill No. 1—An Act to amend the title of and to amend an act entitled, "An Act relating to the Tahoe Regional Planning Agency; changing the composition of its governing body and the requirements for making decisions; restricting certain gaming activities to certain places within the region; changing penalties; and providing other matters properly relating thereto," approved May 28, 1979.

Assemblyman Harmon moved that all rules be suspended, reading so far had considered first reading, rules further suspended, bill considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, September 13, 1980

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 1.

LEOLA H. ARMSTRONG
Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 1.

Assemblyman Harmon moved that all rules be suspended, reading so far had considered first reading, rules further suspended, bill declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Vergiels moved that Senate Bill No. 1 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Remarks by Assemblyman Robinson.

Roll call on Senate Bill No. 1:

YEAS—39.

NAYS—Weise.

Senate Bill No. 1 having received a constitutional majority, Mr. Speaker declared it passed.

Assemblyman Harmon moved that rules be suspended and that the bill be immediately transmitted to the Senate.

Motion carried unanimously.

Mr. Speaker announced that if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:47 a.m.

ASSEMBLY IN SESSION

At 9:01 a.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker appointed Assemblymen Horn and Webb as a committee to invite the Senate to meet in Joint Session with the Assembly to hear the Governor's Message.

Mr. Speaker appointed a Committee on Escort consisting of Assemblymen Hayes and Cavnar to escort the President pro Tempore of the Senate to the rostrum.

Mr. Speaker appointed a Committee on Escort consisting of Assemblymen Westall and Wagner to escort the President of the Senate to the rostrum.

Assemblyman Horn reported that his committee had invited the Senate to meet in Joint Session with the Assembly to hear the Governor's Message.

The Committee on Escort in company with the President of the Senate appeared before the bar of the Assembly.

The Committee on Escort escorted the President of the Senate to the rostrum.

The Committee on Escort in company with the President pro Tempore of the Senate appeared before the bar of the Assembly.

The Committee on Escort escorted the President pro Tempore of the Senate to the rostrum.

The Members of the Senate appeared before the bar of the Assembly.

Mr. Speaker invited the Members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 9:09 a.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President of the Senate appointed a Committee on Escort consisting of Senator Dodge and Assemblyman Dini to wait upon the Governor of the State of Nevada and escort him to the Assembly Chamber.

The President of the Senate appointed a Committee on Escort consisting of Senator Close and Assemblyman Stewart to wait upon the Justices of the Supreme Court and escort them to the Assembly Chamber.

The Committee on Escort in company with Chief Justice John C. Mowbray, Justice E. M. Gunderson and Justice Noel Manoukian of the Supreme Court of the State of Nevada appeared before the bar of the Assembly.

The Committee on Escort escorted the Justices of the Supreme Court to chairs in the Assembly.

The Committee on Escort in company with His Excellency, Robert List, Governor of the State of Nevada, appeared before the bar of the Assembly.

The Committee on Escort escorted the Governor to the rostrum.

The Speaker of the Assembly welcomed the Governor and invited him to deliver his message.

The Governor delivered his message as follows:

MESSAGE OF THE GOVERNOR TO THE LEGISLATURE OF NEVADA
FOURTEENTH SPECIAL SESSION, 1980

Mr. President, Mr. Speaker, Distinguished Members of the Legislature, Honored Guests, Citizens of Nevada:

Under Article V, Section 9 of the Nevada Constitution, the Governor is empowered to convene an extraordinary Session of the Nevada Legislature, I have elected to do so.

The agenda is limited to a single issue—revision of the act relating to the Tahoe Regional Planning Agency.

Today marks the fourth time that the preservation of Lake Tahoe has been the subject of deliberation during a Special Session, though it is the first occasion on which a governor has stipulated that it shall be the sole issue of consideration.

The members of the legislature are well aware of the suasions brought upon me to include other items of substantial concern to the citizens of Nevada. I have declined, not because these items fail on merit but because of the overwhelming urgency of the single issue at hand.

When I came before you in 1979, I expressed the conviction that we had a moral mandate to provide for the protection and the preservation of this unequaled natural resource.

I also expressed the conviction that we must provide for the protection of personal and private rights within the Lake Tahoe Basin.

Finally, I declared my belief that the regional agency concept is logical and potentially effective, while observing that amendments to the Tahoe Regional Planning Agency Compact would be necessary.

These amendments are now before the legislature and I commend them to you, ladies and gentlemen, with my unequivocal endorsement.

In doing so, I am privileged to salute the men and women whose foresight some twelve years ago brought forth the original compact. I am equally privileged to pay high honor to your colleagues who labored long and earnestly to shape the current amendments. Specifically, I would ask Senator Thomas R. C. Wilson and Assemblyman Joe Dini to stand at this time to be acclaimed by all present.

In 1813, Thomas Jefferson observed that "The Earth is for the living * * *"

It is indeed, but we must be ever mindful that the living are merely the stewards of the earth whose inescapable responsibility is to nurture it and preserve it for generations yet unborn.

Today, in this time and place, we face a challenge of unprecedented magnitude.

We can either embrace our responsibility or deny it.

We have a clear choice:

We can preserve one of the most priceless treasures of nature or permit it to disintegrate through neglect. Lake Tahoe could become as foul as scores of lakes and rivers which are the shameful casualties of neglect and indifference.

Shall we permit it? I think not.

With neither reservation nor hesitation, I predict that you here assembled will be equal to the mandate. Whatever political differences may exist among you will be put aside, along with personal and philosophic conflicts.

This is not simple rhetoric; it is an affirmation of my trust and confidence in the integrity of those who have been chosen by the people of Nevada to safeguard the resources of the state and the heritage of our sons and daughters.

Let us agree that Lake Tahoe is not only a natural resource but, in a larger sense, a human resource.

In a time when the gifts of nature are diminishing, Lake Tahoe remains a tranquil haven for hundreds of thousands of recreation-oriented Americans who seek and deserve relief from the stress of urban life.

It is Sand Harbor and Nevada Beach; Heavenly Valley and Emerald Bay; the silver flash of trout and the white sail on the summer afternoon.

It is, finally, a humbling reminder that the hand of God is more creative than all the labors of man.

After seeing Lake Tahoe for the first time, Samuel Clemens proclaimed:

"As it lay there with the shadows of the mountains brilliantly photographed upon its still waters, I thought it must surely be the fairest picture the whole Earth affords."

Yet, I feel compassion for Mark Twain because his first glimpse of the lake should have been, as was mine, through the eyes of a child. Had he been so fortunate, he would have seen a timeless image of crystal beauty that only a child could appreciate and carefully store in his harvest of memories.

I urge you to act today to preserve that image; not for political gain, not for personal satisfaction, but for the ultimate reward of serving those who will follow us. That is what civilization is all about.

Senator Young moved that the Senate and Assembly in Joint Session extend a vote of thanks to the Governor for his timely, able and constructive message.

Seconded by Assemblyman Bennett.

Motion carried unanimously.

The Committee on Escort escorted the Governor to the bar of the Assembly.

The Committee on Escort escorted the Justices of the Supreme Court to the bar of the Assembly.

Senator Gibson moved that the Joint Session of the Senate and Assembly resolve itself into a Joint Committee of the Whole for the purpose of considering Assembly Bill No. 1, with Senator Neal as Chairman of the Joint Committee of the Whole.

Motion carried.

Assemblyman Harmon moved that the remarks made during the Joint Committee of the Whole be entered in the Journals.

Motion carried.

IN JOINT COMMITTEE OF THE WHOLE

Senator Neal presiding.

Assembly Bill No. 1 considered.

The Joint Committee of the Whole was addressed by Assemblymen Mann, Dini, Weise, Senators Gibson, Raggio and Wilson.

ASSEMBLYMAN MANN:

Mr. Chairman, do we have an answer to Mr. Weise's question of late yesterday on the tax situation?

ASSEMBLYMAN DINI:

Mr. Chairman, I think that probably Mr. Daykin's opinion might have been correct. The contributing factors, though, which I feel outweigh that possibility are the makeup of the transportation district, which is composed of three representatives of the local governments in California and three in Nevada, the Director of Transportation in Nevada and the Director of Transportation in California, who have made that decision. It also requires two-thirds vote of the people who reside in the region of the transportation district to pass some kind of a tax. With that safeguard, I don't think there is ever any problem of ever thinking that there will be an imposition of an income tax in the Tahoe Region.

SENATOR GIBSON:

Mr. Chairman, I might inform the Joint Committee that we have agreed in the Senate to incorporate in a letter from the leadership of the two houses our feeling of urgency and priority for the completion of the Loop Road. We have done this as an alternative to consideration of a resolution because of our stand that we would not consider any other resolutions. I think for any other priorities which any of the members feel we should likewise convey to the TRPA, that they should

be mentioned at this time so we can include them in such a letter. The purpose is to clearly outline the intent of this Legislature on the matters as they have been raised.

ASSEMBLYMAN WEISE:

Mr. Chairman, in addition to the Loop Road, I would also ask that the Houses include a statement that it is not the intention of this Legislature to require the imposition of an environmental impact statement for a single-family dwelling that is in an already approved subdivision. We are talking about the individual home to be built under the provisions of the building permits as outlined within the Bill in each of the respective counties—that those people be allowed to build so long as they conform with both TRPA and their county ordinances and that they would not have the burden of the EIS which could cost many thousands upon thousands of dollars just for a single home. I don't believe that is the intention. The record is very clear and I believe that should be included in the letter as well.

SENATOR RAGGIO:

Mr. Chairman, I would add to Assemblyman Weise's request and endorse it, particularly with reference to the language in Article VII, which appears on page 23 of the printed Bill, that the Legislature's intent in requiring an environmental impact statement on matters which have "a significant effect on the environment," that the language as understood by the Legislature not include those situations involving the construction of single-family residences within approved subdivision areas. I think it is vital to the record in this matter that it be noted, and I would think it should be included in the letter sent by the leadership.

SENATOR WILSON:

Mr. Chairman, I think it is important to note that on the Senate side, and I understand that it is going to be done on the Assembly side as well, that the entire record made of yesterday's proceedings, which technically is a commission proceeding, be transcribed verbatim and made a part of the Journal for this legislative day. This makes it the record of the Special Session itself and not simply a committee of the Legislative Commission. I think that is important for the purpose of laying an actual factual predicate for the intent as we have discussed it and defined it both yesterday and today. Specifically, there are comments made in response to particular questions and subjects clarifying and defining the matter of intent and interpretation.

On motion of Senator Gibson, the committee did rise and report back to the Joint Session of the Senate and Assembly.

IN JOINT SESSION

Senator Gibson moved that the Joint Session be dissolved.

Seconded by Assemblyman Malone.

Motion carried unanimously.

Joint Session dissolved at 9:30 a.m.

ASSEMBLY IN SESSION

At 9:32 a.m.

Mr. Speaker presiding.

Quorum present.

Mr. Speaker announced that if there were no objections, the Assembly would recess until 9:45 a.m.

Assembly in recess at 9:34 a.m.

ASSEMBLY IN SESSION

At 9:53 a.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Harmon moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 1 with Assemblyman Dini as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Dini presiding.
Assembly Bill No. 1 considered.

The Committee of the Whole was addressed by Assemblymen Glover, Weise, Getto, Bergevin, Mr. Fred Welden, Assemblymen Robinson and May.

On motion of Assemblyman Harmon, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 10:13 a.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Harmon moved that the remarks made during the Committee of the Whole be entered in the Journal:

ASSEMBLYMAN GLOVER:

Mr. Chairman, could we discuss for a few moments, on page 5, what the thinking of yourself and Senator Wilson and Senator Garamendi and the California people is on the makeup of the board and expanding the number. This has been a question that has been raised by quite a few of the local elected officials on having that number changed. What are the advantages and disadvantages of having the number of people changed on the board?

ASSEMBLYMAN DINI:

I think that is a significant part of the bill. It takes control away primarily from local control. Previously the five man board in each state was comprised of three from the counties and two from the state government. This shifts it to four from the state government and three from local governments. The theory which I think was resolved in the 1977 session primarily, and then in 1979, A. B. 503, had the same language in it basically shifting it over to more state oriented people—people who had a broader base of representation. Nevada's delegation is unique. We put in the Secretary of State, who is elected statewide. He is not a Governor's appointee. California wanted to rely more on Governor's appointees. Ours, in Nevada, was a compromise worked out in 1979 when we added the Secretary of State, and the Director of the Conservation of Natural Resources, who is a very important member in state government in protecting our natural resources; we felt he should be included. He is a Governor's appointee, of course, but he is a strong man to have because of his position. Then there will be one appointed by the Governor, and the six people on the board will appoint the seventh, so you strike a balance with a more or less neutral person with that seventh person in the Nevada delegation. That was our thinking.

ASSEMBLYMAN WEISE:

Mr. Chairman, sort of a double question: One is, when actually would be the effective date of the compact as we understand it within the bill? and also, what suggestions or provisions have been made for enactment of certain provisions—not the whole bill—prior to adoption by Congress? In other words, is the Governor going to follow up our activity today with executive order to implement some of this or will it hang in limbo until it goes to Congress at their next session? What is the status in terms of timing?

ASSEMBLYMAN DINI:

The compact itself could not be implemented until Congress ratifies it, and then it immediately goes into effect once Congress ratifies that part of it. The moratorium in Nevada—the Nevada Statute part—goes into effect immediately upon the governor's signing it. So those are the two aspects of the compact.

ASSEMBLYMAN GETTO:

Mr. Chairman, the question I have is yesterday we dealt with the errors in the compact, and as a matter of procedure it was mentioned that two bills can be introduced in each state legislature to change the compact. Does that have to be done before the bill is ratified by Congress or can it be done later?

ASSEMBLYMAN DINI:

It can be done either way. We think the Congress will act on this rather rapidly, but in January we intend to make it a first order of business to take care of those two technical changes. I don't think the gaming was as significant as maybe it was brought out to be; however, we want to cover that base because we wouldn't want the transportation district exercising any power over gaming taxes. It is important to our industry in this state. But that will be handled in the next Session—those two technical changes—and we have a concurrence from our brethren across the line that they will go with us on it and that it won't be any problem. There may be some other things that crop up in our own state moratorium in the meantime, too, that may have to be looked at during the next Session.

ASSEMBLYMAN GETTO:

Mr. Chairman, as a matter of reality though, the makeup of the California Legislature will change probably after the first of the year and since it was passed by such a slim margin, there could be a problem that the California Legislature would not agree and then it would have to be locked in as it is. Couldn't that happen?

ASSEMBLYMAN DINI:

In my mind, I don't think so. I think we have found their word to be good in dealing with Senator Garamendi, for whom I have high respect. His word is good and he is very powerful. I assure you that in his position in the Senate, he can put a technical amendment through on the TRPA pretty fast. I don't believe there is any problem.

ASSEMBLYMAN BERGEVIN:

Mr. Chairman, I don't necessarily have a question, but I would like to make just a few remarks and they will be positive in nature even though I have not been totally satisfied with this bill. I think some of my fears were dispelled this morning with the letter of intent that the leadership is going to put out concerning the Loop Road and the single-family residences. However, I would like to further talk about the Loop Road just a little bit to the extent that I would be hopeful at the next session of this Legislature that we would look at a statute determining that the Loop Road is not a main arterial highway but a county road, which indeed it is and, therefore, would not come under the provisions of the moratorium of the TRPA as we are looking at it. I would be hopeful that the regular session of this Legislature would look favorably upon that kind of legislation. I think the one item in this whole bill that strikes in the face of constitutionality is the moratorium on property use, and at the same time requesting that those people continue to pay the exorbitant taxes that are levied upon them based upon a subdivision and use to develop that property. I would certainly be hopeful that this Legislature would look favorably upon some mitigation of those taxes—at least a moratorium on them—for the same time that the building moratorium is on the land and if indeed

the moratorium becomes permanent, which I can foresee in the adoption of an environmental carrying capacity, that these properties be downgraded to reflect their proper use and not as they are presently zoned and taxed. Thirdly, there is a statement in the compact, Article VI, page 17, starting at line 26. I asked this question yesterday, but I am really not sure that we have the right answers, and that has to do with the soil erosion in the alteration of the Douglas Sewer Plant No. 1—“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 real problem with this language is that EPA has stated to the Douglas County Commission that they feel that this language involves every homesite, every new project that the sewer will serve and if indeed this is correct then we have to identify all of those problems that an expansion of the sewer district would create in the building of the additional facilities, then this becomes a real bugaboo. If this was indeed intended only to allude to the site of the sewer plant, and I want it reiterated that is the case, and I would be hopeful, Mr. Dini, that you could throw some light upon that. The last thing that I would like to talk about is that I would be hopeful that this body would be receptive to helping financially in purchasing the Kahle site, which has mitigated a lot of soil erosion and problems at Lake Tahoe, at the next session of the Legislature. I want to commend you, Joe, for the work that you have done on this compact. I want everyone in this audience to know that I am not against a compact at Lake Tahoe. I have been for it all the time. The one flaw that has always been in these compacts has been the fact that there has been no compensation for the lands that have been downgraded and taken by what I call inverse condemnation. The State of California and the Santini-Burton bill are certainly moving in that direction—rightfully in that direction—to have some buy out monies, and I think this is a real plus and I support those efforts very highly. Again, Joe, I would like to commend you and Senator Spike Wilson for the work you have done on this. Certainly I have tried to be positive in my approach to this and, hopefully, I have brought out some points that this Legislature can take care of in the future. But I would like to have your comments on that sewer plant, Joe.

ASSEMBLYMAN DINI:

With the permission of the House, I would like to call a witness, Fred Welden, our staff person. Fred, would you come to my desk and help us with that language on the soil erosion problems.

MR. FRED WELDEN:

I can't give a legal opinion on this. I think you would have to talk to Frank Daykin about a legal opinion on it. I haven't talked to the EPA, but I have talked to the staff from the California side who helped to negotiate this on this very subject. It has been discussed with the legislators involved and it was clearly their intent that this feature apply only to the expansion of the treatment plant itself and not to any pieces of property that might be developed or that might hook into the treatment plant. Again I say, I am not giving a legal opinion and if a court turns it around, I am not an attorney. But it was the intent in the discussion that this line refers strictly to modifications to the treatment plant—if there is a clarifier that needs to be added and a hole needs to be dug, they are talking about how do you stop the soil from running off down the hill when the hole is dug.

ASSEMBLYMAN DINI:

Thank you, Fred. When we go into the actual action on the bill, I will read that into the record. Further questions from the floor?

ASSEMBLYMAN ROBINSON:

Mr. Chairman, I was concerned about the reference to the letter that Mr. Weise had brought up concerning the single-family residences, whether in subdivisions or as individuals, would have to have the EPA approval and the statement of impact. Should we move to put that in the letter as a Committee of the Whole or should we as the Assembly move to put it in the letter?

ASSEMBLYMAN DINI:

I think that they are synonymous whether it is an individual lot up there that was

approved by TRPA years ago or whether it is a new subdivision that has just been approved. They have both been approved and they would be under the letter of intent exempt from the EIS requirements in the TRPA bill.

ASSEMBLYMAN ROBINSON:

I feel that we should have that as a motion that we do put it in the letter of transmittal to California.

ASSEMBLYMAN DINI:

It was made in the form of a motion this morning in the joint hearing by Senator Gibson.

ASSEMBLYMAN ROBINSON:

It was discussed, but I don't think we have had a motion or a vote on it.

ASSEMBLYMAN MAY:

At such time that we rise from this committee and go back into regular session that motion will be in order and we will be delighted to accept it.

ASSEMBLYMAN WEISE:

Brief discussion, Mr. Dini. When this thing went together my feelings were a little hurt. I was stomping around and mad as hell, since most of us who represent the Basin were Republicans and you Democrats were negotiating it. I am very concerned, and I think one thing that I have a difficult time in handling is differentiating what a great cause this bill represents vs. some of the things that we may be sacrificing or that we have set aside in terms of the public hearing and the debate, and why weren't the county officials involved in putting it together. I know the background as well as anybody. I tell each and everyone of you here as repugnant as that process was to me philosophically, I do not believe that you would have a compact at all had it been conducted in the open meeting sense—the total involvement. I myself could look back and say that I would probably resent my activities if I had participated because I know I would have been a stumbling block, and whether or not you would have come to the conclusions that you did and the product that you did aren't known, but I respect the product and I believe the only way that this product could be developed was for these people to sit down and bang at each other one on one and work out some of these problems. I think the proof of the pudding is when they have had the support of the people in my district such as the Preservation Council and the landowners, and many of the residents who live there who understand the problems, who do not want to give up their sovereignty, turn over voting rights to another state, and all of the dialogue that we have gone through for the six years that I have been here and the twelve years that the TRPA has been around. I think in this case the end justifies the means and that you did an admirable job. The efforts of you and Spike may not be recognized for a long time. I appreciate additionally the opportunity that was made yesterday for the public to analyze this bill. One of my concerns was to make sure we had enough opposition to it that would attack the bill to make sure that if it was flawed we would know about it before we voted on it, and that we wouldn't be put into a rubber stamp situation. I think that all the attacks that have been made on the bill have had a legitimate response. I suppose that my greatest objection at this time is that my last vote as a State Assemblyman might have to be a green light. You have put me into a terrible position.

ASSEMBLYMAN DINI:

Thank you for your kind remarks, Mr. Weise. I think that I want to answer some of those things when the bill comes on the floor for final passage. I can't from this position as Chairman of the Committee of the Whole answer some of those regards you have, and when we do rise from the Committee of the Whole, I would like to say some things for the record.

GENERAL FILE AND THIRD READING

Assembly Bill No. 1.

Bill read third time.

Remarks by Assemblymen Dini, Harmon and Chaney.

Assemblyman Harmon requested that the following remarks be entered in the Journal:

ASSEMBLYMAN DINI:

Mr. Speaker and members of the Assembly, I have just a few brief remarks. I think this has been hashed and rehashed the past couple of days enough that we should be ready to vote on it. I would like to regress a little bit into why we had this Special Session. I think, because of the general area of Lake Tahoe which is very unique, it took a very unique thing such as a Special Session to bring this thing to a head and to effect a new compact between the two states. I want to assure my compatriot from Douglas County, for whom I have high respect, that I appreciated his objective criticism of the bill and I realize his position in the area he represents. I think his criticism has all been constructive and certainly helps us strengthen the bill. The same goes for his colleague, the Senator sitting next to him. I want you to know that my personal position on the Loop Road is just about the same as theirs. In a delicate negotiation, sometimes you don't come out with everything you want. I didn't want the light rail mandated either. He was a critic here yesterday and I did not answer that at the time because I did not feel it the appropriate time. It is not a railroad job. I deny that statement by a certain attorney from Douglas County because I say that I think of all the people in this House, I think I am as qualified or more qualified to deal on the Tahoe Compact as anyone else. In the 1968 Special Session, I was a member of Government Affairs which is the committee that handled the original document you have had in the books since 1968. In 1975 we had a bill—I was Majority Leader of the House—we got in a last minute debate, as usual, on TRPA—the last subject of the last hour and entered on the floor to save the bill for Governor O'Callaghan. In 1977, when I was Speaker, we had a bill. It came from the Senate. It did some of the things we have in today's measure. In 1979 I was appointed chairman of the ad hoc committee which started before the session in developing the new compact. We worked over 250 hours during the session and heard the same testimony that we heard yesterday. We heard it in 1975. We heard it in 1977. We heard it in 1968 from probably the same people. The subject matter is a difficult matter to talk about. Basically, I think probably everybody in this room is opposed to metro government, but there are times when two states can join together in an effort and do it better together than they can individually. I think if this agency works half as well as we think it will on paper in actual reality, you will see an agency that will take command and the people on both sides of that border will be treated equally. We don't have to have CTRPA in California freezing everything. That can be abandoned. There can be one agency with one set of standards down the road in the same type of areas that can do the job for both states and help preserve that thing for posterity. I think the Governor this morning hit it on the spot. Not today, but let's talk about the next generation. What are we going to do for them. That is what you are doing here today. That is why it is landmark legislation. It is a landmark Compact. It is one that we can be proud to have had a part in establishing between these two states. I want to make some special comments to Ken Kjer, the County Commissioner in Douglas County. Ken has done an outstanding job. The whole County Commission in Douglas County has done an excellent job. They have stuck their neck out a long way to purchase the Kahle property. They have cooperated 100% with Senator Wilson and myself, and I realize that there were some shortcomings in our information going out to our fellow legislators. For that I apologize to the members of the House. It is kind of a rat race. They call you up and tell you we want to go to Sacramento this afternoon. One of the reasons I think we eliminated the two people, and I assure you it is nonpartisan because we were two Democrats working on it, but you know the Governor was very close to us on this matter. We never kept any secrets from him. We would go to a meeting and we would come back and report to him and we felt that the partisanship was taken out as a matter, as it justifiably should be. If I have offended my colleagues by the way we negotiated, I would apologize to them. When Dr. Robinson makes his motion, I will have him include a couple of other things for the matter of legislative intent. I don't believe anyone else has any other questions; at least they didn't have in the Committee of the Whole. If you do, we can still try to solve some of the problem areas. I think as we stand here, we are going to see a measure passed that is going to have an effect on the entire western part of the State of Nevada. It is vital to us to get this thing

together. I think I ought to stop at that point. I want to thank everyone for their wonderful cooperation during this Special Session. Thank you.

ASSEMBLYMAN HARMON:

Mr. Chairman and fellow members of the Assembly, I would like to speak to you for a moment as a Southern Nevadan who has followed the Lake Tahoe situation for several years. It comes up every second year when we make our trek to Carson City and now we gather to consider the subject in a Special Session. We heard a great amount of testimony yesterday concerning a pretty complex piece of legislation. Frankly, I have some degree of sympathy for the people who spoke in favor of and in opposition to the bill before us today. I must admit to you that I am not convinced that every aspect of this bill is perfect. However, when measured on the whole, I am certain that this legislation deserves our favorable action. It is obvious that a tremendous amount of work went into putting together this compromise and I personally would like to commend Assemblyman Dini for his hard work. I would also say that I understand the concerns of many people relative to the lack of broad-based input into the process which was used to develop this bill. I sympathize with this problem. However, I believe we now have to get away from debating about the way it was developed, and look at the bill itself and its merits. Based upon the cumulative testimony we heard yesterday, I believe that this bill deserves our positive vote. This bill will create a far better bi-state agency than the one which exists today. It will be far better equipped to deal meaningfully and fairly with the environmental hazards that threatened the Lake. It corrects the problems that developed in the agency over the past ten years. Really, one would expect that if a new agency were created in one state, experience would suggest changes in its structure and its charter. That is to be expected. TRPA, of course, is unique because any change must be made by two states and Congress. In conclusion, we've all known for several years that certain changes had to be made in the compact. This bill makes those changes. It makes them in ways that do not fit the ideal of either Nevada or California, but it makes them in a way acceptable to both. That's politics. It is also the democratic process. I intend to vote yes on the bill and urge you to do so as well. Thank you.

ASSEMBLYMAN CHANEY:

Mr. Speaker, members of the Assembly, I rise in support of this measure. I had decided not to say anything. I had heard so much. But after listening to testimony yesterday and today, it gave me the feeling that we had the kind of legislators who were willing to listen. It seems that somebody thought that we were just being notified of something that had just come down and we had to come down right away and accept whatever was handed to us. I enjoyed listening to the testimony and the opposition. Not only did this body listen, but I think it is important to note that they took some steps to correct some of the things that were of the most concern to some of the people in reference to the letter concerning the Loop Road and other things that I think were very important that made you know that we did not come down here to sign or rubber stamp a bill. I felt real good that this was not railroaded or whatever you want to call that kind of legislation. I think you have in the State of Nevada a good group of legislators that are concerned about not only the Clark County area. I am sure you know that since I rode through Incline Village and Lake Tahoe and saw all those Black folk, it couldn't be that I am just talking about Black folk, but our concern is for the State of Nevada. I am going to vote with no hesitation, and I am going to push my green button. I urge all of my brothers and sisters and colleagues to do so.

Roll call on Assembly Bill No. 1:

YEAS—39.

NAYS—Bergevin.

Assembly Bill No. 1 having received a constitutional majority, Mr. Speaker declared it passed.

Assemblyman Harmon moved that the rules be suspended and that the bill be immediately transmitted to the Senate.

Motion carried unanimously.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Robinson moved that the letter of transmittal to the Legislature of the State of California reflect the following legislative intent:

1. Support for the Loop Road being completed as soon as possible.
2. Statement that construction of single-family residences within approved subdivisions or approved single family residences outside subdivisions should not be considered to have a substantial or significant effect on the environment and should not require environmental impact statements. (Article VII)
3. The language in Article VI(c)(6) and Section 2 of the bill which speaks to soil erosion associated with expansion of the sewer treatment plant of Douglas County Sewer District No. 1 is understood to refer only to soil erosion which is directly related to the physical expansion of the sewer treatment plant itself.

Remarks by Assemblymen Bergevin, Getto, Robinson and Weise.

Mr. Speaker announced that if there were no objections, the Assembly would recess until 11:30 a.m.

Assembly in recess at 10:45 a.m.

ASSEMBLY IN SESSION

At 11:30 a.m.

Mr. Speaker presiding.

Quorum present.

Remarks by Assemblymen Weise, Robinson, Dini and Bergevin.

Motion carried unanimously.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, September 13, 1980

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 1.

LEOLA H. ARMSTRONG
Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Harmon moved that all remarks regarding the Tahoe Regional Planning Agency made at the Legislative Commission Meeting, September 12, 1980 be included in the Journal.

Motion carried.

LEGISLATIVE COMMISSION MEETING

September 12, 1980

Senator Keith Ashworth in the Chair.

SENATOR ASHWORTH:

Will the Legislative Commission please come to order.

Will the Director please call the roll.

(roll call)

I would entertain a motion for the approval of the Minutes of the meeting held

on August fifth. They have been circulated to all of the members and all of the members of the Legislature. Moved by Senator Dodge, seconded by Senator Blakemore. All in favor signify by saying aye. Motion carried.

I would like to announce on behalf of the Governor to the members of the Legislature and their spouses, the Governor asked me to remind the Legislature and their spouses there will be lunch at the Mansion today at noon. We will request that the chairman of the subcommittee recess at noon, and we will try to take back up again at 1:30. I would also like to announce that if the special meeting of the Legislative Commission Special Committee is concluded by three o'clock this afternoon, the Legislative Commission will adjourn to the Assembly Ways and Means room for the purpose of conducting further Legislative Commission business.

I would like to report that the Legislative Commission has directed a poll to the members of the Legislative Commission for the purpose of appointing all legislators not on the Legislative Commission to a special committee for the purpose of hearing testimony and participating in a subcommittee on Tahoe Regional Planning Agency's legislation. I would entertain a motion at this time that the Legislative Commission ratify the results of that poll of the commission whereby each member is appointed to the special committee. Moved by Assemblyman Getto, seconded by Assemblyman May. Motion carried.

I would like at this time to appoint Senator Joe Neal and Assemblyman Joe Dini as co-chairmen of the special committee for the purpose of hearing the amendments to the Tahoe Regional Compact. These are the two chairmen of the Senate Natural Resources Committee, and the Assembly Government Affairs Committee, respectively, who have handled the Tahoe Regional Compact legislation in the last session. Will Senator Neal and Assemblyman Dini please come forward and take over as the co-chairmen, so we can get on with the hearing.

SENATOR NEAL:

Will the Special Committee of the Legislative Commission on the proposed revision of the Tahoe Regional Planning Compact please come to order.

By the way of remarks on how we are going to conduct this particular hearing, we are first going to have remarks from the Governor, a representative from Senator Laxalt's office, and a representative from Congressman Santini's office, both of whom will read a statement into the record. We then will have remarks as to the background of this legislation and also we'll have remarks from Senator Wilson as to some of the technical aspects of the Bill. The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

Will we be permitted, on the comments from the Governor's Office, Senators Cannon's and Laxalt's and Congressman Santini's offices, to ask questions at that time?

SENATOR NEAL:

No. The Chair recognizes Governor List.

GOVERNOR LIST:

Chairmen Neal and Dini and special committee members, members of the Nevada Legislature, and ladies and gentlemen. It is indeed a pleasure for me to appear before you this morning and to provide these remarks on an issue that I consider to be of critical importance and vital to the State of Nevada, and certainly to the Lake Tahoe Basin. I appreciate this opportunity to appear and present my comments on the proposed Bill to revise the act relating to the Tahoe Regional Planning Agency which, of course, will be the subject of the Special Session on call for tomorrow morning at eight o'clock. I am aware and have been assured that you will receive a very detailed summary of the contents of the Bill, the effects of the provisions incorporated therein, and an explanation of the lengthy discussions and negotiations that resulted in the Bill before you today. As you are aware, the Act has been approved by the California Legislature and has been signed by Governor Brown. Although I did not participate directly in the negotiations resulting in this Bill, I was informed as those negotiations progressed, and I am well aware of the give and take and of the compromise in the interest at arriving at a final measure that would be acceptable to provide the necessary protection for the Lake

Tahoe Basin while preserving the private property rights therein. I am also well aware that revisions to the Tahoe Regional Planning Agency, and in fact; the creation of the agency itself, has been the subject of extensive hearings, discussions and legislative considerations through legislative sessions over the years. I have been assured, and am personally aware, that the testimony and the legislative record that was developed through those sessions will be incorporated in, and made an intricate part of, the considerations of the amendments proposed in the measure before you today. In a sense, therefore, there has been considerable legislative history and participation already incorporated into the provisions currently under consideration. I am sure that as you hear the detailed testimony and explanation provided by Senator Wilson, Assemblyman Dini, and others that you will recognize that the concerns and the reservations raised in the past have not only been considered but have been addressed and, where possible, incorporated into the current language of the Bill. I am also aware that there has been some concern and apprehension about the necessity for a Special Session of the Legislature to consider this matter. I want to assure you that this decision was not made lightly. It resulted from much deliberation and, in fact, personal soul-searching on my part. We all share, I think, the frustration because of the failure on the part of the State of California to consider the Bill to revitalize the agency which was passed out of the 1979 regular session of the Legislature and signed by me. For a period of time it appeared that Sacramento's refusal to process the matter would jeopardize all possibility for the necessary amendments to create an effective regional planning agency at Lake Tahoe. Slowly and patiently we continued to search out the elements that would make it possible to begin talking again, and, as I think back on it, I am reminded of the lengthy preliminary negotiations between the parties for the Vietnam peace talks over the size and shape of the table. Finally, through the cooperative efforts of representatives of both states and some opening commitments on each state's part, the discussions and negotiations were resurrected. My upfront promise made a year ago was this: 1) that if those negotiations could result in a proposed Bill that would be acceptable for presentation to the two legislatures; 2) if it was then approved by the California Legislature; and 3) if it was then signed by Governor Brown, that I would call a Special Session of the Nevada Legislature to consider it. In retrospect, I am absolutely certain that negotiations would not have resumed, the California Legislature would not have moved, and the Bill would not have been signed if my commitment to proceed with the Special Session had not been made. In short, I earnestly believe that commitment to call a Special Session was one of the fundamental catalysts that eventually led to the agreement and its passage in Sacramento. There is another factor that I wish to touch upon briefly. As you are well aware, efforts were initiated in the United States Congress this past year to create a national scenic area at Lake Tahoe. We have not been and should not have been intimidated by such a threat, but we must face reality and accept the fact that if we fail in this effort to strengthen the agency, we will then confront the very real alternative of federal intervention and control of the Lake Tahoe Basin. You will hear more about this in the course of the next two days. Finally, I wish to make mention of the Santini-Burton Bill now moving through Congress. The concept of that Bill, which has the support of Senator Laxalt as well, will provide the relief so essential to the property owners within the Basin who find themselves paying taxes on land they can't use and can't sell. So the proposal before you, coupled with that federal measure, will assure that the Lake will indeed have a proud future. I therefore convey to you my support as Governor of the State of Nevada and urge your favorable consideration of the Bill before you today. It is a carefully crafted document and it deserves your approval. The result will be an effective agency with the proper tools to provide the necessary protection for the Lake Tahoe Basin and the protection of the private property rights within that Basin. Thank you very much for the opportunity to present these remarks. I wish you Godspeed in your deliberations.

SENATOR NEAL:

I wish to thank the Governor for that address. Next on the agenda, remarks from Senator Paul Laxalt's office. The Chair recognizes Karen Layman.

KAREN LAYMAN:

Good morning ladies and gentlemen. My name is Karen Layman and I am repre-

senting Senator Paul Laxalt. Unfortunately, the Senator could not be here today and asked that his statement be read, on his behalf, in these proceedings.

UNITED STATES SENATE
WASHINGTON, D.C. 20510

September 12, 1980

STATEMENT OF NEVADA SENATOR PAUL LAXALT

To The Nevada Legislature:

As you know, I am strongly convinced that an effective bi-state agency is the best way to guarantee the future of Lake Tahoe. That's why I joined with Governor Reagan a decade ago to secure passage of the first bi-state compact. And that's why I am offering this statement today.

I won't presume to tell the Nevada Legislature what is good or what is bad about the proposal before it at this time. My turn to comment will come when Nevada and California send an agreement to the Congress for ratification. So I'll not get specific at this time. I have been asked to make some rather general observations, however, and I am happy to be able to do so.

The fact is, without an effective Tahoe Regional Planning Agency — one supported by both states — we are inviting the federal government to intervene. In the next few years, I suspect, we are going to have enough trouble fighting off federal intervention without opening the door for it. In this Senator's opinion, putting the ultimate decision-making authority in the hands of the Washington bureaucracy is an invitation to mismanagement. Just as bad — and Nevadans know what this is like — it would be difficult to hold someone that far away accountable for the decisions that would be made under federal rule.

Those of us privileged to grow up near Lake Tahoe have always had a full appreciation of what it offers those who seek out its beauty. It remains, despite what some say, one of the most beautiful lakes in the world. I am confident that with the continued concern of legislators in both states, it will remain that way for generations.

Thank you.

SENATOR NEAL:

Thank you. Next on the agenda, remarks from Congressman Santini's office. I would like to take this moment to say that anyone who has prepared remarks, would you please turn them in at the desk so that we may make them part of the record. The Chair recognizes Lynn Atcheson.

LYNN ATCHESON:

My name is Lynn Atcheson and I am representing Congressman Santini today.

STATEMENT BY CONGRESSMAN JIM SANTINI
BEFORE THE NEVADA STATE LEGISLATURE

September 12, 1980

Mr. Chairmen and Distinguished Members of the Nevada Legislature.

I made every attempt to join you today. I certainly appreciated the invitation to testify, but prior commitments and the legislative crunch as the 96th Congress wraps up keep me in hot and humid Washington D.C. today.

I'd much rather be in Carson City enjoying the Northern Nevada weather and the UNR game tomorrow, and letting my legislative colleagues at the state level know of my enthusiastic endorsement for the revised Tahoe Regional Planning Compact.

Except for the fact that I can't be with you, the timing for the hearing today and the Special Session tomorrow actually couldn't be better. Just this week, the House of Representatives recognized the special needs of the Lake Tahoe Basin. The House unanimously passed the Santini-Burton Bill which addresses both the serious land management problems in Clark County and the sensitive environmental problems at Lake Tahoe. The Bill provides up to \$150 million over ten years for government land purchase in the Basin. It also gives Clark County a good economic shot-in-the-arm for their recreational needs.

I know we're not here to talk about the Santini-Burton Bill, but I think the debate and the passage by the House demonstrated that interest and concern about Lake Tahoe extends far beyond the borders of Lake Tahoe. It's almost a cliché

now to say that Lake Tahoe is more than a spectacular mountain Lake in Nevada and California: It's a national treasure. It is true, and comments on the House floor from members of the House of Representatives throughout this country have emphasized that point.

A few other facts were as clear as Tahoe blue during the intense, frustrating and finally satisfying one year of legislative negotiations over the Santini-Burton Bill:

1. Everyone who has lived, visited or even heard of Lake Tahoe shares a personal stake in the Basin. Lake Tahoe needs help, and it would be a downright shame if public officials failed to take steps to allow future generations the enjoyment and offerings of the Lake.

2. Because Lake Tahoe is so special and provokes such strong personal and emotional response, no one piece of legislation is going to please everyone. Even though the TRPA amendments before you —just as the Santini-Burton Bill before Congress— went through exhausting scrutiny and compromise, there will still be those who feel strongly that it goes too far or not far enough.

3. The environmental pressures of the Basin are mounting and threatening every day as we continue to deliberate how it should be governed. You are faced with the arduous task of alleviating those pressures in the short term while establishing a mechanism to deal with the problems in the long term.

4. While the Bi-state compact and its compatible Santini-Burton companion are not perfect bills, they represent vast improvements over the confusion and inefficiency in the recent past and offer significant blueprints for the future. We cannot undo in one bill and in one Special Session the complex and serious problems which developed over decades, but we can take the first step. And I think that's what you have an opportunity to do tomorrow.

For these and many other valid reasons, then, I urge my legislative friends in Carson City to approve the TRPA pact. But I'd like to highlight and to discuss briefly what I feel is one of the most compelling reasons for TRPA: the possible federal takeover of the Basin if the state does not act.

The idea of a federally run National Scenic Area or National Recreational Area in the Basin seemed preposterous several years ago. But the federal takeover movement began to pick up steam in the last three years as the states struggled with TRPA and as the environmental situation deteriorated. It's now to the point that a National Scenic Area Bill has been introduced in the House with a number of prominent co-sponsors, giving the federal government full authority to call the shots on zoning, user fees, land use regulations, air and water quality standards, transportation plans, construction and sewer permits and road building.

The TRPA negotiations, which at times seemed doomed, and the Santini-Burton Bill, whose outcome at times was equally cloudy, have kept the National Scenic Area proponents at bay, but only this year. Nothing would make them happier and help their cause more than for us to fall flat on our faces. With TRPA, we significantly deter federal intervention into the Basin and our state. Without TRPA, the momentum for a National Scenic Area will be very very difficult to halt in Congress.

Lake Tahoe is best governed by state and local governments. I hope you will take the bold and necessary action to keep the federal government out of the Basin at this Special Session, and I commend you for the actions you took in the 1979 session towards this same end.

The TRPA agreement before you is a fair, reasonable, workable and most commendable legislative product. The Nevada Legislature has worked too long and hard to miss a golden opportunity to save a national and Nevada treasure.

Governors List and Brown are to be commended for taking extraordinary steps under extraordinary circumstances. A special word of thanks should also go to my friends Spike Wilson and Joe Dini whose patience, Tahoe knowledge and concern and legislative skill are finally coming to fruition.

Thank you again for allowing me to share my thoughts.

SENATOR NEAL:

Thank you for those remarks. Next on the agenda we will have remarks from Assemblyman Joe Dini, who will give you some of the background that led to the production of this particular document. The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

Chairman Neal and fellow colleagues, I am reminded of my experience a couple

of weeks ago at Tahoe-Douglas Rotary Club, but Jake wasn't there. When I went to speak to the Rotarians up there about the TRPA, I found the explosion they had at Harvey's was nothing compared to the one we had at the Rotary meeting. But as you know, when we talk about the TRPA you have an explosive subject and it does bring up some controversy. In the 1979 session we had a special committee which met for a good number of months with California Senator Garamendi and Assemblyman Calvo and we negotiated, attempted to negotiate, a new Compact. A tremendous number of hours were invested in this project but time ran out on us before we reached a real compromise. In Nevada, we passed Assembly Bill No. 503 and I think it was a good solid effort producing a bi-state compact that would protect the environment in the Tahoe Basin while preserving individual property rights. Throughout the negotiations one of the problems we ran into was the underlying difference in philosophy between the two states. Californians repeatedly stated that their objective primarily was to protect the environment at the Lake. They voiced virtually no regard for the individual property rights in the Basin. On the other hand, the goal of the Nevada delegation was to strike a balance which would protect the Lake and at the same time attempt to preserve the private property rights in the Basin. Well, to make a long story short, there were some hard feelings on many of our parts when the California negotiators rejected our previous Bill of the last session. And by the same token, there were some hard feelings on California's part when we passed the Bill before working out all the provisions with them. Frankly, I didn't have much appetite for going back into discussions, but as time passed Senator Wilson and I decided that we had invested too much time and were too close to having a workable agreement to just abandon it. So in November of 1979 we got together with the two California legislators to see if there would be any value in added discussions. We decided that further discussions might be able to produce a compact that would be acceptable in both states. From that time until now, we have had seven bi-state discussions, six in-house meetings, six staff sessions and three telephone conference calls. We had complete support from Governor List and his staff and all his effort. A product was developed which I believe will do the job at Lake Tahoe and all the State of Nevada, especially Western Nevada, because of the significance of the deterioration of the assets at Lake Tahoe which also had significant effects on the downstream water for people in Western Nevada. If you want to go down to Lake Lahontan, we'll show you some dead fish that may be the indirect result of the effluent from upstream coming down the two rivers in Western Nevada. So I think from the Western Nevada standpoint, we are looking at attempting to clean up the whole area and we have to start at the top and work down.

You have been provided with a five-page memo on your desks which outlines the most significant changes that are proposed in the Tahoe Regional Planning Compact. I would like to take a few minutes to summarize the most important points.

In the Compact in Article I, Findings and Declarations of Policy: This Article is entirely rewritten to provide the general policy under which the TRPA is to function. However, no substantive changes were made to the Bill (Assembly Bill No. 503 of the 1979 session) which was enacted.

Article II: Definitions contained in this Article apply to the remainder of the Compact and are virtually identical to Assembly Bill No. 503 of the last session.

Article III provides the organization. At the last session this same language was adopted. The Nevada delegation becomes a delegation of three locals, one appointed by the Governor, the Director of the Department of Conservation and Natural Resources, and the Secretary of State, and a seventh member appointed by the other six. The seven-man board is state-dominated four to three over local representation. The California delegation becomes two county and one city, two appointed by the Governor, one member appointed by the Speaker of the Assembly, and one by the Senate Rules Committee. These are identical to Nevada's Assembly Bill No. 503 of the last session.

The voting procedures are virtually the same as Assembly Bill No. 503. To adopt the regional plan, the environmental threshold carrying capacities, the ordinances, and granting of variances requires a dual majority of both states. So out of the fourteen member delegation you have to have four votes from each state to get these things on. To approve a project, it takes five affirmative votes from the state in which the project lies, and nine total from the agency. That is a deviation from the last bill. To do routine business, a simple majority of all the members on the agency is needed.

There were no changes made in Article IV on personnel.

Under Article V, the planning section, Sections (b) and (c) direct the TRPA to develop environmental quality threshold carrying capacities, and to amend the regional plan and ordinances in order to achieve and maintain the carrying capacities. These requirements were included in Nevada's Assembly Bill No. 503 of the last session. Section (c) (2) outlines the two goals of transportation planning in the region, providing the preference for public transportation, and directs the agency to consider completion of the Loop Road and utilization of light rail mass transit. This is a difficult area. In our previous bill we had mandated the completion of the Loop Road. The Director of Transportation in California was very serious and insisted on the mandating of light rail. Because Senator Wilson and our staff could not put a cost figure on mandating light rail mass transit, we were unable to hold onto the completion of the Loop Road as a mandate. However, in the Compact it directs the agency to consider the completion of the Loop Road as well as the utilization of light rail mass transit.

In Article VI, the agency powers, Section (c) established a limited moratorium on development in the region which lasts from the date on which Congress ratifies the amendments to the Compact until the new regional plan is completed or May 1, 1983, whichever is earlier. Elements included in the limited moratorium include: No subdivision approvals, in residential units, no more building permits can be issued than were issued in the year 1978 (this is to already approved subdivisions). This figure is high enough to take care of development in the next three years at Tahoe because construction has been down, and I think this year is about half of the figure that was allowed in 1978. Commercial construction, there is to be no more square footage per year than was permitted in 1978. Casino expansion is prohibited unless the casino has a vested right to build, which has gone through the courts. Sewer treatment plant expansion is prohibited except to comply with state and federal laws relative to control of water pollution and except to accommodate development which was not prohibited by the moratorium. Special treatment was made for the expansion of the plant at Douglas County Sewer District No. One which will be allowed to expand to three million gallons of effluent a day without project approval. The three million gallons a day is not a magic figure; it came from the fact that the plant was rated to do three million gallons. The capacity right now is about 2.6 million. They are not using all that capacity at this point. In the past, California had allowed the plant at South Tahoe to expand without TRPA approval based on not being able to reach its limit. By modifying the Douglas County No. One plant, they will be able to reach the three million gallon limit, and they do not have to have project approval of it. Highway construction and expansion of existing highways is prohibited during the moratorium period.

Under Sections (d), (e), (h) and (i) in the Compact, the limitations of future expansion of hotel casinos in Nevada were already enacted in Senate Bill No. 323 and Assembly Bill No. 503 in 1979. These Acts state that no new hotel casinos which are not already approved may be built in the region. The cubic volume of existing and approved hotel casinos cannot be enlarged and the public area within these establishments cannot be enlarged.

Section (f) (3) provides procedures for reviewing expansion of gaming floorspace within the casinos. A base area in square footage is to be determined. Gaming activities within the casino may expand to 115 percent of this base square footage without review. Expansion of gaming activities by more than 115 percent of this base requires approval by the TRPA under the same procedures as apply to other projects. This is the first time TRPA has gained access inside the gaming casinos to regulate their activities.

Section (j) provides a conservative statement of judicial procedures concerning venue, standing to sue, and other related matters. Of special significance is the venue statement which provides that legal challenges to projects may only be brought in courts that are in the same state in which the project is located. The substance of this section is the same as the corresponding provisions which were enacted in 1979 in Assembly Bill No. 503.

Section (1) establishes maximum penalties for violation of the Compact which reduced the penalties from \$10,000 to \$5,000. They are less stringent than in the last Compact. However, there is a change in the wording "unwillful".

Article VII provides environmental impact statements. This Article requires that

environmental impact statements be prepared before approval of projects in the region. A project is defined in Article II (b) as an activity undertaken by any person, including a public agency or local governments, if the activity may substantially affect the land, water, air, space, or any other natural resources in the region. This Article is the same as it was in Assembly Bill No. 503.

In Article VIII, Finances, there were no changes of major significance in this Article.

Article IX, Transportation District, establishes a regional Transportation District whose boundaries are the same as the TRPA regional boundaries. Now the TRPA itself will establish the transportation plan when it is revising its plans. This Board will administer the plan as set out by TRPA. Section (b) states that the Board of Directors for the Transportation District consists of one representative from each of the local governments, three on each side, plus the Director of Transportation of Nevada and the Director of Transportation from California. I would like to say that the two Departments of Transportation have done considerable work in the past year in working toward an agreement on a transportation plan overall at Tahoe. That can easily be incorporated by the TRPA in their regional plan. Section (d) outlines the authority of the Transportation District. It has limited taxing powers, it can issue revenue bonds. We prohibited them from imposing certain taxes; it cannot impose an ad valorem tax, it cannot impose a gross or net receipts tax and it cannot levy a tax against people or vehicles as they enter or leave the region. User Basin fees are prohibited. It cannot tax gaming tables or devices and all tax proposals in the Basin must be approved by two-thirds of the people voting in favor of it to become effective.

Under Article X, the miscellaneous section, there were no significant changes.

Section 2 of the Nevada bill, of course, provides a Nevada moratorium. It establishes a limited moratorium on developments in the Nevada portion of the region. It contains the same elements as in the moratorium in the principal part of the Bill, but the effective dates are different. This moratorium would become effective upon passage and approval of the present Bill and expires when Congress ratifies the amendments to the Compact. Needless to say, if Congress does not ratify the Compact, the next session of the Legislature can change this and repeal that moratorium or set a time certain. I think we left this open because we had the flexibility of the upcoming session next year to tighten that up if we wanted. The intent of the moratorium established in this section is to eliminate a rush to the courthouse. Without the moratorium, we would have all kinds of projects up for review and for building permits, etc.

As you see, it is a comprehensive package. As we deliberate today, Senator Wilson and I are prepared, with our staff, to answer specific questions, but we will defer the questions until later on today. I thank you very much for your attention.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Ladies and gentlemen, colleagues, I know it is really your idea of a good weekend following your primaries to enjoy it here in this Special Session. It really represents a zenith in recreation and relaxation. I have heard the argument that it would be better to wait four or five months to the regular session rather than process the Tahoe bill here in Special Session. I don't concur with those arguments. Let me comment parenthetically and briefly on the reasons for this Special Session and then proceed into the Bill itself.

The bi-state negotiations represent a legislative initiative. They began informally last November or December and were authorized by the Legislative Commission in February or March this year together with the support of the staff. The commitment of a Special Session was essential to stimulating the renewal of bi-state negotiations. Many of us felt that it was imperative to restimulate those negotiations in light of a growing momentum behind pending federal legislation which has been alluded to both by Paul Laxalt and Jim Santini. A "federal" solution has gained support principally because Nevada and California have failed to agree on Tahoe. Federal intervention was the public policy announced for a number of years by Governor Brown's administration in California. It certainly has been the public policy announced by the League to Save Lake Tahoe, neither of whom have been particularly supportive, I might say bluntly, of our discussions and negotiations.

A Special Session was also necessary to provide a deadline this summer to keep the eight or nine months necessary to bring this matter to resolution on schedule. Without the deadline of a special session, frankly, it would not have been possible to keep the talks on schedule and bring them to conclusion by this point.

Our negotiation schedule made it possible to create a constructive climate for negotiation, unlike the last regular session in which the atmosphere was adversary, the lines hard drawn, to provide thoughtful and mutual discussion of a series of complex problems which were troublesome. I don't want to underemphasize the difficulty and complexity of designing a piece of legislation which is sufficiently tuned and balanced to satisfy both houses of two separate legislatures and two states. Frankly, we designed and tuned it a bit too finely. The California Senate requires twenty-one votes for a constitutional majority and there the Bill finally received just twenty-one votes. In the California Assembly a constitutional majority requires 41 votes. The Bill received 44. John Garamendi and Victor Calvo had to work and work hard for those votes in the Senate and Assembly. And they did not have the help or support of the Brown administration.

This Special Session is also necessary because Assemblyman Victor Calvo is retiring. He will not serve in the California Legislature the next session. When you have to work that hard to get that close a vote on something as complicated as the bi-state compact, we felt we'd be at a serious disadvantage, candidly, if we did not have Victor Calvo's advocacy in the California Assembly during the next session. On this record, I want to convey my respect and appreciation to both of those California legislators for their hard work, sacrifice of personal time, taking a lot of heat, and for a good work product.

At bottom is a growing sentiment for federal legislation, the primary motivation of which is failed bi-state negotiations. And, frankly, we viewed these negotiations and this Bill as the clear alternative to federal legislation. That reason alone, I think, justifies this Special Session.

For all these reasons, Joe Dini and I went to Governor List early on and said we felt this Special Session was necessary to bring our negotiations to a successful conclusion. As a result, we are here today.

Joe Dini has spent a substantial amount of time this morning going over the Bill itself. Let me simply comment on each of the topical issues presented by the Bill and give you some of the rationale for our judgment on the questions of policy.

He touched upon the membership. It does tilt the balance from three members from the respective counties and two members from the State, to three members from the respective counties and four members from the State. The method of selection in California is somewhat different. The Governor appoints two of the four state appointees, the Speaker, one, and the Senate Rules Committee, the other. The remaining three California members represent local government. We would do it differently in Nevada. The Governor would appoint one. The Secretary of State, or his designee, would be the other. The Director of Conservation of Natural Resources, or his designee, the third. As in California, three members represent local government. And those six would appoint the seventh. And, if they don't do that within sixty days, then, of course, the Governor would.

The voting procedure has been called a compromise, but let me tell you the reason why it is structured the way it is in this proposal. The basic procedure approved by us in Assembly Bill 503 of the last session was a dual majority, with a simple majority for project approval. The original proposal agreed to by the administrative staffs of Governors O'Callaghan and Brown was a straight dual majority across the board.

The activity of the agency can be divided into five phases: the determination of environmental threshold carrying capacities is that policy judgment, based upon record evidence, of what the resources will support in the Basin. It is to be defined and seated by a dual majority, four from California and four from Nevada, just as provided in Assembly Bill 503 which we passed in the last session.

The next phase or activity is to design a regional plan, based upon those environmental threshold carrying capacities. That, too, would be prescribed by a dual majority—four and four.

The third phase is the promulgation of the ordinances, rules and regulations which give that regional plan definition and flesh, and is also done by a dual majority. What this means, we hope, notwithstanding its awkwardness, is that

both states will provide balance and prospective to those procedures. Because each state has to agree, each state has some degree of built-in protection that the final judgment is reasonably based on merit. Admittedly, it is going to be more difficult to get a judgment based upon a dual majority than a simple majority, because it requires each state to exercise some sovereign judgment by its respective delegations to the agency, to come to agreement on these fundamental policies for the rules at Lake Tahoe in the future.

The fourth phase is project review, a compromise. The original proposal was a dual majority. Many people had trouble with that. In Assembly Bill 503, you will recall that we bifurcated that voting procedure and provided two steps involving a simple majority: a project originating in Nevada would be approved first by four votes, a simple majority, of the Nevada delegation and if it passed muster there, then by a simple majority of the governing body.

The California position was a dual majority for project approval, a veto by either state. And there were serious attempts by the Brown administration during legislative hearings in California to go back to a straight dual majority. While that might be fair to the sovereign interests of the two states, it might be unfair to the individual property owner or applicant who is caught in the middle. We felt if growth is to be contained at Tahoe, if over-development is to be restricted, that it ought to say so clearly in the master plan. That if someone relies upon a master plan and zoning by investing in property, he should not get bushwhacked, if you will, by an arbitrary veto vote under a dual majority system. We felt there is not basic equity in that approach to project review. It takes a dual majority to get a variance from the master plan from the ordinances. A project cannot qualify for approval unless it is in compliance. We felt that was an adequate balance without going to a dual majority.

Accordingly, the voting procedure for project approval is a compromise requiring five votes from the host state and nine, rather than eight, votes on the governing board, not a unilateral state veto of a project, whether it arises in California or in Nevada.

This has been a troublesome issue throughout these discussions; I don't want to minimize the problems we had with it. It wasn't easy. The final result was a compromise, but it is infinitely preferable, in my judgment, to a dual majority on project review. Frankly, we felt that basic equity ought to go first to the citizen in the Basin, rather than to the other state having jurisdiction.

For routine business, the fifth step, a simple majority only.

The planning procedure under the Bill provides for definition of the environmental threshold carrying capacities within eighteen months and a new regional plan within a year thereafter. That's the reason for the two and one-half year moratorium. The regional plan must include a transportation plan, by definition. And let me pause a moment and comment on transportation because it involves an issue which was troublesome that last time we were together.

There has been a great controversy within the Basin, as you know, over the completion of the Loop Road. Most of us feel that we ought to build it, finish it. It's all but complete. But, frankly, it has become a political symbol, just as in California, a light rail system has become a political symbol. The position of the Brown administration was that a regional plan ought to mandate by the Compact that light rail be constructed. Frankly, those of us negotiating, including those from California, simply felt it made no sense to mandate jurisdictionally, by bi-state compact agreement, that a light railroad system constitute the regional transportation plan. We felt the only answer is to require the governing body on TRPA, consistent with its obligations, to design a new master plan, to say what is the most appropriate transportation plan, that is where the ultimate responsibility should lie. We did not feel that the California Department of Transportation, which does not have the ultimate responsibility for the welfare of the Basin, should superimpose its own transportation plan over the judgment of the Agency.

There was severe political pressure on the California representatives to insist upon the Cal-Trans light rail mandate. That fact made it difficult for them to agree with us to the completion of the Loop Road. It was our judgment that we ought not to accept the light rail mandate in exchange for completion of the Loop Road, as a matter of principle. The result of this dilemma is the language in the Compact. That language mandates the governing body to determine what the regional transportation plan will be, while giving appropriate consideration to the completion of the Loop Road and whether light rail should be utilized in parts of the Basin.

You will hear later in the day from others in the regions affected, including the City of South Lake Tahoe, who feel that the Bill, on balance, ought to be supported even without the completion of the Loop Road. And I, frankly, think that the City of South Lake Tahoe is fairly optimistic in being able to find another solution for the completion of the Loop Road. John Cefalu, the mayor, will address that later in the day.

The regional plan is to be one plan for the Basin. It seats during the interim the respective plans or standards which are applicable to different parts of the Basin. A question has been raised and I'll touch on it for the record: whether a single general plan can consist of different standards and different control measures in different parts of the Basin. The intent of the negotiators and of both Legislatures is a clear "Yes." One plan can have different standards and different control measures in different parts of the Basin, because the circumstances vary in different parts of the Basin. Some areas are more rural than others, some much more urbanized than others.

During the interim, while the regional plan is being determined, the existing ordinances and plans remain applicable in their respective parts of the Basin, whether they happen to be those of the TRPA, the Cal-TRPA, or of the respective counties having jurisdiction.

The Bill provides a temporary moratorium. I will again be candid and tell you that moratoriums are not very happy subjects. Anytime you have to legislate moratorium, it is simply a recognition that government has failed and it is saying to the world, "Stop, while we all catch up, because we haven't done a very good job." In California alone, there are 16,000 single-family residential lots impounded by the lack of sewage capacity which cannot be developed. And those represent reliance by the public upon the zoning of the TRPA and who purchased those lots and found that there was not service available to them. California is now proceeding with legislation for a bond issue to buy many of those properties and, hopefully, the Santini-Burton Bill will provide similar relief financially, which is the fair way to approach the problem. I say that to indicate the problems are indeed severe, and perhaps more severe on the California side because of a good deal of overdevelopment that was allowed there, as contrasted with the Nevada side.

The moratorium is limited. It applies to new subdivisions for which a tentative map has not been approved by the TRPA. On the California side, only a limited number of building permits are now issued annually. On the Nevada side, the approach was somewhat different. We sought to go to 1978 as the base year, and provide for a sufficient number of residential units to be built in each year during the temporary moratorium. Douglas County experienced construction of 529 residential units in 1978; in Washoe County the number was 739. You can compare that with the experience in California and I think you will agree that the relief for Nevada property owners on the Nevada side of the Basin is not bad, comparatively speaking. The commercial development experienced in 1978 was not quite so generous. In 1978, Douglas County experienced the construction of 57,384 square feet of commercial space; Washoe about 50,600. That is not a great deal of commercial space, but it is what was experienced in 1978. The limits are annual and not for the duration of the moratorium. The application of the moratorium is not retroactive should those limits be exceeded in 1980 before this act is passed and approved.

With respect to expansion of sewage treatment capacity, the problems experienced by Douglas County Sewer District No. One were troublesome during our 1979 Session and were again in these discussions. A number of Nevada interests rely upon sewer plant capacity and are subject to concern and risk if present capacity for present demand is not adequate. As you know, public projects, including the expansion of sewer plants, require agency approval and an EIS. Often-times the EIS procedure involves not just the impact of the expansion of plant facilities at its site, but also the review or the impact of the development that expansion will serve, a much larger question. Many of those who look to Douglas County Number One for sewer service were apprehensive of the consequence of a denial of application to expand. There is presently a need to expand. The plant does not utilize its present designed capacity. It has been operating at about 2.2 or 2.3 million gallons a day, and its design capacity calls for 3.0 million gallons a day. The application of a moratorium or the denial of an application to modify or enlarge by

project review would preclude modification needed to serve present need and still meet water quality discharge standards. Private citizens have invested capital in the Basin and rely upon the sewer service provided by that plant to utilize their property and protect their investments.

The solution developed was, in some ways, extraordinary. As you will recall in Assembly Bill 503, we exempted from the moratorium enlargement of the sewer plant. However, that did not exempt such modification from project review. There has been concern expressed that such project review may be arbitrary and approval of such expansion of that sewer plant might be denied because to some extent that plant serves businesses with gaming. Gaming has received some adverse social judgment in California; some there are always quick to remind us that while we may call it "gaming," after all, they know it is really "gambling." Well, that, of course, is none of California's business. That is reserved to Nevada's discretion. Consequently, we developed and negotiated Compact language which not only retained the exemption from the moratorium but exempted from project review such sewer plan modification of Douglas County Number One. The improvement, change, and enlargement necessary to get the plant up to 3.0 million gallons a day should eliminate the risk which made some apprehensive who were looking to that district for service capacity and felt it might be jeopardized or even reduced if the effluent discharged by the plant was not meeting environmental discharge quality standards; their worry was the danger of a rollback.

Let me talk about gaming for a minute. The Bill we processed the last session, Senate Bill 323, put a cap on gaming expansion in the Basin (some of my colleagues are smiling because they recall very well the debate and argument over Senate Bill 323 and that it was going to solve our problems). We were going to take gaming out of these discussions as an issue. So we processed Senate Bill 323 and my colleagues are shaking their heads knowingly and smiling because, of course, it did not eliminate gaming as an issue after all. Consequently, we still had to deal with it in some way to progress with our discussions. Because we all had thought that Senate Bill 323 would eliminate gaming as an issue in Tahoe negotiations, we felt obligated to put the question directly to the industry, the acceptability of additional restrictions on their right to expand internally. The industry responded constructively and responsibly and we worked out a procedure which is acceptable and which we successfully negotiated with California. It satisfies the concern about the expansion of gaming in the Basin and the consequent effect it may have on the influx of people and traffic, but at the same time preserves and defines the basic self-determination to be exercised by management of those businesses. These provisions, as you will hear later in the day, have the acceptance and approval of the industry.

In 1979, we provided in Assembly Bill 503 and Senate Bill 323 that the Basin simply could not tolerate any more casinos. That is a fact of life. We recognized it at the time. We provided that if a building were damaged or destroyed, and we have had some examples of that in recent days, the owner may rebuild to the same mass area he had before without being submitted to project review.

The issue here was whether or not there ought to be any internal limitation on the expansion of gaming. It has always been a problem to those who don't understand the industry that because a hotel-casino has vast public areas distinct from a gaming area per se, such as convention space, meeting rooms, restaurants, all kinds of area without tables and slot machines, that one could merely expand gaming into that space and thereby bring into the Basin many more tourists and traffic. Now the economic facts of life are that you won't. If, say, gaming public area could be used for gaming only, the casinos in the Basin would have done that a long time ago, if they would have improved their bottom line. The economic fact is that a destination resort hotel must have other services; you have to provide convention services and meeting rooms; you have to provide theater restaurants; people have to eat, so you have restaurants. You can't just fill that with slot machines. That fact has applied for many years.

It is difficult to make people from out-of-state understand that fact of life, and academically there remains the potential to fill the convention hall with tables and slot machines and by that, increase the gross amount of gaming and the number of people coming into the Basin. Industry management has said that is not a problem. So what we have done here is devise a limitation on internal expansion which is rather carefully crafted to avoid the bureaucratic problems you have when you meddle in management's responsibilities. The procedure devised is to require the

Nevada licensee to file, as they must now under Senate Bill 323, an informational footprint of their public area, which is everything but rooms and garages. Under this approach they would file with the Nevada TRPA a footprint plan of what is called the base area, and the base area includes area used by the public for gaming or related activity. There are some specific exceptions; the convention area, meeting rooms, and the like. Included in the base area are the casino pit, lobby, corridors, bars, restaurants, theater restaurants, that kind of activity. That related activity, as you know, is substantially more than that literally used in gaming.

The licensee is required to make informational filings with NTRPA from time to time as the licensee expands beyond the size of the base area. At such time as this point is reached, where the gross amount of expansion exceeds 15 percent of total base area, then expansion beyond 15 percent is a "project" as defined by the act and is subject to project review by the TRPA. The limit is a rule of thumb with which the industry is comfortable in light of those economic facts of life which are controlling. The procedure is designed to avoid approval every time you move the furniture around. The informational filing is made upon expansion from time to time, but the responsibility is upon the licensee to file and to know when he is ultimately going to exceed 15 percent of the entire base area. It is not a provision that I am happy with. If we judge the Bill on the basis of what we would like to have in an ideal world, this would not be acceptable. But it is a provision which satisfies the apprehensions of many and was necessary to the agreement. At the same time, it avoids bureaucratic burdens for the licensee and it is a provision with which they agree, and which they support.

The Bill has improved provisions concerning venue. We addressed that in Assembly Bill 503, and I think did a more complete job in this Bill. The problem arises where somebody files an action in a federal court in San Francisco or some court where venue does not properly lie, and enjoins a project. The rule now is that if you have an objection to an activity on somebody's property which is in violation of an ordinance or in violation of conditions for a permit, you have to sue in the court where venue lies. If it is a state court, then a superior court or district court having jurisdiction over the property. If it is a federal court, it is the U.S. District Court having jurisdiction over the property.

The amount of the fine that can be levied for violation has been reduced to \$5,000 a day but there is explicit language in which the court must judge whether or not the violation is inadvertent, innocent, or whether it is willful and knowing. A bonding requirement applies to anyone seeking to obtain an injunction, any plaintiff, except a governmental agency seeking to enforce its own ordinances regulations. If a county seeks to enforce its own ordinance, or TRPA seeks to enforce its own ordinance, they need not bond an injunction. The League to Save Lake Tahoe must, because it is not a governmental agency. One of the great controversies we had last time was that a non-profit corporation could willy-nilly file an action without having to recognize the consequence of wrongful injunction. That happened at times and it inflamed the situation and made it an issue.

The environmental impact procedure has been touched on by Joe Dini.

The Bill creates, which we did not do in Assembly Bill 503, a transportation district. I indicated earlier that it is the governing body of TRPA which will determine what the transportation plan is to be, what its components and theory and means are. This will be influenced greatly by the regional plan and the needs of the Basin and its different areas. However, the ministerial day-to-day administration—management—would be done by a Board for the transportation district. The members on that Board are local, i.e., one is appointed by each of the adjoining counties in California and Nevada, three from California, three from Nevada; the fourth from California is the Director of Transportation; and the fourth from Nevada is our Director of the Department of Transportation—an eight-man Board. Five votes are required for action.

I would like to make a few comments with respect to specific intent in several areas and make two notes for correction by subsequent legislation.

If it is the will of the Legislature to approve this Bill, then I want to take some care, and other witnesses today will, that we make an adequate record in the floor journals during the Special Session proceedings tomorrow.

The moratorium provision exempts an annual level of residential building. In the communication by staff with the counties of Washoe and Douglas, to obtain the residential construction figures for 1978, we started with single family residential

units. That figure in Douglas County was 339. It was enlarged to include duplexes and fourplexes and it was later on enlarged to include apartments and condominiums. The drafting of these figures in California was late and just before hearings of the Bill there, the exempted level for Douglas County was incorrectly drawn and it appears as 339 and it should be 529. When it was discovered, after the fact, John Garamendi, of the California Senate, filed the appropriate letter in their Record of Proceedings to indicate the correct figure of 529. The general language in the Compact provides that the figure is that experienced in 1978 and clearly the figure "339" is in conflict.

Nevada's unilateral moratorium, which is a companion to the Compact itself, provided the correct figure of 529. California has agreed that if we process the Compact, we can come back next session and process an amendment which they will approve and send on to the Congress providing the correct figure. Frankly, it may be doubtful that construction would reach 529 residential units. However, we can confer with the Douglas County Commission and make that judgment during the 1981 Session.

With respect to the transportation district, the powers of the district, under the terms of this contract, can be amended by the two legislatures of the two states, without Congressional ratification, because these are management and taxing powers and are not essential to the bi-state Compact. We had a similar error in drafting the California bill, on page 26 of the Bill at line 40, in which two words were dropped from line 40. We sought to limit specifically the taxing authority of the transportation district and you will find some language in the Bill that precludes the assessment of an ad valorem tax, the assessment of an in-Basin user fee, the assessment of a gross revenue tax, which we have in gaming, and the assessment of any tax, direct or indirect, on gaming or on gaming tables and devices. The words "gaming or" were inadvertently omitted by the California bill drafting office. In 1981, we have commitment from California that they will process a similar amendment to add the words "gaming or," where I indicated. The issue is limited to whether or not that transportation district could enact a privilege tax of some kind and apply it to gaming. Our concern was to protect against, obviously, any arbitrary taxing decision which is focused on gaming and not applicable generally to other types of business in the Basin. There is general mandatory language in the act which requires that taxes be uniformly the same throughout the Basin. Any tax must first be approved by a majority of the governing body of the transportation district. And consistent with California law, no tax can be enacted without a two-third's vote of the residents in the Basin. So, there are some safeguards, but I want to point that out to you because I want the record clear that we intend to cure that in the next session in the event this Bill should be approved tomorrow.

I want to comment on the state moratorium which parallels the bi-state moratorium provided for in the Compact. The Compact Moratorium, of course, takes effect when the Compact is ratified by the Congress. And it terminates in 1983. The two and one-half year period I referred to is necessary for the development of threshold carrying capacities and the regional plan. In the state Compact, the temporary moratorium, as we have defined it, commences, should the act become effective, upon passage and approval and under the terms of this Bill it does not have a terminus. It would lapse at such time as the federal Congress ratifies the Compact amendments. A valid comment was made this morning by Lloyd Mann that, ideally speaking, you ought to have a terminus for the state moratorium and I agree with that observation. And at one point in the drafts with which we were working, there was a moratorium end at April first. Notwithstanding that, in the final version before us, the Nevada State moratorium does not have a defined terminus. I rather think the Congress is going to act before we adjourn the next session, for a variety of reasons, one of which is the relationship between these Compact amendments and the Santini-Burton Bill. Rather than amend the Nevada State moratorium as it applies to the period prior to federal ratification, I would simply recommend that we make a clear record today of our intent, that in the event the Congress has not ratified these bi-state Compact amendments prior to the time of adjournment next session, that we take up the matter of the term of the Nevada moratorium and make an independent judgment at that time as to how far to extend it if that is necessary, thereby giving Congress additional time to act.

In addition, we exempted from the moratorium permitted projects. The Bill provides that and I think it goes without saying. The moratorium expressly provides

that the moratorium imposed by the Bill does not apply to the construction of any parking garage approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. This concern has been expressed to me and I have been asked to comment by several legislators. I simply want to state so it appears in the record of these proceedings that indeed, that was our intent—that the development of garages is exempt from the moratorium as the language of the Bill expressly provides.

On page 23 of the Bill, there is provision for environmental impact requirements. Under the voting structure of a dual majority, each state must agree. The provisions are that the agency or the governing body shall determine what projects or activity does not have sufficient impact upon the environment to require environmental impact assessment. Some concern was expressed that this could mean that every single-family residence might require environmental impact assessment unless the agency acts to determine otherwise. While possible, requiring such an EIS would not, as a practical matter, be reasonable. The intent of the negotiators and the intent of the two Legislatures on this issue is consistent and should be clearly known.

There is some fear of what might happen if the two state delegations to TRPA could never agree and if not, then they could never agree what was and was not of sufficient impact to require an EIS. Frankly, if that situation develops, and they cannot agree, then they are not going to agree on what the ordinances are going to be or what the regional plan ought to be or what the threshold carrying capacities ought to be. But, that aside, the concern is that we not, by implication, apply across the board an EIS requirement to any project whether it had impact or not, particularly, the single family residences in an already approved subdivision.

The record to that effect was made in the California hearings and amplified by my colleagues there. It was even corroborated by comments made by the League to Save Lake Tahoe, that it is not the intent of this Legislature and not the intent of the environmental impact assessment provisions appearing in Article 7, that single-family residences being built in approved subdivisions require an EIS. The record should clearly reflect that the application of that kind of requirement does not make any sense, is not reasonable, is not necessary, was not the intent of the negotiators, was not the intent of the legislative committees of both states who heard this Bill, was not the intent of the California Legislature, and, if this Bill is approved, it is not the intent of this Legislature or our Governor.

The question was raised with respect to the moratorium limits during 1980. What happens if, before this Bill is effective, the number of building permits for residential units exceeds the limitation. The Bill does not apply retroactively in 1980 and is not intended to do so. And I want the record to reflect that. Somebody told me the other day that we have stimulated something of a rush to the courthouse in Washoe County and those figures may have been reached. But those are annual figures, not total during the moratorium, and I am hopeful that they will level.

The question was raised with respect to the moratorium on new subdivisions, specifically if it is intended to prohibit, not just new construction, but a change in the method of ownership. Where one does not construct additional units, but only changes the method of ownership, for example, a conversion from apartments to condominiums, obviously there is no new construction. I can only say for the record, that while that specific point was not considered during the negotiations, they were discussed at the time of the hearings and it is not the intent that a moratorium should apply to anything except that which will cause new development, new construction.

And lastly, I have been asked to comment on legislative intent with respect to the meaning of that language that the regional plan adopted by the TRPA, on page 11, at line 17, shall be a single enforceable plan.

I indicated a moment ago that during the interim, the respective plans and control programs and standards applicable in different regions of the Basin remain applicable and in force. Those respective standards and control measures in different regions of the Basin indeed can be part of the regional plan even though they may not apply throughout the Basin. A single regional plan does not mean, and was not intended to mean, that an applicable standard in one part of the Basin must automatically apply to another part of the Basin. A regional plan recognizing different areas of the Basin, areas which are urbanized, areas which are still rural,

areas which are in dedicated park land, all are different. The control measures and standards applicable to different areas will vary and not be alike. But they will together form a single regional plan. And I think the record ought adequately to reflect that that indeed was the intention of the negotiators and of the two state Legislatures.

Thank you very much.

SENATOR NEAL:

Spike, would you remain right there because we are going into some questions and Mr. Dini, would you join him? The Chair recognizes Senator Lamb.

SENATOR LAMB:

Mr. Chairman, I presume that any amendment to this Bill, Spike, would—the Bill would have to go back to the California Legislature for adoption of the amendment?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Yes, sir, as I said, this Bill was designed to try and pass both Legislatures.

SENATOR NEAL:

The Chair recognizes Senator Lamb.

SENATOR LAMB:

You do know the question. I am sure that the bill drafter is right but on page 13 of the paper here, the lines are not numbered, but it says, if you will bear with me a moment, the word Lahontan, California, in the State of California. Is that correct? Is there a Lahontan, California, or are we talking about Lahontan, Nevada?

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

That is the Lahontan Regional Water Quality Control Board Adoption Agency.

SENATOR NEAL:

The Chair recognizes Senator Lamb.

SENATOR LAMB:

It is Lahontan, California? Another question to you, Spike, if I may, Mr. Chairman. How much money is California putting into this compact? Seven thousand dollars is our amount.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

It appears in the financial provisions for the Bill—

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

California is to provide two-thirds of the funding and Nevada one-third. Seven thousand dollars is for the NTRPA for their end of supplying the public area in the Basin.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

It appears on page 25.

SENATOR NEAL:

The Chair recognizes Senator Lamb.

SENATOR LAMB:

I have one more question. On page 22, I have learned to respect the word "shall" through the years and then here you show, in some instances, they may do this and they shall do this. About the middle of the page, either one of you, "Where necessary for the realization of the regional planning, the agency may engage in collective planning with local government jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan of the agency, 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—"

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Are you on 22?

SENATOR NEAL:

The Chair recognizes Senator Lamb.

SENATOR LAMB:

I am on page 22, yes.

SENATOR NEAL:

He has the big sheet that was sent out to draft. The Chair recognizes Senator Lamb.

SENATOR LAMB:

I haven't had time to read that, I never got the Bill until just now.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

All right, I have it. I am just going to read this quickly. "Where necessary for the realization of the regional planning, the agency may engage in collective planning with local government jurisdictions located outside the region but contiguous to its boundaries. In formulating and implementing the regional plan of the agency, 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—".

SENATOR NEAL:

The Chair recognizes Senator Lamb.

SENATOR LAMB:

My thought was that in these counties and local government agencies, they kind of feel left out, anyway, and I mean the word "may" doesn't mean anything, as we have learned through the years. But the word "shall" would mean that they absolutely had to sit down with these people whether they accepted their findings or not, but at least they should meet with them.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I think the distinction there is that if you are talking about collective planning, it is difficult to mandate with the word "shall," to effect joint planning, if they are not working together. We made it permissive with "may."

SENATOR NEAL: We are going to let Frank Daykin's— The Chair recognizes Senator Wilson.

SENATOR WILSON:

Well, just a second. However, the agency is mandated by the word "shall" to seek their cooperation and to consider their recommendation.

SENATOR NEAL:

The Chair recognizes Senator Lamb.

SENATOR LAMB:

I like that. It's the one above I don't like.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I understand. Go ahead, Frank.

SENATOR NEAL:

The Chair recognizes Frank Daykin.

FRANK DAYKIN:

Mr. Chairman, the "may" refers only in collaboration with local government outside the region. The "shall" refers to all local governments, and refers particularly to those in the region.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

Mr. Chairman, I have a number of questions; the first one may be to Senator Wilson. Spike, what indications have we had that if this Compact is passed, that those seeking federal control of the Lake are going to back off, or do we have any at all?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I suppose you want my guarantee. It may not be worth that much. Let me give you my judgment, though, and the judgment of most. I think it's the assessment of our congressional delegation and a number of others that there is not going to be appetite for federal legislation in the event that the states amend the bi-state compact. The main argument in favor of federal legislation these many years, and now, is that the states have not been able to agree. That's been the prime impetus behind the federal legislation movement. It's the judgment, I think, of both Paul Laxalt and Jim Santini as expressed by their statements, that this is essential to avoiding that. I would rather remove the primary motive and reason for the federal legislation. But I can say this to you. This Bill was opposed by the League to Save Lake Tahoe, because they saw it as an unwelcome competitor to federal legislation. And this Bill was opposed by many in the Brown administration because they saw it as an unwelcome competitor to the pending federal legislation, the Fazio Bill. After the Bill had been introduced in California Mr. Huey Johnson, Governor Brown's Director of the California Department of Conservation and Natural Resources in that State, announced to the press that he still favored a national recreation area. I can say to you that it is the judgment of those who know the Congress that they will not proceed.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

It's been my observation, I think with a lot of people that no matter what the states do, those people in favor of federal control keep on pushing, no matter what we do. I hope this addresses that problem.

SENATOR NEAL:

The chair recognizes Senator Wilson:

SENATOR WILSON:

I am told that those in the Congress, many of them who were prepared to

support the Fazio Bill, would much rather see the development of a bi-state compact amendment than to proceed with federal legislation. And the issue is very basic. We've had a good deal of discussion in Nevada about the Sagebrush Rebellion. At issue, it seems to me, is the fundamental question of whether or not the two states are going to assume this responsibility and proceed by bi-state compact to provide for, in effect, local administration of their own affairs within the Basin, or whether or not we are to abdicate to a federal agency.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

My second question I had, Spike, is what will be the future of the Cal TRPA?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

One of the measures obtained by those in California, including the City of South Lake Tahoe, was legislation providing a sunset on Cal TRPA, so that there would indeed be one agency. And Cal TRPA, under that legislation, and I have to confess to you, Alan, I haven't read it but it is reported to me, Cal TRPA will phase into a watchdog agency pending the development of the new regional plan and will ultimately phase out.

SENATOR NEAL:

The Chair recognizes Assemblyman Mann.

ASSEMBLYMAN MANN:

Spike, on page 30 of the Bill, line 8, section 3, it talks about new highways —

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Is this of the reprint? Of the Bill?

SENATOR NEAL:

The Chair recognizes Assemblyman Mann.

ASSEMBLYMAN MANN:

Yes.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Page 30?

SENATOR NEAL:

The Chair recognizes Assemblyman Mann.

ASSEMBLYMAN MANN:

Page 30, line 8—Is it correct that the plan does not provide the adoption of—I see, it takes a vote of both states—that we would preclude any kind of growth development in the future?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

So long as the state moratorium remains applicable. This is the state moratorium provision, I believe.

SENATOR NEAL:

The Chair recognizes Assemblyman Mann.

ASSEMBLYMAN MANN:

I thought that was a different aspect of the Bill * * *

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

The transportation plan is adopted by the agency.

SENATOR NEAL:

The Chair recognizes Assemblyman Mann.

ASSEMBLYMAN MANN:

Doesn't it take a vote of both states?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Not both states, no.

SENATOR NEAL:

The Chair recognizes Assemblyman Mann.

ASSEMBLYMAN MANN:

You see no danger—

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

No, because this is limited to the application of the Nevada moratorium.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

I have several questions that I would like to address to either Mr. Dini or Senator Wilson. In Article V, in the threshold you have a period of eighteen months in which the threshold carrying capacity of the Basin should be adopted. What happens if that agreement is not made between the two states, that you cannot get a dual majority from both states, what happens?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I think, Lou, the bottom line is, that if the two state delegations cannot get agreement on the fundamental provisions of the Compact, including not just the thresholds but the regional plan and its ordinances, I think then that we recognize the fact that the bi-state experiment is a failure, and consider liquidating it. What you are looking to is something so fundamental to the whole program.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

Given to past experience with the State of California, I don't put a lot of faith in their appointments which are being made to that board and I am not sure—we talk about all the good faith that we are showing California and over the past six years there has been absolutely no good faith from California towards the State of Nevada. And I am concerned about the appointments that the Governor of California—the present Governor—will make.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

So are we and we've said very bluntly that if the appointees to the agency are turkeys—I mean, I've seen this problem on a state agency or a committee of the legislature. You know, you have to rely upon the ability and judgment of the people involved. Now, if these fellows can't agree, then we've got some problems. But there's hope.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

I agree. At the end of the last session of the Legislature, we imposed a moratorium on the people at Lake Tahoe, the Nevada side, for a period of approximately six months, and when it was found that California was not going to consider that Bill, the moratorium went off and I didn't see any rush to the courthouse to start building, at least in the Douglas County Area. Now here again we are imposing on these same people approximately a two and one-half year moratorium while this whole thing is approved and what not. Has any consideration been given to putting a moratorium on the taxes that these people pay during that period of time? You are doing everything to take away their property rights and at the same time—

SENATOR NEAL:

Mr. Bergevin, what is your question? The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

I am asking—I asked him already; what the question was, has any consideration been given to placing the moratorium on taxes on these properties that you are placing the moratorium on building?

SENATOR NEAL:

Do you want to answer that? The Chair recognizes Senator Wilson.

SENATOR WILSON:

I think the answer to that is, Lou, that while we did not put it in a bi-state compact, I suppose that this Legislature has full jurisdiction to address that policy at the next session.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

Don't you think it ought to be addressed as a companion measure to this act?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

No, I don't.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

I just feel that you are taking their rights away and at the same time forcing them to foot the Bill for taking their rights away.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I recognize that, and—

SENATOR NEAL:

Wait a minute. Let's not get into an exchange or debate on the Bill. You can ask the question and the debate can come later when we—. The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

I have another question in regard to the number of houses to be built, Senator Wilson, and this is simply for clarification that I want to get a legislative record on. There is some concern that the permits to build single family residences under the provisions of this Bill will require a full review by the present TRPA. Staff member, Mr. Welden, indicates that is the case. I have talked to several attorneys who say it is not the case. Under the present rules and regulations, a single family residence that has been approved and a building permit issued can be built without a TRPA review. Could we get an absolute legislative record as to whether this is the intent or not, that an agency review has to be had on any single family residences?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Let me add what I said before, that obviously we're putting some faith in the delegates that go to TRPA. I recognize the potential for problems under a dual majority system, where they may structurally be unable to agree whether in good faith or not in good faith. Clearly, they have to define which projects do not require an EIS, and unless and until they do, your apprehension is a reasonable one. What of the guy who wants to build a single family residence? The difficulty is that we have to face the threshold question of whether you exempt out and risk disagreement and impasse, or whether you include and risk disagreement and impasse. We decided to put some faith in our people and say that we want them to decide what does not require an environmental impact statement and for that reason we made the judgment to go with the Bill in its present form. Now the record should be clear in response to your question and the intent ought to be unequivocal in this record if this body approves this Bill. That it is the intent and presumption, that legislation is to be applied reasonably and with common sense, that the jurisdiction vested is not to be abused, that equity is supposed to be applied to our citizens, and that if someone has a single family lot in an approved subdivision, that subdivision having passed muster, having been analyzed, having met the criteria and standards of TRPA, and having been tendered to the public for purchase and investment, that clearly the individual components or units of that subdivision ought not to require a separate, independent review or EIS. Now, I think that makes common sense and I want to state for the record that I think any governing body or agency that does not apply these powers that way is abusing its discretion and exceeding its jurisdiction as being arbitrary and capricious.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

Although you haven't really answered my question, I want to know what happens prior to the passage and approval of this Bill and the new TRPA governing body and place. How about the man that wants to build a home day after tomorrow? We've been told by Mr. Welden that man is going to have to have a project review by the TRPA governing board.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Same principles apply.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

You see, they presently do not. And this is what we want to have clarified very definitely from a legal standpoint because we have had—our attorneys have said that it appears that a home built under the present TRPA law, the way this Bill is written, will require a project review by the TRPA.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Let me defer to Mr. Daykin.

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

Mr. Daykin is the one I really wanted to have answer this.

SENATOR NEAL:

Mr. Daykin, do you wish to answer this? The Chair recognizes Mr. Daykin.

MR. FRANK DAYKIN:

Gentlemen, until this Compact—until the proposed amendments to this Compact are ratified by the Congress, they are not effective. Therefore, the law under the present Compact, the one ratified in 1969, will prevail until these amendments are ratified. There is nothing that I perceive in the state moratorium which would require review of a single family dwelling by the TRPA. Does that answer your question?

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

Yes, it does. I wanted that as a matter of record and I have one further question, Senator Wilson. In the expansion of the Sewer District Number One, you have language to the effect that before they can proceed, they have to identify the soil erosion problems, etc., and what not. Is that language tight enough that, let's say, the League to Save Lake Tahoe couldn't come in and say this requirement extends to all of the projects that might be built and that are going to place sewage into this plant. In other words, does that pertain solely to the site of the sewage plant or could it be expanded to include all of the homes that would be serviced by that expansion? There's room for considerable deliberation there with a good smart attorney.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

We're told the former. Joe?

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

Well, the concern of California was that they had understood that it was going to take them several days to modify that plan and they wanted to have agency review, actually, or project review, on it. This just causes them to identify the soil erosion problems to the agency and I think our intent was not to go beyond the actual site of the sewer plant.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Let me go to the language for a second. That language is pretty tough and pretty blunt and I am not sure I see any ambiguity. Referring to the expansion to three million gallons a day, it says: "Such modification," I'm on page 17 at line 23, "Such modification or alteration is not a project," the word in quotes and meaning project as defined by the act, and "project," of course, has jurisdictional significance—

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

I have no problem with that language.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Let me respond. The meaning of the term is jurisdictional. It means the agency may not review, it is not subject to the requirements of Article VII, and does not require a permit from the agency. That, too, is jurisdictional. 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.

SENATOR NEAL:

The Chair recognizes Assemblyman Price.

ASSEMBLYMAN PRICE:

The California legislature had something to say with regard to the appointments of the members. I was wondering what has been the philosophy of Nevada. I am just curious why the California legislature has had input into that and Nevada has not.

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

In the original Bill that we considered last session, the O'Callaghan-Brown Bill had that in there where the Speaker of the Assembly would appoint one. Our legislative counsel advised us that there was a constitutional problem, separation of powers, and took it out. There wasn't any difference in philosophy. California has a different way they operate.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

That was in Assembly Bill 503, wasn't it?

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

Is that true, Frank?

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN:

Yes.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

Mr. Chairman, Spike, I have some questions. On page 17 of the Bill, down on line 31, as to vested rights, the language says, "The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date." There is no definition in the Compact of the point in time at which a right vests and I thought—I'm not clear on it—I think I know, but I thought for purposes of the record, that maybe we ought to indicate, particularly for some people who may be in the audience here from the Lake area, a clarification on point in time in which the right vests.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Yes, so that the record is complete, we didn't want to try and get into a lot of artificial distinctions in the Compact and raise a whole series of new issues. But I think the case law generally is that if you have a permit and economic reliance upon the permit, you have a constitutionally protected vested right or property right to proceed with your project and the moratorium is invalid as a matter of law. What this language attempts to do is to recognize that. I dare say I think anybody holding a permit, and the record should reflect, probably has sufficient reliance and investment in his property to have a constitutionally protected property right to proceed with development, and for that reason, would. The case law generally is that you are constitutionally protected. We wanted to make some kind of recognition in the general language of the Compact of that fact.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

The next question is on page 21 and has to do with the bonding provision. We are concerned about this provision, as you recall in the last session. And particularly the track record—

SENATOR NEAL:

What line are you on? The Chair recognizes Senator Dodge.

SENATOR DODGE:

I'm on line 28 of page 21, paragraph sub. 7, there starting with "security required." That's the bond in case you file an action. We were concerned because a lot of the suits that have been filed at Tahoe simply as delaying actions were filed where the court imposed only a very modest bond, maybe a thousand dollars or so, we'll say, against a development which might have been losing tens of thousands every year that the litigation went by, and we were concerned about that and tried to address it. My question, I guess, is do we still expose ourselves to the same sort of problem in the future with some of the California courts?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

The record should reflect that we think not, and the intent is that we should not. We had this experience in the past, principally with people or non-profit corporations from time to time bringing actions in courts that don't normally exercise jurisdiction over the situs of the problem and don't really have appropriate venue. And I suppose the worst example was an action which was brought in U.S. District Court in San Francisco, which I think related to the Park Towers, which prevented the enclosure of the structure during the winter months. Let's see, I think the bond was something like two thousand dollars. The consequence of the injunction was many, many times more than that and the suit was ultimately dismissed.

The bonding provisions and the venue provisions go hand in hand, and they have to be read together. Rather than amend the federal judicial code on the criteria for bonding, or the state codes on our criteria for bonding, we instead chose to say specifically that if you are going to enjoin somebody from doing something with his property, you go to the court having jurisdiction over the situs. That means a Nevada court. I don't care whether federal or state, that Nevada jurist is going to be sensitive to the interests of the person affected and require a reasonable bond. The problem has not been with the Nevada court, it has been with the foreign court. The only exception to the bonding requirement is the agency enforcing its own ordinances. This means the League to Save Lake Tahoe is going to have to satisfy the bonding requirements if they seek to enjoin. They are not going to be immune. They don't like that, they bitterly fought this Bill, we didn't have their support either in California or here.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

Okay, my next question is on page 26; it has to do with the transportation district. Incidentally, I think this is a good provision but I have a couple of questions about it.

One, on line 33, where you prohibit the district from raising an ad valorem tax measured by gross or net receipts, a toll charge, in effect, and any tax on gaming, I would just like to ask, what are the remaining potentials, taxwise, when you rule all of those things out? Now I know they can charge a fee for riding on the monorail or the bus but what can they impose if you rule all of the things out that you have ruled.

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

Room tax.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

Room tax? Okay. Well, I guess that's one they could impose. The other question I have on the transportation district—

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I might say that is amendable, Carl, by the two legislatures without ratification by Congress and if it—

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

On lines 49 and 50 of that page, "The Legislatures of the States of California and Nevada may, by substantially identical enactments, amend this article," which is the transportation district article.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

Okay. Then my next question is as to the transportation district; suppose they get an operation—well first of all, a membership is generally comprised of representatives of the governmental entities in the Basin plus Nevada plus California. They get in business, and as with a lot of public transportation systems, they don't make money and they develop financial obligations. My question is, if that occurs, do those—financial obligations have a limited liability in any regard or does that become a liability of the counties in the Basin and/or the States of Nevada and California?

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN:

I think the shortest answer to that, Senator Dodge, lies in line 32. The district may issue revenue bonds and other evidence of indebtedness. The bonds would have to be secured only by receipts, and I think it reasonably follows that other evidence of indebtedness would have to be of that same kind, such as interim warrants or the like, in contemplation of the revenue bonds to be issued. There is no authority, even on the part of the district, to issue general obligation bonds and there is no provision whereby any bonds which it issued would become the obligation of any other government.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

Well, carrying it a little farther, and assuming that they had a loss experience and that they can't get revenue bonds sold, who assumes the liability that's developed of three or four hundred thousand dollars?

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN: They would be very imprudent, Senator Dodge, to incur any liability in advance of selling the bonds with which to pay for it. If they were so imprudent, I suspect you ought to have rich directors of the district.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

As a personal liability of the people on the part of the people who are going to serve? I don't know whether you are going to get takers on the transportation district.

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN:

I don't think you'd get any bonds issued under those circumstances, Senator.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

The other question I had: we have had a lot of suits testing the question of liability of the states on various matters: down-zoning, inverse condemnations, economic impacts on people. Generally, those suits have created an immunity from liability on the part of the states. Liability is limited. Now the moratorium provisions in the Compact which will be ratified by the Congress, I presume, would be in that category. My question is directed to the interim moratorium, the State of Nevada, at page 28 of the Bill. Are we clear that we do not have the potential liability on the part of the State of Nevada under this interim procedure as far as the delay that people may have in commercial developments or whatever, and secondly, well, maybe it should come first, is there some constitutional question as far as Nevada's authority to impair the rights to the use of property by virtue of its own state action on this interim moratorium?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Well, I'll answer it generally and Frank can supplement if he likes. I think not. I think, generally, moratoriums are constitutionally appropriate where you find it necessary for the health and welfare to do so, and I think in this case the record is adequate. With respect to the liability of the sovereign and whether or not there is any implied waiver, I think not. Generally speaking, let me say that we gave that rather serious attention on both sides because neither state wanted to waive sovereign immunity. Secondly, that language with respect to exempting the vested right has that rather deliberate application. If your right is constitutionally protected, and you impede it by a moratorium, then you may very well stand entitled to damages. The Compact says the moratorium—the state moratorium—shall not apply to one having a vested right. It seems to me it answers the question. It shall not apply if your right to proceed and develop is constitutionally protected, which is the requirement in the first instance for looking to the state as a liable condemning party or parties interfering with private property rights. It is a circular argument, but I think it is a valid one and Frank, if I am wrong, tell me.

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN:

No, sir, I think that Senator Wilson has completely covered all of the points that I intended to make upon the issue specifically of our state's liability. We waive sovereign immunity subject to exception. One of our exceptions was a discretionary act. Surely the act of this Legislature is eminently an exercise of discretion, not a ministerial act compelled by anyone else.

SENATOR NEAL:

Any other questions? The Chair recognizes Senator Hernstadt.

SENATOR HERNSTADT:

This is addressed to Spike. Could you explain, assuming this Legislature passes this as is without amendment and the Governor signs it, what scenario would have to happen after the interim moratorium period ends for there to be a permanent moratorium or very curtailed development, and in the alternative, the other side of that question, what would have to happen for there to be no moratorium, in other words, for the bi-state thing to self-destruct?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Well, with response to the last point, it self-destructs as of May or that month in 1983, which is the end of the two and one-half year period provided for the development of the regional plan and the threshold carrying capacity, so the compact moratorium by its own terms would self-destruct. Now with respect to the state moratorium under the language here, it will continue until the Congress ratifies. Next session, we will address specifically that issue if the Congress has not by then ratified. And if it has not by then ratified, we may provide a specific term where it may terminate. Of course, in that event, then you would have a hiatus, a non-moratorium period, between state moratorium and ratification by the Congress. It is our anticipation that the Congress will ratify within that period of time and the point will be moot, but if it's not, we'll obviously have jurisdiction and the expressed intent here today to proceed with the question. I don't know if I answered all of your questions or not.

SENATOR NEAL:

The Chair recognizes Senator Hernstadt.

SENATOR HERNSTADT:

In other words, assuming the Congress acts, then whatever plan that is developed will go into effect in substitution to the moratorium period. If there is no plan, then it's open season again as far as building permits go.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Yes, sir.

SENATOR NEAL:

The Chair recognizes Senator Hernstadt.

SENATOR HERNSTADT:

My second question is with respect to exchange of properties under the Santini-Burton Bill, or whatever else would come out, if it is determined that a certain area is undevelopable and is in effect ineligible to receive a building permit and the persons owning the private property in that area wish to get compensation, would the compensation be based on undevelopable park land or would it be based on a buildable lot for a house?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I am not sure I can speak competently on what the Santini-Burton Bill provides. The problem is whether you get caught in the Bureaucracy or whether or not you are paid a down-zoned value for your property. I think it is the intent of the sponsors of that Bill that fair market value does not mean down-zoned or parkland value, it means that value the property represented before the decision was made to include it in parkland. I suspect that clearly is the intent of the Congress, and you want to be sure that the administrator carrying out the congressional intent of the act follows that principle.

SENATOR NEAL:

The Chair recognizes Senator Hernstadt.

SENATOR HERNSTADT:

Does this Bill contain anything, or would the plan of development contain anything, to protect our Nevada residents from not getting paid off on a down-zone basis?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

No, this TRPA amendment Bill is not a property appropriation or acquisition Bill. The Santini-Burton Bill is; this one is not.

SENATOR NEAL:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Thank you, Mr. Chairman. There is no doubt in my mind that each and every one here knows that Douglas County's major concern over the last couple of years has been the Loop Road. And the Compact provisions, of course, speak to that, placing it in the moratorium with highways. We feel that the Loop Road is a local road, designed to protect the health and the safety and welfare of the citizens and also the visitors alike. A public comment was made by Mr. Dini at Tahoe that the pressure was so great from Adriana Gianturco and Huey Johnson that you caved in.

I want to know why—why you didn't continue to hold your ground on that area, and I want to know what the future is of the Loop Road.

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

Well, I personally don't consider that caving in, as you indicated, Senator Jacobsen. I wasn't going to buy light rail because I didn't know what it was going to cost—\$30,000,000, \$40,000,000. I couldn't put my stamp of approval on light rail and I think the indication from Senator Wilson previously that the Loop Road will be built eventually—it is going to take eighteen months to get the EIS prepared under California law because it is in California and under CTRPA rules—it would have taken eighteen months to complete the Loop Road, anyway. We feel that by allowing this transportation district to be created, and the new transportation plan to be developed by the agency, it will be accomplished but it will take a little longer.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I would like to make a comment. I was not privy to the remarks you were quoting, but I will make it clear on the record, there has been no cave-in during the course of these negotiations nor was there any implied cave-in, in the terms and conditions of this Bill. These negotiations were rather hard fought. I think from the description of the provisions that were negotiated to protect Nevada citizens and property owners, that anyone reading the Bill is going to be able to see that. I

know the Loop Road is an issue in your county. It was an issue with us. It was an issue a year ago when 503 was debated. I think the common sense of the situation suggests that the Loop Road ought to be completed. I think the City of South Lake Tahoe has found a way to do that. I frankly think that the voting procedures implicit in this Compact in which Nevada has a veto with respect to the transportation plan, and with respect to the carrying capacities, the regional plan, and the ordinances, rules and regulations, gives us a fair amount of insurance that the regional plan will be reasonable and that the transportation plan is reasonable and includes the completion of the Loop Road. I guess what I am saying is that we were not going to allow the aberration of the present director of the California Department of Transportation with respect to the Loop Road and impede and prevent the final closure of bi-state negotiations on this question, and we were simply not going to accept a light rail transportation system as the mandated method to provide regional transportation to solve the transportation problems.

SENATOR NEAL:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Can I ask, then, if you would support a resolution during tomorrow's session that would say that if this Compact is ratified by us, that the Loop Road would be number one priority in their consideration?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

In whose consideration?

SENATOR NEAL:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Under the new agency.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I have no problem with what you are saying. I do have problem with whether or not we want to proceed with collateral resolutions. They are not jurisdictional. If you are talking about what the record may reflect with respect to the intention of this legislature, I have no difficulty with that. My problem is not with the principle of what you are saying, and I don't want to be misunderstood on this point. I think there is a serious legal question any time you offer resolutions that don't contain the same jurisdictional language that is in the Compact, and for that reason is not binding. For that reason some court may find that because there are differences, the content of the resolution is impliedly rejected. I think there is some risk in that. But if you are saying to me, do I support the proposition that they ought to expedite development of the Loop Road, certainly. Certainly. The City of South Lake Tahoe seriously contended in the California Legislature for the completion of this Loop Road. They thought the Compact sufficiently valuable to the interest of local government and the interest of the two states to withdraw their opposition to the Bill even though it did not mandate the completion of the Loop Road. They want very much to have the Loop Road, more so than many people in your county, and certainly mine, because they live with the absence of the completion of that road from day to day, but you can ask John Cefalu, the Mayor. He will be here today. They withdrew their opposition to the Bill although it lacked provision for the Loop Road completion, but they felt they might simply impede its passage in light of the close vote that the Legislature was experiencing at the time they voted on it. I agree with you. I think everybody in the room does. The question is, do we turn the Bill down because it does not mandate the completion. But on the substance of the matter, you are absolutely right, and that it has not been completed long ago, I think, is a serious question and reflects upon the responsibility exercised by those having jurisdiction over the road who have prevented it.

SENATOR NEAL:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Well, Senator, I would think that the incidents of the last few weeks have certainly proven beyond a shadow of a doubt that now it has become a matter of life and death, and if we can't adhere to that, then I think we are somewhat in sad shape. I guess my concern is, and you spoke to it and almost everyone else, is the intent; but what that agency does is another thing and that is something we have to cope with locally. I have another question that I would like to pursue and somewhat follows Senator Dodge's questioning. In doing a little research, I found out that there are still twenty-five suits pending. I was unable to determine what the value would be of those suits and that is something that cannot be predetermined. I would like to have a little expression from you as to the obligations that you feel this state is going to be subject to. I guess I should broaden it a little further to the fact that what would have happened in Harvey's incident if a number of people were killed on Highway 50, what is the obligation of the state and what is the obligation of the county?

SENATOR NEAL:

Is this question in connection with the Bill? The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Certainly. I think it is certainly a part of it.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Jake, I don't know how I can answer your question. I think with respect to road design, state or local governments are liable if you can prove a defect in design which presents a hazard, and then to the extent only that the state has waived sovereign immunity to suit and made itself liable. You are talking about the failure of the State of California to complete the Loop Road and assuming that somebody can prove that but for the completion of the Loop Road that they would not have been injured, I don't know that Nevada or Douglas County would be at all liable. The question is a bit hypothetical. If your question is that is the county at risk, or the state, I don't think so. I think it is apparent. It is insanity not to complete the Loop Road for a whole variety of reasons, and they don't all relate to air pollution. They obviously relate to public welfare and safety. I couldn't agree with you more.

SENATOR NEAL:

The Chair recognizes Senator Blakemore.

SENATOR BLAKEMORE:

Just a comment as the Chairman of the Transportation Committee in the past session. Ms. Gianturco was adamant at that point, and if Governor Moonbeam remains over there, I assume she will, too. I don't think you are going to get anything done until she is gone.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

Senator Wilson, getting back to Assemblyman Price's question, what was the thinking behind having our Secretary of State on this?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I guess we made that judgment in the last session, and we attempted to stay with Assembly Bill 503 to the extent that we could. That is, we did not go back and rethink the decision made at the last session with respect to the membership.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

Is he a valid person to have on there?

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

If I am not mistaken, in the 1977 session we had the Bill which came from the Senate, having that in there; it was a debate between the Lieutenant Governor and the Secretary of State, and Secretary of State won.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

There was no other discussion of considering another person?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I think the reason was, and I think it does provide for his designee, but I think the theory in 1979 in making that provision when we did and in preceding Bills that we passed that were not accepted by California, to get somebody with a statewide constituency. He is not going to be torn and influenced by whatever the local conflict might be over some kind of a policy question the agency had to decide. The whole idea was to provide some balance and perspective and distance, if you will, from local turmoil. It wasn't to tilt in-basin or out-of-basin or local versus state, it was to provide some perspective and distance for a balanced and reasonable decision that wasn't caught up in the partisan questions within the given county or within the Basin itself.

SENATOR NEAL:

The Chair recognizes Assemblyman Glover.

ASSEMBLYMAN GLOVER:

Thank you. The final question is, "If the Compact is approved, what will be the ultimate population of the Tahoe Basin?" Do we have any figures on that?

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

I don't think that can be determined until the two and one-half years is over when the plan is developed and see what the regional carrying capacities are.

SENATOR NEAL:

The Chair recognizes Senator HERNSTADT.

SENATOR HERNSTADT:

Spike, with respect to the possible taxes for the light rail system, someone suggested the possibility of a room tax. Would an additional surcharge on gasoline sold within the Basin or a sales tax be permissible under that provision?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I don't know whether the district has those powers or not. They certainly could be given powers from time to time as the history develops that they may be needed and the states agree from time to time. We don't need the Congress for that. I think our approach to this was to be conservative and not give a lot of taxation powers without seeing how it goes, how well it functions, whether the agency is

responsible in developing its transportation plan. It is an attempt to ease into it, in a rather conservative way, to test the water, if you will. We have precluded a lot of taxing authority but, candidly, it was deliberate. It is a cautious approach to this question. Now, in specific response to your question, I didn't mean to divert with a speech, Counsel.

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN:

Counsel has been having some difficulty with that question over the past couple of days. My curbstone view is that an excise such as you describe, a tax upon a specific item such as gasoline, or a local sales tax or a room tax, probably would be permissible. The language which prohibits any tax measured by gross or net receipts is the only provision in there which causes me to entertain any doubts. I think since the provision is open to amendment, I am going to hedge upon a final answer.

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

One of the reasons that language was put in there, a tax measured by gross receipts, is to prevent the district from putting a gross gaming tax on.

SENATOR NEAL:

The Chair recognizes Assemblyman Robinson.

ASSEMBLYMAN ROBINSON:

In the period of time that California reneged on contributing to the agency, it is my understanding that we continued to pay our share as an act of good faith, is that correct? Was there any discussion of California paying up their arrears?

SENATOR NEAL:

The Chair recognizes Assemblyman Dini.

ASSEMBLYMAN DINI:

I think Nevada not only paid it in good faith but they wanted to keep the agency alive because it was our only thing going up there, and we wanted to continue the agency and show California that it could be effective. It all worked together in the negotiation, and I think our Governor was responsible in keeping that agency alive with our contribution going in there.

SENATOR NEAL:

The Chair recognizes Assemblyman Robinson.

ASSEMBLYMAN ROBINSON:

Well, I thought maybe as an action of good faith on their part, they might decide to put that back in.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

We agree with you, and we went it along, as you know because you can cause the demise of an agency by failing to fund it; and you can cause the demise of an agency by failure to reach bi-state compact; and that has been the Brown administration's policy, I think, to opt for a federal agency. If you bankrupt the agency, you don't have it anymore. The whole policy of the state has been two things, I think: 1) continue with the funding to keep it alive, pending viable bi-state negotiation and amendment, and 2) to amend the bi-state compact so that the states can handle the problem and not have a federal agency. We picked up that part of the tab and California did not pay its share. You are quite correct. I disagree with Governor Brown's policy. I disagree with his position on the solution for this Basin. I disagree with his lack of support of this Bill, and I disagree with the fact that John Garamendi and Vic Calvo had to obtain passage of this Bill over him and

without his help; and it was tough. That has been one of the problems in this relationship and I quite agree with you. It was not a responsible act.

SENATOR NEAL:

The Chair recognizes Senator Dodge:

SENATOR DODGE:

Mr. Chairman, I didn't catch Mr. Robinson's question clearly. Did he say will they pay up the arrears or up to their rears?

SENATOR NEAL:

The Chair recognizes Assemblyman Getto.

ASSEMBLYMAN GETTO:

Spike, the question I have is, will the appointees on the California side serve beyond the term of the Governor or will they be at the will of the Governor when the new Governor is elected?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I don't recall what the Bill says.

SENATOR NEAL:

The Chair recognizes Assemblyman Getto.

ASSEMBLYMAN GETTO:

The question I have is that you pointed out a little while ago, Governor Brown will only be in there for two years, and the fact is, that I am as concerned as my colleagues Senator Jacobsen and Assemblyman Bergevin, because of his track record, and the other fact is that turkeys don't usually appoint eagles.

SENATOR NEAL:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Mr. Chairman, I have one other question for Spike and Joe. I guess the paramount question in Douglas County is why the county commissioners, local government elected officials, private property owners, those other people that have a very direct interest in Tahoe, were not considered as you went through the process, which I am not happy about. You already know that, but I would like you to speak to that for a moment because I think that our philosophy of government of the people, by the people and for the people has been somewhat circumvented in this case.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

I will try to answer that as best I can. I am not going to represent to you that the negotiations had were anything like public hearings, and I quite understand that is not quite representative, and you are absolutely correct. I suppose, ideally, you would have some kind of public hearing in which a body would make a decision after taking testimony. That is the way we are used to doing things here. That is the way your county commission is used to doing things, and they exercise their jurisdiction upon a public hearing where somebody can come in and present their views, and then they decide. The problem here is that we were not exercising jurisdiction. We tried to do the best we could. That left a lot to be desired. I suppose it was difficult because we weren't exercising jurisdiction as a legislative committee voting to recommend, or a board of county commissioners voting to exercise their jurisdiction by a decision. What we had to do was negotiate and develop a Bill which had sufficient consensus to pass both houses. It is difficult to negotiate in the kind of form you are talking about because it is not like making a decision. You have got to bring both groups, California and Nevada, somehow together. You are absolutely correct. I have no quarrel with what you are saying. It is not

optimum. It is not a perfect procedure. It is limited, I suppose, by the inherent difficulties of trying to get this compact together. We had a series of tactical problems, as I alluded to a minute ago. The Brown administration has been committed, as is the League to Save Lake Tahoe, to a federal agency. You know how difficult the discussions were during the last session in which the Brown administration directly participated. They did not in these discussions, and they did not because we were not in a public hearing, an adversary kind of environment where public interest would draw them in as a matter of course. Now you pay for that some place. We tried to create an environment where we could sit down and have quiet, rational discourse, and try to come to more balanced provisions that might be acceptable to this state. I think we got more done that way. It's frustrating. I have apologies, as I said before, to those people who wanted to come in to a public hearing and express their views prior to the time we recommended a Bill to you. But I've got to say that I don't have regret for the way we proceeded because of the practical circumstances that applied. It compelled this way of proceeding. What we tried to do in lieu of a series of hearings which would control negotiations is to proceed by consultation, and along that line, we talked to a great many people, including yourself, including the Chairman of your County Commission. And I might say a good many of the concessions we were able to negotiate, and the tailoring on some of these particularly troublesome parts of the compact, were developed because of that kind of consultation, the shaping of the moratorium, the exemption from project review, which I think is extraordinary, of the Douglas County #1 Sewer District up to 3.0 MGD. You are quite right, and all I can say to you, Senator Jacobsen, is that we tried to make up for it by adequate and sufficient consultation. It proportionately contributed to our ability to bring the two states together in agreement. It was difficult. It left a lot of people frustrated. The League to Save Lake Tahoe is frustrated, believe me. I think Governor Brown is a little frustrated because he did not help on the Bill, he didn't sign it for a while after it was passed, and after he did sign it he didn't tell anybody for three days.

SENATOR NEAL:

The Chair recognizes Assemblyman Getto.

ASSEMBLYMAN GETTO:

I never did get an answer to my question. Since the Governor did drag his feet and it could, in effect, make the compact ineffective by appointing the wrong type of people on the commission, I am wondering how long will they serve? Will they serve at the will of the Governor? In other words if a new Governor is elected, can he appoint new members or will they serve four, six or how long?

SENATOR NEAL:

The Chair recognizes Assemblyman Bergevin.

ASSEMBLYMAN BERGEVIN:

Senator Wilson, it is on page 7, right at the top. They serve at the pleasure of the appointing authority with the exception of the Secretary of State and State Department of Resources.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Then the answer is, those appointees will not be full terms and hopefully will be more responsive. Whether or not we are going to get quality people from the other state, we will have to see.

SENATOR NEAL:

The Chair recognizes Assemblyman Price.

ASSEMBLYMAN PRICE:

In the fiscal note, it indicates that there is no effect on local government, but in the Bill it does have monetary amounts; \$18,000, \$12,000, that have to be paid by the various counties and cities. I was wondering if that is a mistake or is there something I'm missing?

SENATOR NEAL:

The Chair recognizes Mr. Daykin.

MR. DAYKIN:

This Bill, Mr. Price, does not change the amounts which were payable under Assembly Bill 503.

SENATOR NEAL:

The Chair recognizes Assemblyman Westall.

ASSEMBLYMAN WESTALL:

I think there is a good deal of confusion among the legislators. Isn't it a fact that nothing in here can be changed unless both of the states pass a Bill agreeing to it? There has been a lot said about "in good faith," and what they say they will accomplish next session on the California side, but isn't a fact that we, by ourselves, can do nothing to change this Bill?

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Well, you don't have a compact unless you agree, and the agreement has to be consistent or complete between both states or you haven't reached a contract. The points that I think you are referring to are the two technical corrections where in the process of final drafting in California, two items were treated erroneously. All I can say to you is that I have the commitment of the lead sponsor of the Bill that those questions are going to be made. If your question is a jurisdictional one, that they won't be made unless both states agree, you are quite correct.

SENATOR NEAL:

The Chair recognizes Assemblyman Westall.

ASSEMBLYMAN WESTALL:

The question that I want to get across to everyone of the legislators here—many of them have said that we will be able to make the changes ourselves—and I want the point across that we cannot by ourselves. It has to be with the California Legislature, because I do believe that is a large point.

SENATOR NEAL:

The Chair recognizes Senator Wilson.

SENATOR WILSON:

Amendments changing the agreement, meaning that the other party then has to be asked to agree with the amendment, and that means going back to the other state their next session, and they are not in session now. You are absolutely correct.

SENATOR NEAL:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Mr. Chairman, not in the form of a question, but I would like to inquire as to what the formality will be for this afternoon. The reason for that point is to determine whether the people who are here to be heard, will be heard.

SENATOR NEAL:

The formality this afternoon will be that we will go into the pro and con testimony, and we have you very high on the agenda to give a statement, Senator Jacobsen, along with Senator Gibson and a few other people. Yes, those people who signed up will be allowed to give testimony in reference to this Bill, be it pro or con. We are going to recess this hearing until 1:30 this afternoon, and I understand the legislators have been invited to a luncheon at the Governor's house at 12:15 p.m.

ASSEMBLYMAN DINI IN THE CHAIR.

ASSEMBLYMAN DINI:

It is our intention to take testimony now from the public and we'll lead off with Senator Gibson, the Senate Majority Leader. The Chair recognizes Senator Gibson.

Senator Gibson:

Chairman Dini and Chairman Neal, members of this special committee. I appreciate the opportunity to make a brief statement on this important matter which is before you today.

When we convene in Special Session tomorrow morning, it will be the third Special Session I will have attended, prompted by Nevada's concern for the preservation of this exceptional natural resource. In 1964, at the call of Governor Sawyer, we established the state park and authorized the expenditures which allowed the acquisition of certain lands in the basin. In 1968, at the call of Governor Laxalt, we passed the Bill that set up the TRPA. Tomorrow, at the call of Governor List, we will consider important amendments to that compact which will hopefully take care of points of contention and disagreement between parties to the compact which have kept it from being the effective and influential agency visualized in the original concept.

I suppose there is no more difficult area of legislation than this type of law. So many different interests and ideas must be welded together and then expressed in words that mean the same thing to those diverse interests. There must be a delicate balance of all the factors involved to the point finally of agreement between the parties. In this case, the states of Nevada and California, and the federal government. Considering the great gulf that developed between these parties in the last few years, I think it is remarkable that we have been able to reach the level of agreement represented in the legislation that we are looking at today. I personally feel that much credit should be given to Senator Wilson and Assemblyman Dini in their perseverance and tenacity. I have supported their efforts as the negotiations have proceeded. I think the result of their efforts is workable and realistic.

As in any negotiated settlement, there are obviously parts of these changes which will not satisfy everyone in their fullness. I am sure this was a concern in California as it is for Nevada today. However, the whole process of legislation involves compromise and that is nothing new to any of us who sit on this committee today and in the two houses tomorrow. There are compromises in the language proposed here. Some of them strengthen the point of view represented by our actions in the last session, some of them weaken that point of view, but taken in total context and in summary, I feel that the point of view represented by our legislation is substantially supported.

I do feel it is important that we act while the momentum and feeling of agreement represented by this legislation is still building. The California legislature has acted and Governor Brown has signed the legislation based, in part, I am sure, on the implicit assurance that we would consider this matter favorably and positively. I think it is important that we so act.

In considering our responsibility here, I think we must keep in mind the alternative of more direct federal interventions in the Basin that will surely result from inaction or defeat of the proposal before us. I think that Nevada and California working together can do a better job of preserving this beautiful resource for the future generations than the bureaucrats in Washington, D.C. It seems to me that in this respect, support for this legislation is in strong harmony with the road we are now pursuing as state policy in attempting to gain more control over our own destiny here in the west.

Finally, I still have in my mind's eye my first sight of Lake Tahoe. It was nearly 50 years ago when as a small boy I was returning with my family from a trip we had taken to visit my mother's uncle who lived near Sacramento. We were returning home by way of Placerville and came to Lake Tahoe on that road — which no longer is in use. I can still remember coming to the summit before descending into the Basin and as we topped the summit the vision of Lake Tahoe — much like a beautiful emerald — burst upon us. It was in early summer and the mountains were still snow capped forming a perfect back drop to the lake. Young as I was the sacredness and significance of what I was seeing sank deep into my soul and I have never forgotten it. I have travelled somewhat in this world since then but I have never seen anything to equal the breathtaking view of that experience.

Now things have changed a great deal in 50 years. And we can't hold things in nature in a still frame like a photograph but we can try to maintain the semblance of those things of beauty which are valuable. We have a continuing responsibility as elected representatives of the people of this state to make the effort in this case. I hope that your examination of this piece of legislation will cause you to come to the conclusion that it should be supported and passed tomorrow.

Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Senator Jacobsen.

SENATOR JACOBSEN:

Thank you, Mr. Chairman. Fellow legislators, I find myself in a very difficult position today, as I am sure most of you realize. A great deal of my concern and disagreement today comes with how the process is handled. Of course, that pertains to us as legislators, as to whether we think the process is proper and put forward in a proper manner. I am sorry that Senator Young is not here today, because I am sure he would be in his glory to realize that we are having a hearing on a Bill today that does not have a proper number, does not have an Assembly number or a Senate number. It is a Bill that certainly had the privilege of being preprinted. We have no facilities for prefilng it, and this was Senator Young's real concern in a couple of sessions past trying to improve the legislative process. I feel that our role today as legislators is somewhat questionable because we are here as a committee taking testimony on a Bill that has not really been presented to the Legislature. I personally feel that this is leadership's responsibility. I think that this session was rightfully called by the Governor because the situation does warrant it, but it should have been called in a manner that each House organized itself, realizing that leadership could change, if that was the desire of either body. The Bill could have been properly introduced, properly numbered, had a proper sequence, and that, of course, follows with the procedure in a regular session. Now, be that as it may and I have wrestled people in research and our legal counsel this past week and realize that this body has the authority to do anything within its power to do. I know that is a reality. I would say that the greatest concern for my constituents was the mere fact that they were not involved. It is pretty difficult for a legislator to receive a call that asks, "How come?" and you really don't have an answer. It almost implies that you are not doing your job, and certainly the embarrassment that comes with that is not pleasant. The history, of course, of the Tahoe legislation goes back a long ways and I can say that I started with it. I have felt over the last twelve years that has probably been one of the greatest faults—that the county that is affected the most received the least attention. I have to say that I admire the public officials of Douglas County for the job they have done in these last twelve years. Never once have they sidestepped the issue, never once did they back away from any type of commitment, and you will have to agree that the Lake is better off today because of that. The Legislature took credit for maybe a lot of things, red-lining, whatever you want to look at, in the Bill, and, as you go back and research history, you find out that Douglas County was usually the fore-runner in those areas. It is especially difficult to respond to legislation such as this, and I think that was very evident here this morning, that many people were not sure whether we were talking about the printed Bill or whether you were dealing with the mimeographed copy. There again, I think, the urgency—there was a great demand—but we should have assured the general public and ourselves that each one of us was tuned in on the same piece of paper. I guess maybe that's the fault of our system, but I think those are the things we have to guard for in the future because if we cannot inform our constituents, or we ourselves cannot be informed properly, how can we respond to it. And I would just guess in my own mind that I bet there's probably fifteen out of the sixty here that fully understand this thing, and I would be one of those who do not understand it. So I think this is an area that is really hard to respond to. I wonder, sometimes, and especially lately, whether any one of you could impose the kind of restrictions that this legislation calls for in the area you represent. If you were trying to perpetuate this in Clark County, I am sure at the next session there would be a good many new faces here. And I also say in respect that we in the small rural counties could not survive without the respect you have given us, for legislation that we're truly concerned with,

and hold close to our hearts. People in Douglas County aren't any different than they are in the other sixteen counties. We're the same, we carry the burden that the legislature many times puts upon us, we have certainly contributed our fair share. Last year, Douglas County contributed \$3,286,000 in sales tax, \$15,573,000 in gaming fees, \$541,000 in gasoline tax, and so on and on it goes. By that same token, we are one of those counties that very seldom comes to the legislature and asks you to help us with whatever our problem might be. And I guess that brings me to the point today of sincerely asking each and every one of you that the commitment you make today is not only for today, it's for the years to come, because there is no way in God's earth that Douglas County can take the Kahle site out of development on its ability; they have gone ahead, with the option of the \$250,000, and that's been a chore that I doubt whether many sitting here would have tackled. Our own chairman of the county commission was up for recall and thank the good Lord that that didn't materialize because there weren't enough signatures, and I am sure the feeling was there, because many people in Douglas keep telling me, "You know, they say that Lake Tahoe belongs to everybody." You bet it belongs to everybody, and everybody should pay for it then, and I think that's where we are. So in the sessions to come, I know we are going to be back here asking you to continue to support something that today you are going to vote on. I think we find ourselves in a position today where it is maybe a little bit unrealistic due to the fact that we are kind of caught up short for the sake of time, and the amount of time we have had to explore it. I question some of the procedure back as far as February in our own commission. We have had two meetings since then, and of course I was completely disturbed because we did not seem to follow correct procedures and I admit, that as our counsel has told me, that on the legal side that is a possibility. But I think there are two other issues here that are important, too, and that's the ethical standards that we ask each other to abide by. I think it even becomes a moral issue sometimes. I think each one of you knows where I stand on the issue, and I can almost say that I know where you stand. I have a letter here that I received just a few moments ago and I would like to read it, Mr. Chairman, with your permission, because I think it kind of puts forth the sentiment of one property owner. I would like it for the record.

This letter comes from Stephen H. Bourne, Zephyr Cove: you may recall the name, some of you, and it says:

"Gentlemen:" (and I am sure he meant the ladies also)

"Due to family health problems, I am unable to address you in person today. However, I would like to go on record as opposing the proposed bi-state compact revisions, in that they prohibit further subdivisions of property, while the taxes being levied are based on such a possibility. I am faced with being required to pay in excess of \$80,000 per year in real property taxes, yet I cannot sell or develop these properties. In addition, Nevada is giving up exclusive control of gaming, and yielding control to the bi-state agency. As a resident and taxpayer of Douglas County, I find this deplorable, and it may jeopardize our county's financial capabilities should restraints be placed on gaming. Moreover, I object to the fact that these revisions were agreed to without local representation and the fact that no amendments or additions may be offered. I can only conclude that the deal has been made, and your hearing today and the debate tomorrow are only for show. Respectfully, Stephen H. Bourne"

I would like one other thing entered in the record, if I may, Mr. Chairman, and this is a letter that came across my desk just yesterday. It conveys Douglas County's commitment and also shows how it has committed itself in the past. And this was addressed to the Environmental Protection Agency in San Francisco.

"Douglas County, by securing an option on the Kahle casino site, at the cost to Douglas County of \$250,000, was instrumental in enabling the Forest Service to purchase the Jennings casino property. Cost of the Jennings site was \$12,500,000. Restoration of that site is now under way at a cost of several hundred thousand dollars'...(and for those of you who have been in the area lately, that project is almost completed)..."Removal of these two casino sites by purchase is a tremendous step towards protecting the environmental quality of Lake Tahoe. The Loop Road has been completed on the Nevada side. This effort was a result of cooperation between the State of Nevada, private casino interests, and Douglas County.' (I

would also add that, even we, as legislators, have had some hand in this because there was a commitment from the Highway Department and there is probably about a million dollars involved in a bypass road that is sitting idly there and not being used. It is somewhat strange. I walked the area again, about two days ago, I guess to develop my own perspective and make sure that I was being reasonable and justified in my thoughts. As you look at the Loop Road that is not completed, it looks no different than the West Side Loop Road, has the same kind of connections, back into the core area, or to bypass that core area. I have yet to hear one complaint, from either Nevada or California people, as to the completion of the one portion of the Loop Road, and realizing that traffic entering on the Nevada side dumps into California right in the area of all their motels, I haven't heard any complaint about that. I think one of the other things is, and I would like to commend South Lake Tahoe for their efforts, also, to complete that Loop Road. If that's not significant enough, that the two areas affected want it, and then the State of California in its wisdom says, "No," or let me say that probably three people are saying, "No," in California, and I just don't think that is proper). "The casinos, at the request of public agencies, have installed sophisticated drainage and treatment facilities, to improve water quality amounting to hundreds of thousands of dollars. The county, in conjunction with soil conservation service and local districts, is doing major erosion controls in the Basin. Additionally, the Forest Service has successfully obtained other lands in Douglas County, including Bliss properties, Rabe properties, and properties in Zephyr Cove. The Douglas County Sewer Improvement District has spent one million dollars to insure continued effluent quality compliance in the Carson Valley. The various projects undertaken amount to approximately seventeen million dollars, and adding the purchase of the Kahle site, will increase that amount to \$24,500,000. This expenditure of federal, state and local agencies and by Douglas County in the name of preserving the quality of Lake Tahoe, cannot do anything more but point to the high commitment Douglas County and other agencies have for preserving that area. Douglas County also has a commitment to provide essential services to lots and projects already approved. Consequently, it is important for the Environmental Protection Agency to look favorably upon continued funding to the Douglas County Sewer Improvement District for upgrading and moderately expanding the treatment facilities." I read this letter mostly because I want to not only prove to you but to let you know that our efforts are not ending, they are continuing and we are seeking the help of others to help us. One of the main questions that comes to my mind is, "How much further we can ask Douglas County to go?" I am sure most of you realize that a great deal of the effluent from Tahoe now comes into Douglas County, and also that of the solid waste from South Tahoe. I am glad, Mr. Chairman, that you mentioned that the fish were dying at Lahontan, because I just want to say to you some of that effluent is coming out of California and maybe there is a message in it.

I think, by and large, we've certainly done our share of the work to keep Lake Tahoe pure and clean and the way each one of us would always want to see it, not only for ourselves but for our children. In closing, I would just ask that each and every one of you, as you make your commitment towards this proposal, not only do it for today but for the future, because it is not Douglas County's responsibility alone, it is the responsibility of everybody. Not only Nevadans, but everyone throughout the fifty states. The responsibility, of course, lies with us, because any money we are going to commit has to come through us. We had a meeting day before yesterday of interested people, including all the elected officials, to try to raise money by public or private funds. I was pleasantly surprised as we started the meeting, to find an envelope that was delivered containing a check from a party in Zephyr Cove for five hundred dollars. Believe it or not, the fund is starting with about \$600, so if any of you are so inclined, we not only look for your support but for your contributions. Thank you.

ASSEMBLYMAN DINI:

Thank you, Senator Jacobsen. The next speaker is Zane Smith, the regional forester of the U.S. Forest Service. The Chair recognizes Mr. Smith.

ZANE SMITH:

Chairmen Neal and Dini, ladies and gentlemen. My name is Zane Smith, I am the Regional Forester for the Forest Services, Pacific Southwest Region. I wish the

nation's people might have had a chance to listen in this morning on these discussions. I think they would have been left, as I have been, with a great amount of admiration for Senator Wilson and you, Assemblyman Dini, for the tremendously difficult and superb job that obviously you have done. The Forest Services appreciates this opportunity to appear before you in support of the revised Lake Tahoe Basin bi-state compact. I have a short statement.

On May 30th, the President recognized Lake Tahoe as a national treasure and an area of national concern, stressing that the environmental quality of the lake must be protected. He further pledged that the federal government will continue to work closely with the states, a regional government, and others concerned to protect the Lake's unique qualities. He urged that the states of Nevada and California to try once again to work out an effective bi-state compact agreement. It appears that you are on the verge of completing such an action. Negotiators from both states have worked long and hard to develop a new and workable agreement. We commend you. There is general consensus that the old compact had some serious flaws and indeed, it needed improvement. Both states had very serious concerns and anxieties about finding the appropriate language for correcting these deficiencies. We have followed your negotiations very carefully and have a sincere desire to see the resolution of these differences, knowing that a divided Basin would have serious consequences. Although not perfect, the revised Compact before you now is a major step towards improving the management of the Tahoe Basin. Certainly it signals a commitment of governments at all levels to work together towards resolving the very tough environmental and economic problems that face us. Most importantly, perhaps, it recognizes the essential role of state and local governments, as well as local people, in guiding and shaping the future of Tahoe. We wholeheartedly urge that you support this compact, which has already been endorsed by California, through rapid enactment tomorrow. The Forest Service and the other federal agencies involved stand ready to work as partners with both states and local government through the revised compact provisions. It is my belief that this compact, which does offer meaningful roles for the states and the local governments, is the most viable approach for stabilizing those discouraging environmental trends that we have sometimes observed at Tahoe.

Mr. Chairman, this concludes my statement. We, again, genuinely appreciate your courtesy in allowing me to appear before your special committee. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Assemblyman Price.

ASSEMBLYMAN PRICE:

Chairmen Neal and Dini, ladies and gentlemen. Thank you for your indulgence. We are going entirely off the subject. As most of you will remember, during the last session we passed a Bill that provided for the creation of an aeronautical chart which would be quite familiar to pilots—they are called "sectionals" in our term, and many states have them, but Nevada did not. We now have our final copy off the press, and they are being handled through the Department of Economic Development, and they actually are not even selling them yet, and I thought that today might be a good opportunity, since we are all here,—they are \$3.25 a piece, and listen, I think these are going to be a collector's item. They are beautiful overlay, done by Gauche Company, and what I am going to do is send around a tablet and anybody that wants to get one or more, put your name on here and I will write a check. They won't let any of them out. I had to buy every one that I got. And we'll send somebody over and get some before they close. But they are very beautiful maps and they have them folded like this; they also come in a tube so you can roll it out and mount it to be on your wall or something of that nature, and so I am going to have the pages pass this around, and if anyone wants to get one, I think it would be a good investment, I really do, just as a collector's item. And at least the Legislature can see something that we did, and you can look at it and you can hold it in your hand. Thank you.

ASSEMBLYMAN VERGIELS:

Is Lake Tahoe on that, Bob? Mr. Chairman?

ASSEMBLYMAN PRICE:

Yes, Lake Tahoe is on this.

ASSEMBLYMAN VERGIELS:

Would you point it out, please, so we can see where it is.

ASSEMBLYMAN PRICE:

Would I do what?

ASSEMBLYMAN VERGIELS:

Would you point out Lake Tahoe on that?

ASSEMBLYMAN PRICE:

Yes—we moved it all into Nevada.

ASSEMBLYMAN DINI:

The Chair recognizes Maurice Bidart from the Nevada-Tahoe Conservation District.

MAURICE BIDART:

Chairmen Neal and Dini, ladies and gentlemen, I am Maurice Bidart. I live in Incline Village. I am the Chairman of the Nevada-Tahoe Conservation District and I am the citizens' representative on TRPA Advisory Planning Commission. And I don't think I had enough of these—I scattered some of them around on the tables, so if anybody wants any more, let me know later. Anyway, enclosed for your information is a copy of the letter from the Lake Tahoe RC & D Council pertaining to the revision of the Tahoe Regional Planning Agency compact. Also a copy of the letter from Senator Ray Johnson expressing his deep concern along with that of Assemblymen Waters and Chaffee, over the process used in developing the proposed amendments to the bi-state TRPA Compact. We share those views for the same reasons, that we will not be represented by our elected officials both at the state and local levels in a fair and equitable consideration of local concerns. We hope that you will do all in your power in the upcoming session tomorrow called by Governor List to rectify this seemingly minor point, but one which is very critical in our estimation, to the success of a rejuvenated Tahoe Regional Planning Agency. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Ray Knisley.

RAY KNISLEY:

Chairmen Neal and Dini, ladies and gentlemen, I am a little bit nervous of being this side of the place where we used to stand down below, where I could vote against you occasionally. As you probably know, Tahoe has been one of the most discussed affairs we have had ever since about 1920. There are those here that have been working assiduously since that time to try to get something done on it. More cockeyed schemes have been proposed and discussed than you can shake a stick at. We have had everything from creating a new state to creating a national park. And we finally boiled it down in 1969 to the existing compact, which is now bad law. It just has acquired a bad reputation, but it is definitely a bad law. The buck has been passed down now to you. As President Truman said, "This is the end of it. It's up to you now. You're either going to sink or swim on what you do in the next few days." We are up against the issue of state and local government as against federal government. Now it's real, it's serious, our Washington people have warned us that unless we do something, that in all probability there would be a federal agency created to take over Lake Tahoe. It would be an admission on our part that the states were unable to do their own job. Certainly it is not compatible with the Sagebrush Rebellion which we started last session. I just returned from Alaska visiting a bunch of legislators up there during an election period. I want to tell you that what Alaska is going through now shouldn't happen to a dog. And if the federal domination at Tahoe is going to resemble anything of the federal domination of Alaska, it had better be avoided at all costs. In the early 1970's, the President of the United States sent a special team of commissioners out to report upon the workings of the Tahoe Compact, make recommendations as to whether or not it should become a national recreational area. This is known as the Olson-Kelley Report. It recommended strongly beefing up the present TRPA Act and keeping the federal control out, that the best thing to do was leave it to a combination of

state and local people, with federal cooperation. I followed the negotiations here through Senator Gibson and while it is somewhat like being asked, when I was questioned about enjoying old age, you know, it really isn't too bad when you consider the alternative. So whether you like this Compact or not, it is a damn sight better than a federal takeover, and I think that is exactly what you are up against. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Mr. Bailey.

WALTER BAILEY:

Chairmen Neal and Dini, ladies and gentlemen, it is rather a great honor for me to be here before you today because I am a Californian, deeply concerned that I have so many friends in Nevada to support what I think should be done to Lake Tahoe. We have very little, if any, support, on my side of the line. In the ruthless conservation business, we have been charged with responsibility for soil erosion control measures, revegetation, and other environmental concerns of the Compact, as well as the water quality boards and so on. We have been watching and lived with the Tahoe Regional Planning Agency since the days when Mr. Knisley was a member and quite a few other of your good citizens. We are deeply concerned now, as we have been, for many years, that the representation on these efforts put forth to develop a revised compact which we strongly felt was necessary from the first day, there is absolutely in the existing compact no means of enforcement. A \$500 fine will not stop any citizen from accidentally or intentionally violating environmental concerns. So we are delighted to see that change. In fact, in general we have great admiration for the work done by you, Assemblyman Dini, and Senator Wilson, in trying to put this together. I guess the main problem that we have is there are some things in here, like the membership, primarily on the California side, which have ignored Senator Johnson who is our representative at the North Shore, Assemblyman Chaffee and Assemblyman Norm Waters, who are our representatives in the legislature on the Assembly side of the House. Senator Garamendi, unfortunately, does not represent the wants or the needs of the people of Lake Tahoe Basin. I guess he does very well for Stockton but that's where it stops. As far as Assemblyman Calvo, being from San Jose, I guess we have the same feeling as to his concern as we do for Mayor Hayes when she dumped 86 million gallons of raw sewage in the San Francisco Bay. We don't think she's quite the proper one, nor Victor Calvo, to save Lake Tahoe. We would like to see the Legislature recognize these concerns and place a request to the California Legislature, by amendment, even though we know it's probably impossible, to substitute for the Speaker of the House's appointee and the Rules Committee, one of the four members of the Legislature, the two senators from our district and the two assemblymen, put two of those on in place so we do have some representation at the legislative level that are more sensitive to the problems of the Lake. I have been a resident of Tahoe for 21 years and I've pretty much watched it go down the tube in some respects and come up in another. I look at that Lake and I think, "There is no way it is polluted." When you look back at the early days of the logging and other activities that took place, you would have said then, "The lake is dead." But a recent submarine's activities by Dr. Goldman and his staff have proven that the Lake is very much alive, the fish are 60 pounds in weight, the shrimp are living a life of ease on the bottom of the lake, and really, we don't have too many problems, in that regard. It has been overstated and I believe if you talked to responsible scientists, those who are not trying to sell National Geographic, you will find that is true. I believe that just about covers everything I had to say. I had more but your marvelous dissertations this morning covered most of my good points, so I thank you very much.

ASSEMBLYMAN DINI:

The Chair recognizes Mr. Westergard, Director of the Department of Conservation, Natural Resources, and also a member of the TRPA Board.

ROLAND WESTERGARD:

Chairmen Neal and Dini, ladies and gentlemen, in view of the extensive testimony you heard this morning and very detailed explanation of the Bill, I think it would suffice and probably be appropriate for me to indicate to you that I give my

whole-hearted support and endorse the Bill before you today. I recommend and urge your approval of this proposed legislation. It is my sincere belief and my firm conviction that this is in the best interest of the State of Nevada and the Lake Tahoe Basin.

ASSEMBLYMAN DINI:

The Chair recognizes Curtis Patrick from the Tahoe-Douglas Fire District.

CURTIS PATRICK:

Chairmen Neal and Dini, ladies and gentlemen, I want to give a special thanks to Assemblyman Dini and Senator Spike Wilson. I think you have done an outstanding job in creating this document. I only ask that all of the legislators put your minds to work, if you can, and consider the problem that we had at Harvey's Wagon Wheel. Each of you have on your desk a copy of the special edition of the Tahoe Daily Tribune. I will be very brief. I am talking about the Loop Road and our necessity for it, specifically for public safety, fire, and property, and the saving thereof. It is a life-and-death situation. We are very concerned at Tahoe-Douglas Fire District because most of the people we carry in our ambulances, frankly, are Californians, and other visitors at the Tahoe casinos. I would like to quote Governor List in the March 31st edition of the Tahoe Daily Tribune in which he says, "The Loop Road issue says it all about Nevada's dealings with California over Tahoe." And I quote, "I can't stress too strongly my commitment to push for the Loop Road. The Loop Road is one piece in a chess game," he said. That one patch of road blocking the Loop's completion is symbolic of the entire dilemma. We ask your indulgence to consider how it can possibly be included.

ASSEMBLYMAN DINI:

The Chair recognizes Ken Kjer, a Douglas County Commissioner, a member of the TRPA, and Chairman of the Nevada-Tahoe Regional Planning Agency.

KEN KJER:

Chairmen Neal and Dini, ladies and gentlemen, I am here today on behalf of the Douglas County Board of Commissioners to offer testimony in the matter of the proposed compact, as a part of our continuing effort to respond to the environmental concerns of Lake Tahoe while at the same time recognizing the need to protect individual and property rights within the framework of bi-state planning. As you are aware, Douglas County has a vested interest in the Lake Tahoe Basin and recognizes the need for positive programs to protect the Tahoe experience. We appreciate the opportunity to express our concerns regarding the proposed Compact, to offer our suggestions based on our unique day-to-day experiences with the development and developers, and to seek clarification on certain provisions of the proposed Compact. While we would have preferred to have been involved in the negotiations, the following comments and observations are offered at this time with the belief that they will be consistent with the intent of the proposed legislation and will serve as a basis for a thorough review of the issues by members of the Nevada Legislature.

In the matter of the completion of the Loop Road, we formally believe that the moratorium proposed within this Compact will not affect the completion of this vital local road by the City of South Lake Tahoe. The Compact provisions speak to the expansion of highways; however, the Loop Road, in our opinion, is a necessary connection of a local road to protect the health, safety and welfare of residents and visitors alike. The most recent emergency at Harvey's Hotel graphically demonstrates the need for alternate local streets to protect the public in the event of a disaster or an emergency. We would request the concurrence of the Legislature and the Governor in the finding that the Loop Road is a necessary local road and is vital to the health, safety and welfare of the public. Senator Wilson spoke earlier about the symbolism of the road and that however felt it would be tangible evidence of cooperation between two states. Recent events have caused us to greater concern as far as that road. To divert from my testimony, I am going to ask the Sheriff of Douglas County, Jerry Maple, and the staff officer of the Tahoe Fire Protection District to give testimony to you so that we can make the finding and you can make the finding about the necessity for safety improvements in the Tahoe area. Jerry, if you would speak to that, first, please.

ASSEMBLYMAN DINI:

The Chair recognizes Sheriff Maple.

SHERIFF JERRY MAPLE:

Chairmen Neal and Dini, ladies and gentlemen, at the present time, there seems to be extensive controversy concerning the completion of the upper Loop Road in the Stateline area. From the standpoint of law enforcement and general public safety, the completion of this project at the earliest possible time is imperative. At the present time, the approach, any approach, to any emergency situation that occurs within the Stateline area must be made from Highway 50. Often times, travel on this road is extremely time-consuming or impossible due to the traffic conditions. According to the Nevada State monthly traffic counts, between 35,000 and 40,000 vehicles per day travel U.S. 50. This amounts to well over one million vehicles per month travelling within the Stateline area on U.S. Highway 50. This prohibits personnel equipped to handle such incidents as violent crimes in progress, heart attacks, epileptic seizures, severe bleeding, and other injuries of similar traumatic nature to respond in a reasonable amount of time. This endangers the lives of persons residing in the area and of those who have come to enjoy our scenic shores. This grave situation was somewhat lessened by the opening of the lower Loop Road. Opening the upper Loop Road would take more traffic off U.S. 50 which would make access to the Stateline area more prompt and safe. The aforementioned statement does not include the recent bombing incident that occurred at Harvey's Wagon Wheel. Prior to the detonation of this device, Highway 50 had to be closed to traffic on several occasions. This closure was done for public safety. It was unknown as to the magnitude of the device and it was feared by explosive experts that traffic on the lower Loop Road would be exposed to debris and danger should the device accidentally detonate. It was further felt by officials that the traffic could have been safely diverted on the upper Loop Road, should there have been one completed, and thus eliminate the closure of a public highway. Ladies and gentlemen, I feel that it is time the public safety received first priority.

ASSEMBLYMAN DINI:

The Chair recognizes Paul Deloy, Tahoe-Douglas Fire Protection District.

PAUL DELOY:

Mr. Chairman, the casino core at Stateline, Nevada, falls within our district. I was asked to speak about the problems we are faced with because there are not sufficient secondary routes for our units to respond on. The fire district runs from the Stateline of the California-Nevada border to Glenbrook. We cover approximately fifteen miles of road which consists only of Highway 50 and Kingsbury, which goes down to the Valley. Once that major artery is cut off, we face a serious problem of isolating our engines and our people. The same problem exists at the Stateline area and the lower Loop Road served a great purpose during the Harvey situation. During that time I was stationed at the command post, and at approximately quarter after six in the morning, our people were asked to respond. Our EOD personnel determined that they were dealing with a rather large device. Considering the position it was placed in and the location it was placed in in Harvey's structure, it was going to affect Highway 50 without a doubt. It could have a secondary effect on the lower end of the Loop Road. At that time, we began to contact the appropriate agencies in order to prepare for shutting down Highway 50. By four o'clock that afternoon, the traffic had become so intolerable that our people were pulled away from the device, taken back to the main command center and the highway was opened long enough for the traffic to get down to a manageable level. As a fire district, our main concern is that you do not lose perception that we feel a great need for the completion of this road. We realize that it is being used for a larger issue but we are faced with the reality of dealing with emergencies today and tomorrow and not years in the future. So if you can keep that one thing in mind, that police and fire are working with the realities of the moment, and that this is not the first, and it will not be the last instance where they will have to have the ability to be mobile enough to deal with those types of situations. Thank you very much, Mr. Chairman.

ASSEMBLYMAN DINI:

The Chair recognizes Mr. Kjer.

MR. KEN KJER:

Chairman Dini, the reason I asked for that testimony was, again, to point out to you the significance in completing the road and the significance in asking you to make a finding that it is a local road. You will hear from Mayor Cefalu from the City of South Lake Tahoe, a little later. We think we have a way that we can go about completing the Loop Road, possibly by next summer. It is going to take a commitment on the part of the Legislature and the Governor of the state to encourage that being accomplished. Other matters are the proposed change in procedures requiring the governing board to determine by ordinance those projects which will not be required for review by the agency, also causes us a major concern. In the proposed legislation, a project is defined as "an activity undertaken by any person, including a public agency, if the activity may substantially affect the land, water, air space or any other natural resource of the region." To prevent a literal interpretation of "substantially," by the agency, we are requesting a finding that a remodeling, addition, or new construction of single family home on an approved building site cannot be construed as substantially affecting the natural resources, and thereby requiring a project review and environmental impact statement by the property owner. The legislation as it is being presented would require review by the TRPA on all single family residences under the moratorium unless this finding is made. It is our position that the building sites within the Basin have already been subject to this type of review and therefore, any additional review may prevent individuals reasonable use of their property. Clarification is also needed under the proposed moratorium as it relates to the ability of the Douglas County Sewer Improvement District to alter facilities to reach the approved three million gallon per day capacity. We are of the understanding that the negotiators included an identification of the soil erosion problems on the sewer plant site only and they did not intend for that to include offsite improvements. If they had to identify that, it looks like it might cost millions upon millions of dollars to identify those offsite improvements necessary, and if they had to mitigate those, it would increase substantially—maybe a hundred million dollars. Finally, it is our understanding that based upon the discussions with the negotiators of both states, the error that was made in the single family dwelling permit figure for the year 1978, as it relates to Douglas County, will be corrected to show 529 units instead of the 339 that were listed. Every effort will be made by Douglas County to continue our positive efforts and responsible leadership position in assuring cooperation by implementation of the bi-state planning solutions for the protection of Lake Tahoe. This commitment is evidenced by the county's participation in removing the Jennings casino-hotel site from development, the exercise of the \$250,000 option to purchase the Kahle site, and also remove that from development, implementation of over \$750,000 in water quality protection programs, underway now to improve Kingsbury Grade, and the county's construction of the Loop Road at a cost of one million dollars. These measures represent a sixty to seventy million dollar mitigation effort on our part over the past two years. We do believe that the Compact as it is proposed offers guarantees for the regional use of property for some certain small property owners that we do not have now, and if the Legislature, through resolution or by some other means, will respond to the concerns that I have expressed, I can assure you that Douglas County will fully cooperate in the implementation of this legislation. Thank you.

ASSEMBLYMAN DINI:

Thank you, Ken. We appreciate all three of you gentlemen testifying. The next speaker is Larry Lamb, who will be followed by Jean Stoess and then George Abbott. The Chair recognizes Larry Lamb.

LARRY LAMB:

Mr. Chairman, ladies and gentlemen of the Legislature, I am Larry Lamb for Skyland. I am an elected official of the Douglas County, Nevada-Tahoe Conservation District and I was not contacted in any way, shape or form about this Bill. I would like to know what has happened to personal rights and property rights of the individuals.

ASSEMBLYMAN DINI:

The Chair recognizes Jean Stoess.

JEAN STOESS:

Thank you, Mr. Chairman, members of the Legislature. I am Jean Stoess and I am a Washoe County Commissioner, and I spent two years on the Tahoe Regional Planning Agency Governing board. Although today I am speaking as an individual, my observations are shaped by my experience both as a commissioner and as a TRPA board member. While I was on the Board, I witnessed first hand the flaws in the present Compact, but I have come to decide that a strengthened Compact is much preferable to either an NRA or to no control at all. I think of all the elements in the present Bill most important to me are, first of all, the determination of the carrying capacity, which I think is absolutely basic, the new board composition, the improved voting procedure, and the transportation district. If these and the other elements of the Bill are implemented, I think that the agency would be in a much better position to consider the plans and the projects on their own merit, and that the board members could put aside some of the absolutely incredible group dynamics that I witnessed. I think there are a number of other board members who have also sat through those. I think it is a good compromise and I respectfully urge you to adopt it.

ASSEMBLYMAN DINI:

The Chair recognizes George Abbott.

GEORGE ABBOTT:

Mr. Chairman and fellow Nevadans. My name is George Abbott. I am an attorney at Minden, Nevada. I live in a county which enjoys fourteen miles or so of the shoreline of Lake Tahoe. If I were inclined to be dramatic, I would say that, as I drove over today, parallel to seventeen miles of the old V & T railroad right-of-way, I thought I heard the sound of a train and when I went by the Museum out here I thought to echo one of our legislators that perhaps this Bill was being railroaded through a moot and mute legislature. I have waited for this opportunity for a side reason (you will have to bear with me). I have always wondered how it would be if we were listless, and the Governor left at 9:25, and we are and we have been. I would like to introduce a couple of comments about this legislation. I sat through 2,300 subcommittee and committee hearings of another legislative body. Each time we did that, we had a number on the Bill. We had a call which indicated to legislators what was being considered. I was pleased with such senior members as Senator Lamb who received his education on what was being considered at the same time that I did. If this body delegated to two of your sixty members the authority to commit you to a Bill, vote yes, tomorrow. If the two members from the California Legislature had authority to speak for the other one hundred eighteen members of that legislative body, vote yes. I want to suggest this. I am here for one reason. I live in Douglas County. I live in Nevada and I am pleased with the stance that Nevada has maintained in always jealously protecting private property rights, at the same time it did its public thing. The single element, the single biggest element that is lacking here, is protection of the people from whom you must take values you want to preserve. They were told that if the values of Lake Tahoe, and I agree—that is one of the reasons I settled in Douglas County—the values of Lake Tahoe transcend three Nevada counties, or two California counties or the fifty-eight California counties, or the seventeen Nevada counties, than they are more than regional, then they are more than national, then they are international, and perhaps interstellar, but that doesn't pay for what we have to do. You are being asked to put another 40-month moratorium on private property rights of, as nearly as I can tell, some two thousand property owners of undeveloped property in the Tahoe Basin. I have represented clients who have paid four hundred thousand dollars in taxes on Tahoe property since 1968, on property they cannot use. I represent a gentleman whose property was reduced from three hundred eighty units to one unit when the property was rezoned. This was under the law you passed in 1968. The 1968 law, and it is curious how you legislators are slowing down, the 1968 legislation, and by the way, this is not an amendment, it is a new compact, it's a new Bill, you are going from forty-two hundred words to twelve thousand five hundred words, it's a new Bill. You are again being asked as you were asked in 1968. In 1968, you were permitted fifteen months for the new agency to adopt a transportation plan. They adopted one. You permitted the same amount of time to adopt a master plan. They adopted one. This time, do you

know what you are being asked to do? Thirty months to do the same thing. Another moratorium, but the last time you did this, under what is not always popularly received by one of my good neighbors—I refer to the Compact as the Reagan-Laxalt thing—you permitted or required that in sixty days there be an interim plan. I am here to urge you to deliberate on this Bill. If it is a good Bill on September 12, 1980, it will be a good Bill on January 4, or January 6, or January 10, 1980. After you have considered amending it to a California Legislature, and I think they are in perennial session, I don't think they ever recess or adjourn, send back to the State of California a Bill saying we are not going to impose a moratorium. We are going to continue the same TRPA regulations that presently apply and that will be an inducement to California, to Nevada, and to the Congress to do this: to recognize that if this is a national treasure, then let's get into the national treasury. The United States Congress voted four hundred million dollars to acquire private lands in the Okefenokee Swamps and if any of you guys or ladies shared Fort Benning with me, I had enough of that area. Within the last twenty-four or thirty-six months, the Congress voted three hundred eighty-five million dollars to acquire private lands within the Big Trees area, the California redwoods area. If Tahoe is there, why should my county with our tax base take the burden. All of us want to preserve Lake Tahoe. There's a way of doing it. Do what you ought to do. If I were dramatic, I would say Mr. Lincoln is here to watch the second surrender. Don't do it. But what is wrong with this. I am sure that Senator Wilson and my neighbor, Mr. Dini, did what they could do, but they didn't consult with our five elected officials, they did not consult with any elected officials at the county level that I know of, but very evidently somebody in the gaming community was consulted. Let me tell you why. Gaming can expand on a cubic foot basis. I've got to watch that, by the way. My private property owners are restricted on a square foot basis. Interesting. Gaming is given an automatic fifteen percent expansion. I see none for residential owners. Gaming would require gaming consideration to modifications that require action in sixty days by the agency. Do you know what it will take our residential people one hundred eighty days plus the time from acceptance of their plan? I am not anti-gaming, and I am certainly not anti-Tahoe, but the thing that is wrong is that I know of no private property owner that was consulted. I would, therefore, respectfully suggest that when this body considers this matter tomorrow, you might tell California that you want to send it back to do the nice thing that they did. They at least authorized five million dollars for in-held rights. Why doesn't this body vote forty-five or sixty or whatever your proportionate share of in-held property interest is and send that back to California. And do one other thing, please. If my neighbors are going to be required, in Washoe and Douglas County, in Placer and El Dorado Counties, and Carson, to pay real property taxes when they can't use their property under this 30-month moratorium, you could amend Chapter 361 and related things to provide a moratorium on taxes. Would you consider it? If you do not, if you enact this legislation, close with these suggestions. You will have inestimably, and I say to my friends from Elko and Lander County over here, weakened your arguments for the Sagebrush Rebellion. The reason for the Sagebrush Rebellion is to deny the kind of federal oppression taking away state representation that you are now going to impose on our counties and elected officials there. The very thing that you want to cut off would be supplied. I think you are going to weaken your arguments on the MX. I think you are going to weaken your arguments that we, who have been fighting for it since the Shamburger case in 1952, have argued with every federal agency on application of state water laws. California is not going to dry up and blow away if you do what you are supposed to do. I have a lot of confidence in it, but as I walk away from the rostrum, I think I hear the whistle of a train. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Mayor John N. Cefalu.

MAYOR JOHN N. CEFALU:

Thank you, Mr. Chairman. Members of the committee, ladies and gentlemen of the Legislature, State of Nevada. I thank you for the opportunity to come here today to speak to you with regard to the feeling as a representative of South Lake Tahoe on the proposed bi-state compact before you. The City of South Lake Tahoe has long advocated a bi-state approach in dealing with land use planning at Lake Tahoe, and is pleased that the amendments necessary to make the Tahoe

Regional Planning Agency an effective agency have been approved by the California Legislature. There are many provisions of the proposed legislation which the city strongly supports. Similarly, there are provisions about which we have serious reservations. However, we believe that the time has come to put our differences behind us and to move forward with the common goal which we all share, the protection and enhancement of Lake Tahoe. This legislation is the result of a long and arduous process involving give and take on both sides. Like anything which results from such a process, it is not perfect. However, we feel that it is important to focus not on its defects but on the opportunities it represents. On the positive side, it will at last allow the development of a single plan and a single set of comprehensive ordinances for dealing with land use planning in the Lake Tahoe Basin. It will allow for the implementation of those transportation concepts which have already been articulated by the Tahoe Basin Transportation Agency, a joint powers agency composed of California and Nevada local governments. The moratorium provisions, which we consider more restrictive than we would like, we do not think they are unreasonable. Given the sewer treatment limitations which presently exist within our city, with the clarification which has been provided by letters from the involved California legislators, the technical issues concerning the environmental impact report process have been resolved. There are negative aspects to the Bill. The voting structure is not in accord with what we believe to be the basic democratic principle of majority rule. However, the voting requirements are to us less important than the outlook of those persons who appointed to the TRPA board. The legislation lacks a strong commitment to the completion of the Loop Road. However, we believe the issue will be dealt with in the next California legislative session. Further, while we have some reservations about the effect of the Bill on private property owners, the federal legislation known as the Santini-Burton Bill and the possible approval by California voters of the Lake Tahoe Bond Act makes us hopeful that governmental acquisition of land upon which development is precluded or seriously restricted will become a reality. In short, we feel the question is now one of effect and equitable implementation of the intent of the legislation. Reasonable people may differ over portions of the Bill. However, where reasonable people work in good faith to achieve a common goal, those differences can be resolved. The City of South Lake Tahoe pledges the resources at its disposal to accomplish that goal of preserving Lake Tahoe for the enjoyment of future generations of residents and visitors. And if I may, Mr. Chairman, go one step further to deal with the issue, a very sensitive one, we recognize, that of the completion of the Loop Road, be assured that we have, and will continue to have, a commitment to see the Loop Road completed. We have undertaken the environmental impact statement process, a process for which we have granted a contract at a cost of sixty thousand dollars to the city. We have appropriated within our budget approximately one hundred thousand dollars to see the Loop Road completed. We have undertaken litigation to condemn that portion of the four hundred strip of land which belongs, unfortunately, to the State of California so the commitment is there. I might point out that our cooperation with Douglas County on the completion of the north portion of that Loop Road, a portion which the City of South Lake Tahoe completed within forty-eight hours, has found us in litigation for a constant period of time with the State of California, even after that road was completed. We wish not to undertake the process under those circumstances again. With regard to the national recreation area and the fact that it may lay dormant if the Compact is ultimately ratified and ratified by Congress, in a recent meeting with Mayor Hayes of San Jose, who has long been an advocate of federalization of the Basin, her position has changed to the extent that she is willing to see a bi-state compact in lieu of a national recreation area, so I hope that might allay some of the fears, and although certainly not a guarantee that it won't continually be an issue in the background, I think it is important for us to recognize that the alternatives that we have in local government just are not there, and for that reason we will support the bi-state Compact as you see it here today. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Nathan Hellman.

NATHAN HELLMAN:

Chairman Dini, honorable legislators. This is where it is at, the seat of our government. I, over the past month, have been spending a lot of time in the law

library trying to read up to find out if what is happening to our government can be done. One day I found out that you people are the ones that can and do control our government. You are even bigger than the federal government, and if you do some reading on that, you'll see that it is all right here, and I am respectful and honorable and pleased to be here. First off, I was going to read this article but best you read it yourself in brevity of time. That is the article today in the Carson Appeal on the editorial page, "TRPA Compact is Bad for Nevada." I subscribe to that. Secondly, in my local paper—I am a resident in Douglas County—we have outstanding local officials, outstanding state officials—thank you, Jake, and Mr. Bergevin—we also have outstanding county, state and federal legislators. Santini says that Congress is too busy for TRPA. Now, I spent that past week trying to read this Bill and understand it. I've read it at least ten times. I still don't. However, I have lived with TRPA and its oppression and its rules and its regulations for the past ten years. I only know one thing—that this is a lot worse than what we have been living under. One final thing I would like to do. There was a question asked by some senator, I believe, in this assembly. Is this constitutional? No, ladies and gentlemen, it is not constitutional and if I am forced to, I will have to take care of my interests and go to court to prove it. However, I do want to take the liberty to read to you just a few items. The Tahoe Regional Planning Compact purports to grant legislative power to the appointed Board of Governors of the Tahoe Regional Planning Agency and, as such, the Compact is unconstitutional, in violation of the Constitutions of the United States, Nevada and California, each of which provides only for the election by the people of the lawmakers; the planning process and the lawmaking processes are functions of the legislative branch of our republican form of government, and distinguished from the executive and judicial branches: the powers vested in one branch are granted constitutionally to the exclusion of the other two branches. We are now coming to the separations of power. First off, and I might say to you right now, TRPA has all the branches, legislative, executive and judicial, and if you read this Compact you will find that even now they are going to be bigger than the judicial. Finally, there is one compact that has lived through the passage of time. That is the compact that fourteen states formed together that formed our Constitution. That, ladies and gentlemen, is what you should look to and ask your conscience. I will not touch now on all the other semblances of inequities that we in Douglas County and the local areas have been forced to live under. I will just speak to the pure legality of the matter and ask that you take your time, read and understand what you are doing to your constituents. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Gordon H. DePaoli.

GORDON H. DEPAOLI:

Chairman Dini, Chairman Neal and members of the Special Committee, my name is Gordon DePaoli. I am a member of the Reno, Nevada law firm of Woodburn, Wedge, Blakey and Jeppson. I represent and am speaking on behalf of the South Shore Defense Fund, Inc., a nonprofit membership corporation. The members are Harrah's Lake Tahoe, Barney's Club and the South Tahoe Nugget, Harvey's Wagon Wheel and Harvey's Inn, the Sahara Tahoe and Caesars Tahoe. The Defense Fund was created to promote and improve the business conditions of the nonrestricted gaming industry in the Douglas County, Nevada portion of the Lake Tahoe Basin.

During the last several years I have been active in litigation involving Lake Tahoe. I have participated in litigation with the United States Environmental Protection Agency, the State of California, the Sierra Club, the League to Save Lake Tahoe and the Natural Resources Defense Council, Inc. During the 1979 session of the legislature I attended virtually every legislative hearing on Senate Bill 323, the so-called "gaming freeze Bill," and on Assembly Bill 503, the very strong amendments to the Tahoe Regional Planning Compact which you passed last session and which were rejected by California.

Before I get into my testimony, Mr. Chairman, I have handed the clerk a letter which is addressed to the Nevada Legislative Commission, Legislative Building, Attention: Senator Neal and Assemblyman Dini. Senator Wilson and Assemblyman Dini have asked that I read that letter into the record, which I will do with your permission.

To: Legislative Commission, Legislative Building

ATTENTION: SENATOR NEAL AND ASSEMBLYMAN DINI

DATE: September 11, 1980

Gentlemen:

This letter is being delivered to you to advise you of the position of Harrahs on the proposed changes to the Tahoe Regional Planning Compact. We are requesting that the contents of this letter be included in the record of the Nevada Legislative hearing which commences on 9:00 a.m. on Friday, September 12, 1980.

Harrahs is proud to own and operate a 540 room hotel-casino at Lake Tahoe that for the last two years has received the Mobil Travel Guide five star rating and the American Automobile Association five diamond award. We have always had a keen interest in first class, quality development at the Lake and the preservation of environmental quality in the Tahoe basin. This has caused us to closely follow the proposed changes to the Tahoe Regional Planning Agency Compact. When we felt it would be productive, John Gianatti and I have worked with the Nevada leadership that was instrumental in creating the amendments which will make the TRPA a more meaningful tool for preserving the unique qualities of Lake Tahoe. After a careful review of the proposed legislation, it is Harrah's judgment, consistent with the comments of Gordon H. DePaoli, that it is in the best interests of Nevada and the Tahoe basin, including Harrahs that the proposed compact be adopted by Nevada.

Harrah's was especially pleased that the California Legislature and Governor Jerry Brown acted quickly to affirm the amended compact. We now urge the members of the Nevada Legislature to approve the proposed bi-state compact in the form approved by California.

SIGNED: PHILIP G. SATRI

Vice President and General Counsel

Harrahs

The Bill under consideration contains many provisions which have significant direct and indirect impacts on the gaming industry. It is important that the industry and the legislature understand the meaning and intent of those provisions. I will be reviewing each of those provisions and giving you our understanding of them. If you have questions or comments please raise them at any time.

II. ANALYSIS OF SELECTED PROVISIONS IN THE BILL

A. External and Internal Modification of Structures Housing Gaming Under a Nonrestricted Gaming License — Article VI(d), (e), (f) and (g) at Pages 18—20 of the Bill

1. Introduction

On March 13, 1979, Senate Bill 323 was introduced by Senators Wilson, Gibson, Neal and Jacobsen. In the first hearing, Senator Wilson explained that Nevada was proceeding unilaterally with respect to gaming in order to remove gaming as an issue from the Compact negotiations. The gaming issue could then not be blamed for any failure of the two states to reach an agreement. March 14, 1979, Hearings on S. B. 323 Before the Senate Committee On Natural Resources (remarks of Senator Wilson) at page 2.

The gaming businesses at South Tahoe supported the final version of Senate Bill 323. They accepted a ban on new casinos; they accepted a prohibition against adding additional cubic volume to those structures with gaming; they accepted the limitations on area which could be opened to public use. No other industry in all of America faced similar restrictions. Yet, after having invested hundreds of millions of dollars in reliance on Article VI(a) of the present Compact and on the announced policy of Nevada, California and the United States that gaming at Tahoe would be protected, the South Tahoe gaming businesses accepted those restrictions.

They did so in order to remove gaming as an issue in the bi-state negotiations and because the Nevada Legislature had given its word, as stated on the floor of the Senate by Senators Wilson and Sloan, that there would be no "attempt to regulate the interior operation of [a gaming] facility which is already committed to public [use]." That "would be an unwarranted and unnecessary intervention into their

business decisions." March 28, 1979, Tape of Senate Chamber Debate, Tape No. 2 (remarks of Senator Sloan).

Unfortunately S. B. 323 did not remove gaming as an issue in the negotiations. In July of this year Assemblyman Dini and Senator Wilson came to the operators of the Stateline gaming facilities and indicated that the bi-state negotiations were in jeopardy unless the industry accepted additional restrictions on the internal operation of their gaming facilities. Once again that industry acquiesced in the interest of securing a bi-state agreement. The provisions of Article VI(d), (e), (f) and (g) are the result of that acquiescence.

2. Existing and Approved Structures Recognized as Permitted and Conforming Uses

Each structure housing gaming under a nonrestricted license which existed or was affirmatively approved or deemed approved for construction by the Tahoe Regional Planning Agency (TRPA) before May 4, 1979, is recognized under Article VI(d)(1) as a permitted and conforming use.¹ Projects approved before that date but not yet built or completed may be built or completed unless construction is prohibited by a court order entered in litigation pending on that date. This provision like others in the Compact is intended to be neutral on pending litigation.

Consistent with their recognition as permitted and conforming uses, existing and approved structures housing gaming may be rebuilt or replaced, under Article VI(e), to a size not to exceed their cubic volume, height and land coverage existing or approved on May 4, 1979. Any such rebuilding or replacement may be done "without the review or approval of the Tahoe Regional Planning Agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure." The recent bombing of Harvey's Wagon Wheel highlights the importance of Article VI(e) to the gaming industry. Ironically, the industry's first discussions on improving the language of Article VI(e) took place in the executive conference room of Harvey's Wagon Wheel.

Under Article VI(d) and Article VI(e) it is clear that existing and approved gaming cannot be forced out of the Lake Tahoe Basin as some would like. Existing and approved gaming facilities may be rebuilt or replaced for whatever reason, obsolescence, an act of God or a terrorist's bomb. The provisions of any nonconforming use or nonconforming land coverage ordinance would not apply. The project review and environmental impact statement provisions of the Compact also would not apply.

3. External Modifications

External modifications are governed in part by Article VI(d) and in part by Article VI(f). An external modification means a physical change to the outside of an existing structure. Rebuilding or replacing all or a portion of a structure because of obsolescence or disaster or for some other reason is, as noted previously, governed by the provisions of Article VI(e).

If no local government permit is required, the TRPA has no authority at all. See Article VI(d) at page 18, lines 26-28. Article VI(f)(1) governs the TRPA's authority when an external modification also requires a permit from a local government. Because the cubic volume, public area and private area restrictions necessarily limit the kinds of external modifications which may take place under any circumstances, the TRPA's review is initially limited to insuring that those restrictions are not violated. See Article VI(f)(1)(A)-(D) at page 18, line 42 to page 19, line 2. During this limited initial review the TRPA also considers whether the modification will violate or be subject to the provisions of any ordinance it might have governing external modifications of existing structures which applies generally throughout the region. See Article VI(f)(1)(E) at page 19, lines 3-5. This initial and limited review must be made within 60 days after delivery of the proposal to the TRPA.

If a proposal has none of the effects enumerated in Article VI(f)(1)(A)-(E) it is not subject to the Compact's provisions. It is not a project; full blown agency review is not required; and an environmental impact statement (EIS) is not required. In short, it may proceed forthwith. If a proposal would violate the cubic volume, public area or private area restrictions of Article VI(d), it is of course prohibited. If the external modification increases the public area which is used for gaming by more than 15% of the "base area," it is subject to the provisions of

¹ May 4, 1979, is the date on which S. B. 323 took effect.

Article VI(f)(3) which will be considered shortly. If a proposal is subject to an ordinance governing external modifications to existing buildings which applies generally throughout the region, then it would be governed by whatever that ordinance provides. It may not or may not be a project; it may or may not be subject to TRPA review; and an EIS may or may not be required.

4. Internal Modifications

Article VI(f)(2) (page 19, lines 16-19) provides that, with one exception, an "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." [Emphasis added.] A major part of management's internal business decisions will not be regulated by the TRPA in any way. Management will be able to implement its decisions immediately with no requirement of prior TRPA approval and with no exposure to harassing and delaying litigation.

The single situation where the TRPA will have authority to review an internal change is set forth in Article VI(f)(3) at page 19, lines 20-36. Article VI(f)(3) limits the amount of area open to public use which management may actually use for "gaming" (a term defined in Article II(f) at page 3, lines 39-49) without being required to get TRPA approval. Each existing or approved gaming facility at Tahoe already has a certain number of square feet of its public area which is used or approved for gaming. That amount of gaming area may of course be continued and may be shifted in whole or in part to any portion of the public area without TRPA approval. Article VI(f)(3) applies only to increases in public area used for gaming beyond that already existing or approved. Under Article VI(f)(3) the total portion of area open to public use and actually used for gaming may be increased without the review or approval of TRPA by an area which is determined by multiplying the square footage in a defined base area by 15 percent.

The "base area," as defined in Article VI(f)(3) at page 19, lines 28-36, is all of the area open to public use existing on or approved before August 4, 1980, except "retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, restrooms, engineering and mechanical rooms, accounting rooms and counting rooms." The number of square feet in that base area multiplied by 15 percent is a dividing line. Any increase in gaming area over that amount will require TRPA review and approval.

An example is helpful to an understanding of these provisions. Suppose for example on August 4, 1980, a gaming establishment had the following internal dimensions:

1. Existing "area open to public use" —	350,000 sq. ft.
2. Additional approved but unbuilt "area open to public use" —	150,000 sq. ft.
3. Existing portion of "area open to public use" actually used for gaming —	50,000 sq. ft.
4. Additional approved but unbuilt "area open to public use" to be used for gaming —	50,000 sq. ft.
5. Existing "base area" —	250,000 sq. ft.
6. Additional approved "base area" —	100,000 sq. ft.

The existing and approved gaming area in this hypothetical establishment is the total of numbers 3 and 4, or 100,000 square feet. The total area which may be open to public use is the sum of numbers 1 and 2, or 500,000 square feet, and the total base area is numbers 5 plus 6, or 350,000 square feet. Management may increase the total portion of the area open to public use actually used for gaming by 52,500 square feet (350,000 sq. ft. x 15%) (for a total of 152,500 square feet of public area actually used for gaming) without TRPA review or approval. Any increases over 52,500 square feet will require TRPA review and approval.

The hypothetical establishment in this example could implement the 52,500 square foot increase all at one time or in several increments. Any part of the public area may be used to accommodate the increase, including areas, like convention centers, which are excluded from the definition of base area.

5. Establishment of the Information Necessary to Enforce the Restrictions on External Modifications and Increases in Public Area Actually Used for Gaming

Article VI(g) (page 19, lines 37-50) sets forth the procedures for obtaining the information and determining the facts which are necessary for the administration or

enforcement of the restrictions imposed by subdivisions (d), (e) and (f) of Article VI. It is of extreme importance to all concerned that those facts be determined accurately.

The agency charged with obtaining production of the necessary information will be an agency of the State of Nevada, presumably the present Nevada Tahoe Regional Planning Agency (NTRPA). That Nevada agency will not only obtain the necessary information, it will also determine what that basic information is for each gaming structure.

Part of the necessary process is already underway. In early 1980, the NTRPA began to draft an ordinance to enforce S. B. 323. An ordinance was adopted and became effective on June 5, 1980. The provisions of Article VI(g)(1)(A)-(D) are taken verbatim from that ordinance. Tahoe gaming establishments submitted the required information to the NTRPA on or about August 4, 1980. However, because this Bill has requirements beyond those of S. B. 323 additional information will be required.

Once the Nevada agency has the necessary information, it will establish the location of the external walls of the structure housing gaming. That will in effect determine the "structure housing gaming." Once the "structure housing gaming" has been determined, it will be easy to distinguish between what is and what is not an external modification. Directly related to the determination of the external dimensions of the structure will be the determination of its cubic volume pursuant to Article VI(g)(1)(B). The enforcement of the cubic volume restriction and any decisions involving the replacement or rebuilding of the structure will be based on that determination, which necessarily includes the structure's height, and on the land coverage determination required by Article VI(g)(1)(D).

Under Article VI(g)(1)(C) the Nevada agency will also determine the area open or approved for public use and the area devoted to or approved for the private use of guests. Those determinations are necessary for the enforcement of the public area—private area restrictions of Article VI(d). The number of additional square feet of public area which may be devoted to gaming without the review or approval of any agency including the TRPA will be determined under Article VI(g)(1)(E).

Once this "base information" has been established by the Nevada agency it will be relatively easy for all interested persons to make certain that the restrictions imposed by this Bill are not violated. The Nevada agency will require "an informational report" when any internal modification has the result of increasing the total portion of the area open to public use which is used for gaming. The TRPA will thus be able to monitor changes so that the "15 percent of base area" restriction will not be exceeded without its review and approval.

The determinations of the Nevada agency will be forwarded to the TRPA. Those determinations will bind the TRPA and all other interested persons. Because the Nevada agency will perform an extremely important function under this Compact, it will need to have adequate staff and resources available to it. The issue of staff and resources for the NTRPA should be considered during your regular session. In addition, because of the new Compact's prohibition on new gaming facilities, much of Nevada Revised Statutes 278.780 et. seq. will become meaningless. Those provisions too should be considered and revised during your regular session.

B. The Building Moratorium Imposed by Article VI(c) and its Effect on Approved Gaming Projects and Parking Garages

Article VI(c) (page 15, line 44 to page 17, line 49) imposes a partial building and approval moratorium on certain kinds of projects until the regional plan is amended pursuant to subdivision (c) of Article V or until May 1, 1983, whichever is earlier. An identical moratorium is imposed as a matter of state law pursuant to Section 2 of the Bill (page 27, line 39 to page 30, line 15).

As stated earlier, any structure housing gaming under a nonrestricted license whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before May 4, 1979, may be constructed unless precluded by an appropriate court order entered in litigation pending on or before May 4, 1979. See Article VI(d) at page 19, lines 1-10. The moratorium does not apply to such construction. Nor does the moratorium apply to work done pursuant to a right vested before the effective date of the amendments to this Compact. See Article VI(c) at page 17, lines 31-33. It has already been judicially determined that the Harvey's Wagon Wheel master plan and the completion of the Park Tahoe, now known as Caesars Tahoe, have vested rights to proceed. Attached hereto as

Exhibits "A" through "D" are Findings of Fact and Conclusions of Law as to those projects entered in League to Save Lake Tahoe, Plaintiffs, vs. Ted Jennings, et al., in the United States District Court for the District of Nevada, Civil No. R-77-0159 and Findings of Fact and Conclusions of Law in California Tahoe Regional Planning Agency et al. v. Ted Jennings, et al., in the United States District Court for the District of Nevada, Civil No. R-77-0158. In those cases the court concluded that a vested right existed to complete construction of those projects. That decision was affirmed by the United States Court of Appeals for the Ninth Circuit in California Tahoe Regional Planning Agency v. Jennings, 594 F.2d 181 (9th Cir. 1979). The United States Supreme Court let the Ninth Circuit's decision stand by denying certiorari in California Tahoe Regional Planning Agency v. Jennings, 62 L.Ed.2d 86, 100 S.Ct. 133 (1979).

In addition, before May 4, 1979, the TRPA approved parking garages for Harrah's and the Sahara Tahoe. As indicated in Article VI(c) at page 17, lines 38-49, the moratorium does not apply to the construction of those garages. The intent of this legislation is neither to aid nor to hinder the construction of those garages. Unless restrained from doing so by an appropriate court order, issued pursuant to court rules dealing with temporary restraining orders and preliminary injunctions, those facilities may be constructed during the moratorium.

C. Transportation Planning and the Transportation District

After the TRPA has adopted environmental threshold carrying capacities as required by Article V(b), it will amend the regional plan. The regional plan will include a transportation plan for the region. The TRPA transportation plan will be the plan for the entire region. Under Article V(e) (page 13, line 13), the transportation plan of the California Tahoe Regional Planning Agency is expressly excluded from being the regional plan of the TRPA for that portion of the Tahoe region located in the State of California; and until the regional plan is adopted, there is no effective TRPA transportation plan. See Article V(c) at page 12, lines 1-3.

Article IX (page 25, line 47 to page 26, line 50) establishes a transportation district which has the authority to act in the public transportation field. The district is to be managed by a board of directors consisting of eight persons, one from each California and Nevada local government entity in the region and one from each state's transportation departments. The vote of at least five of those directors must agree in order for them to take action.

The provisions of Article IX(d)(6) (page 26, lines 33-40) concerning the imposition of a tax are of particular importance to the Tahoe gaming industry. Any tax must be general and of uniform operation throughout the region. Such a tax may not be graduated in any way. A major Nevada hotel must be treated in precisely the same way as is the smallest California motel. The district is prohibited from imposing an ad valorem tax or a tax measured by gross or net receipts on a business. No tax or charge may be assessed against people or vehicles as they enter or leave the region. In other words, a "Basin user fee" may not be established.

Finally, there can be no direct or indirect tax on gaming or gaming tables and devices. Unfortunately, in the haste to have the negotiated agreement adopted by the California legislature before it adjourned, two very important words were inadvertently dropped when the negotiated agreement was printed in Bill form in California. Instead of reading as it does, the final sentence of Article IX(d)(6) page 26, lines 36-40 should read as follows:

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. [The emphasized words were omitted].

Senator Wilson has given his assurances that the two omitted words will be reinserted into Article IX by supplemental legislation introduced in the next regular session of the two state legislatures. He has stated that Senator John Garamendi has agreed to introduce such legislation in California as being wholly consistent with the negotiated agreement and the California Legislature's intent. If Congress has not yet acted on the Compact, the supplemental legislation can be submitted to it along with the Compact. If it has already acted on the Compact, the two inadvertently omitted words can be added by "substantively identical enactments" of the legislatures of California and Nevada by reason of the special provisions of

Article IX(e) at page 26, lines 49-50. Based upon Senator Wilson's assurances, no request is being made that you amend this Bill today to add those omitted words.

III. CONCLUSION

In 1968, in order to preserve and protect Lake Tahoe, then Governor Paul Laxalt called the legislature into Special Session to enact the existing Tahoe Regional Planning Compact. Now, twelve years later Governor List has called you into Special Session for a similar purpose. The enactment of that Compact, twelve years ago, created high expectations. It may well be that, based on the mere enactment of the legislation, those expectations were too high resulting in the constant and sometimes bitter debate over Tahoe that we have seen for the past twelve years. The 1968 enactment of the Tahoe Regional Planning Compact was not a panacea for the problems of Lake Tahoe for all time. Nor should the 1980 enactment be expected to be such a panacea. The weaknesses of the present Tahoe Regional Planning Agency, if they are weaknesses, result not from some failing of the dedicated individuals who have been members of its governing body, but from provisions deliberately included in the Compact by the legislatures of Nevada and California. Those provisions were the result of political compromises between two sovereign partners.

This Bill contains numerous similar political compromises. Many have no support in logic or in reason. The trifurcated voting procedures and the expanded 14-person governing body are examples. The requirement that the new transportation plan need only "give consideration to completion of the Loop Road" is another. The extraordinary legislative process taking place today and tomorrow is itself a sort of political compromise.

In 1979 the industry I represent urged you not to discard and ignore the lessons of the past twelve years. It argued that those lessons should be taken into account so that an amended Compact would be better, not worse, than the present version. It suggested that political compromise on key issues would not improve the situation in the long run. Unfortunately, the absence of political compromise does not always produce an agreement.

Not many, including the industry I represent, can endorse the substance of the political compromises in this Bill. Yet without those compromises there would be no agreement. With no agreement there would be no opportunity for Nevada and California to once again work together to solve their own bi-state problems. California and Nevada working together to solve the problems of the Lake Tahoe Basin is in the best interests of the Basin and in the best interests of the people who live, work and play there. It is because this Bill presents that opportunity that the South Tahoe gaming industry supports its enactment.

ENTERED

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

LEAGUE TO SAVE LAKE TAHOE;
SIERRA CLUB,

Plaintiffs

NO. CIV. R. 77-0159

vs.

TED JENNINGS; OLIVER KAHLE;
HARVEY'S WAGON WHEEL, INC.;
PARK CATTLE CO.; and COUNTY
OF DOUGLAS

Defendants.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL JUDGMENT

THIS MATTER came before the Court on October 17, 18,
and 19, 1977, pursuant to plaintiffs' Motion for Summary
Judgment and Motion for Preliminary Injunction, and on various
Motions of the defendants, including defendant Harveys' Motion
to Dismiss, and the plaintiffs and all defendants having presented
evidence, and the Court having considered the evidence presented
by each party as being available to all parties and the matter
having been argued and briefed and submitted to the Court, and
the Third Claim for Relief of plaintiffs League and Sierra Club
against defendant Harvey's Wagon Wheel, Inc., having been dismissed
by the Court pursuant to stipulation of counsel, the Court being
fully advised in the premises, and based on the evidence submitted

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1 by plaintiffs and the undisputed evidence and facts submitted by
2 defendants, the Court finds and concludes as follows:

3 FINDINGS OF FACT

4 1. That on or about June 20, 1973, the Douglas County
5 Commissioners, the permit-issuing authority pursuant to the
6 TRPA Land Use Ordinance, issued an administrative permit to
7 defendant Harvey's Wagon Wheel, Inc., approving its Master Plan
8 and allowing a new hotel tower with a height greater than 40
9 feet; that prior to issuing said administrative permit to said
10 defendant, the Douglas County Commissioners required the presen-
11 tation of extensive evidence in support of such additional height
12 pursuant to §7.13 and §8.33 of the TRPA Land Use Ordinance.

13 2. That the Douglas County Commissioners, prior to the
14 issuance of said administrative permit, fully complied with
15 all provisions of all applicable ordinances and regulations
16 including §7.13 and 8.33 of the TRPA Land Use Ordinance.

17 3. That there was submitted to the Douglas County
18 Commissioners, prior to the issuance of the above referenced
19 administrative permit, substantial evidence pursuant to §7.13 and
20 8.33, and upon such substantial evidence the Douglas County
21 Commissioners determined and found, inter alia, that "such greater
22 height will better promote the protection of the environment in
23 the area"; that the administrative record before Douglas County
24 contained substantial evidence to support such finding and
25 determination.

26 4. That said permit was subsequently submitted to
27 and approved by the Nevada TRPA, and thereafter on July 20, 1973,
28 was submitted to the TRPA for review; that on or about the 25th
29 day of July, 1973, a hearing was held on the Harvey's administra-
30 tive permit before the TRPA, at which time the governing body did
31 not obtain a dual majority vote to approve, modify or reject the
32 project, and that on or about September 20, 1973, the Harvey's

1 administrative permit was deemed approved by operation of law,
2 pursuant to the terms of the TRPA Compact and Land Use Ordinance.

3 5. That at the time of the adoption of the Land Use
4 Ordinance there existed in the area where defendant Harvey's
5 project is to be constructed several high-rise structures,
6 including structures which were higher than those in the project
7 proposed by defendant Harvey's at that time, it was common know-
8 ledge that under the said Land Use Ordinance, and particularly
9 §7.13, there would be structures many times higher than 40 feet
10 or 45 feet.

11 6. That the plaintiffs herein did not appear at the
12 hearing before the Douglas County Commissioners when the Harvey's
13 administrative permit was approved; not at the NTRPA hearing;
14 nor at the TRPA hearing. At no time in said hearings did the
15 plaintiffs herein raise any issue or contention that the Harvey's
16 project was in violation of §7.13 or §8.33 of the Land Use
17 Ordinance or otherwise was in violation of law.

18 7. That in processing defendant Harvey's application
19 for administrative permit the provisions of the TRPA Land Use
20 Ordinance were strictly and carefully followed and that the
21 administrative permit is valid and was, when issued, valid and
22 was valid on its face.

23 8. That after the administrative permit of defendant
24 Harvey's became final on or about September 20, 1973, defendant
25 Harvey's, in good faith, relied on that administrative permit and
26 has expended the sum of approximately \$2,795,348.88 in furtherance
27 of its project; that plaintiffs, with full knowledge, allowed
28 defendant Harvey's to proceed in reliance upon its administrative
29 permit which was valid on its face.

30 9. That on July 22, 1975, defendant Harvey's was
31 issued all necessary excavation, grading and building permits
32 for the "first addition" of its Master Plan project. Pursuant

1 to these permits, in a course of construction commencing September
2 10, 1975, and continuing until September 15, 1976, Harvey's
3 constructed said addition, including administrative offices,
4 employee lockers and cafeteria, warehouse and food lockers, all at
5 a cost of approximately \$2,795,348.88. Thereafter, pursuant to
6 an excavation, grading and foundation permit issued February 4,
7 1977, Harvey's commenced construction of its parking garage under
8 said Master Plan, accomplishing physical relocation of all utili-
9 ties and having a construction company crew ready to commence
10 excavation on September 1, 1977, when all activity was suspended
11 voluntarily due to the pendency of this action.

12 10. On September 20, 1973, the League to Save Lake
13 Tahoe and the Sierra Club brought an action against the TRPA,
14 Harvey's Wagon Wheel, Inc., Park Cattle Company and Tom Raley
15 in the United States District Court for the Eastern District
16 of California. The League to Save Lake Tahoe and Sierra Club
17 did not and have not at any time in said action effectively
18 seek or follow through with injunctive relief against Harvey's in
19 that action.

20 11. That plaintiff, State of California, on or about
21 August 7, 1974, filed suit in federal District Court entitled
22 State of California ex rel Evelle Younger, Attorney General,
23 versus Tahoe Regional Planning Agency, et al, case number R-74-
24 108 BRT, (hereinafter referred to as the "Younger case"), which
25 action attacked the validity of the administrative permits issued
26 to defendants Jennings and Kahle and alleged, inter alia, that
27 said projects if constructed "will be in violation of the TRPA
28 Ordinance on land use intensity and height limits".

29 12. That on or about August 16, 1974, plaintiff
30 League to Save Lake Tahoe filed suit number 6566 in Douglas
31 County, Nevada (hereinafter "Douglas County" case), which action
32 attacked the administrative permit issued to defendant Harvey's

1 and alleged, inter alia, said permit was issued in violation of
2 §57.13 and 8.33 of the TRPA Land Use Ordinance; was not supported
3 by substantial evidence; and therefore was arbitrary, capricious
4 and contrary to law.

5 13. That on or about June 5, 1975, plaintiff California
6 petitioned the Douglas County Court to file an amicus curiae
7 brief in the Douglas County action.

8 14. That on or about May 3, 1976, the League to Save
9 Lake Tahoe filed a suit in federal District Court under the
10 Clean Air Act, case number R-76-86 BRT, entitled League to Save
11 Lake Tahoe v. Roger S. Trounday, et al (hereinafter referred to
12 as the "Trounday case"), which suit sought to enjoin defendant
13 Jennings' project.

14 15. That the Younger action was appealed to the Ninth
15 Circuit Court of Appeals and the appellate Court first issued
16 its opinion on April 30, 1975, and amended the same on June 11,
17 1975.

18 16. That none of the plaintiffs at any time have
19 effectively sought and followed through with injunctive relief
20 against defendant Harvey's project.

21 17. That all actions and claims set forth in the
22 within action were available, apparent, and known to plaintiffs
23 at the time the Eastern District Action was commenced on September
24 20, 1973; and at the time of the filing of the Younger suit on
25 August 7, 1974, and the within claims could and should have been
26 included therein.

27 18. That all causes of action and all claims set
28 forth in the within matter were available, apparent and known
29 to plaintiffs at the time of filing the Douglas County case on
30 August 16, 1974.

31 19. That the plaintiffs delayed an unreasonable period
32 of time in commencing the within action.

1 6. That in issuing the administrative permit to
2 defendant Harvey's, Douglas County complied with all applicable
3 local, state and TRPA ordinances, rules and regulations, and
4 said permit was validly issued and is presently valid.

5 7. That defendant Harvey's has a vested right to
6 complete construction of its project in accordance with the
7 terms of its building and administrative permits.

8 8. That the Land Use Ordinance §7.13 is not ambiguous
9 and plainly contemplates applications for, and the granting of,
10 heights substantially in excess of 40 feet if the conditions of
11 §7.13 and §8.33 are met.

12 9. That Douglas County made adequate findings that
13 defendant Harvey's project meets all the conditions of §§7.13
14 and 8.33 of the Land Use Ordinance, and said determinations and
15 findings are supported by substantial evidence in the record.

16 10. That the plaintiffs' claims against the defendant
17 Harvey's were not timely raised or asserted before the various
18 administrative bodies that review the Harvey's administrative
19 permit, and that therefore the plaintiffs have failed to preserve
20 said claims for judicial review and the within action is barred
21 for the failure of plaintiffs to exhaust and timely assert
22 available administrative remedies.

23 11. That the First Cause of Action against defendant
24 Harvey's fails to state a claim for which relief can be granted.

25 JUDGMENT OF DISMISSAL

26 Pursuant to the Findings of Fact and Conclusions of
27 Law set forth above, and good cause appearing, it is hereby

28 ORDERED, ADJUDGED AND DECREED as follows:

29 1. That the Motion of plaintiffs for Preliminary
30 Injunction be and the same hereby is denied.

31 2. That the Motion of plaintiffs for Summary Judg-
32 ment be and the same hereby is denied.

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3. That the Motion of defendant Harvey's to Dismiss the First Claim for Relief be and the same hereby is granted.

4. That the First Claim for Relief is dismissed with prejudice and judgment is entered in favor of defendant Harvey's, together with costs.

DATED this 31st day of October, 1977.

Burdette M. Thompson
U. S. DISTRICT JUDGE

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*[Handwritten Signature]*IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADALEAGUE TO SAVE LAKE TAHOE:
SIERRA CLUB,

Plaintiffs,

vs.

TED JENNINGS; OLIVER KAHLE;
HARVEY'S WAGON WHEEL, INC.;
PARK CATTLE CO.; and COUNTY
OF DOUGLAS,

Defendants.

No. Civ. R. 77-0159 BRT

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AS TO PARK CATTLE CO.

The Plaintiffs filed a motion for summary judgment on their First and Second Claims for Relief and a motion for a preliminary injunction against Defendant Park Cattle Co. (hereafter "Park"). Park filed a motion for summary judgment directed to all claims for relief.

All motions came on for hearing before the above-entitled Court on October 17, 18 and 19, 1977. All parties were represented by counsel. By order of Court the evidence presented was made available to all parties. The Court, having considered the evidence, the points and authorities and the arguments of counsel, and being fully informed, makes its Findings of Fact and Conclusions of Law.

EXHIBIT B

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FINDINGS OF FACT

1
2 1. Plaintiffs contend that this Court should construe Land
3 Use Ordinance (LUO) section 7.13 as setting up an absolute height
4 limit which may not be exceeded, except to a very minor extent
5 under exceptional circumstances.

6 2. Park was granted an administrative permit for its
7 project by Douglas County on April 20, 1973. That administrative
8 permit was delivered to the Tahoe Regional Planning Agency
9 (TRPA) on April 24, 1973.

10 3. By agreement with Park the TRPA was given up to and
11 including June 27, 1973 in which to take final action on Park's
12 proposal and the permit delivered on April 24, 1973. On June
13 27, 1973 at a formally noticed meeting the governing body
14 of the TRPA failed to achieve a dual majority to approve, dis-
15 approve or modify the proposal and permit.

16 4. On July 16, 1973 Park was granted a grading permit
17 pursuant to which it promptly embarked upon the grading necessary
18 for the project.

19 5. On August 15, 1973 Douglas County, Nevada and the City
20 of South Lake Tahoe, California entered into a Memorandum of
21 Understanding concerning construction of certain street improve-
22 ments in and around the Stateline/casino area.

23 6. On August 27, 1973 at a special meeting the Douglas
24 County Commissioners reviewed, approved and adopted a traffic
25 plan named the Douglas County Stateline Road Plan.

26 7. On August 27, 1973 Douglas County issued a building
27 permit to Park. Construction was commenced pursuant to that
28 building permit.

29 8. Park, prior to its presentation to the TRPA on June 27,
30 1973, had expended almost \$1,000,000 in preparing plans,
31 specifications, studies and reports required to secure the permits
32 and approvals necessary to construct its project. Between June

1 27, 1973 and September 20, 1973 Park, in good faith reliance on
2 its administrative permit, TRPA's automatic approval thereof, its
3 grading permit and its building permit, bought material, labor and
4 services costing more than \$4,165,000.00, resulting in a total
5 expenditure of more than \$5,100,000.

6 9. On September 20, 1973 the League to Save Lake Tahoe and
7 the Sierra Club brought an action against the TRPA, Harvey's
8 Wagon Wheel, Inc., Park and Tom Raley in the United States
9 District Court for the Eastern District of California (hereafter
10 the "Eastern District Action"). The thrust of that action was that
11 the TRPA had failed to comply with the provisions of the Compact
12 and the Regional Plan in adopting certain land coverage
13 provisions in its Land Use Ordinance and therefore had granted
14 invalid approvals to the defendants. The League to Save Lake
15 Tahoe and the Sierra Club did not move for injunctive relief
16 against Park in that action, until August 1, 1977, when they
17 unsuccessfully sought injunctive relief in the Ninth Circuit Court
18 of Appeals.

19 10. On August 16, 1974 the League to Save Lake Tahoe
20 commenced an action in the First Judicial District Court of the
21 State of Nevada in and for the County of Douglas, against the
22 TRPA, Park, Harvey's Wagon Wheel, Inc., Oliver Kahle, Ted Jennings
23 and the Douglas County Commission (hereafter the "Douglas County
24 Action"). That action did not allege that the height of Park's
25 project violated the LUO. The League to Save Lake Tahoe did not
26 pursue either its motion for a preliminary injunction or prayer
27 for injunctive relief against Park in that action.

28 11. Park filed an answer in the Douglas County Action on
29 October 1, 1974 wherein it admitted that it had commenced and
30 asserted that it was continuing construction of its project. In
31 August of 1974 Park's project had reached its designed height.

32 12. On February 25, 1975 an order was entered dismissing

1 the Douglas County Action without prejudice as to Park pursuant to
2 a written stipulation between counsel for the League and Park.

3 13. The issue of the applicability of the bar of NRS 278.027
4 to claims virtually identical to plaintiffs' First Claim for
5 Relief was litigated and determined in the Douglas County Action.
6 The Nevada Supreme Court rendered a final judgment on that issue
7 in League to Save Lake Tahoe v. TRPA, 93 Nev.Adv.Op. 89, 563 P.2d
8 582 (1977). That Court held that NRS 278.027 applied to such
9 claims.

10 14. On August 7, 1974 the State of California filed an
11 action in the United States District Court for the District of
12 Nevada, number R 74-108 BRT, against Ted Jennings and Oliver
13 Kahle (hereafter referred to as "Younger"). In that action it
14 was contended that the granting of administrative permits for
15 Jennings' and Kahle's projects violated the Compact.

16 15. The Younger action was appealed to the Ninth Circuit
17 Court of Appeals. That Court's opinion was first issued on
18 April 30, 1975 and amended on June, 11, 1975. Plaintiffs, the
19 State of California and the California Tahoe Regional Planning
20 Agency were aware of that opinion but did not file this action
21 until August 12, 1977. The rights Plaintiffs claim in this action
22 were available and readily apparent as soon as the Younger
23 opinion was pronounced.

24 16. Park in good faith reliance on its administrative permit,
25 TRPA's automatic approval thereof, and its building permit has now
26 expended in excess of \$10,000,000 toward the construction of its
27 project.

28 17. Except for the claims asserted in the Eastern District
29 Action, Plaintiffs did not seek judicial review of or relief from
30 the granting of Park's administrative permit until this action was
31 filed on August 12, 1977, more than four years after TRPA's auto-
32 matic approval.

1 18. At the time LUO section 7.13 was adopted there were
2 structures at Lake Tahoe, particularly on the South Shore,
3 which exceeded forty feet in height and the TRPA was aware
4 of that fact.

5 19. In a serious and determined effort to comply with the
6 provisions of LUO sections 7.13 and 8.33 the Douglas County
7 Commission, prior to issuing Park's administrative permit
8 pursuant to LUO section 8.33 and section 7.13, required the
9 presentation of substantial evidence concerning the conditions
10 required to be met under those sections.

11 20. Prior to the issuance of the administrative permit,
12 Park presented substantial evidence to Douglas County, which
13 evidence showed that: provision had been made for protection
14 from fire hazards and against aviation accidents; consideration
15 had been given to the protection of view and to the character
16 of the neighborhood; proper provision had been made for light
17 and air; and such greater height would better promote the
18 protection of the environment in the area; the establishment,
19 maintenance or operation of the use in that particular case
20 was not detrimental to health, safety, peace, morals, comfort and
21 general welfare of persons residing or working in the neighbor-
22 hood of such proposed use, or detrimental or injurious to
23 property and improvements in the neighborhood or to the general
24 welfare of the region, and would not cause any substantial
25 harmful environmental consequences on the land of the applicant
26 or on other lands or waters.

27 21. The determination of the Douglas County Commissioners
28 that Park's proposal met all of the conditions of LUO sections
29 7.13 and 8.33 is supported by adequate findings and substantial
30 evidence.

31 22. No contentions were made by anyone at any hearing on
32 Park's administrative permit, including the June 27, 1973 TRPA

1 hearing, that its project would be in violation of LUO sections
2 7.13 and 8.33.

3 23. The provisions of the Compact and the LUO were
4 strictly and carefully followed at all stages of the adminis-
5 trative proceedings set up for processing Park's application for
6 an administrative permit.

7 24. All claims set out in Plaintiffs' First Claim for
8 Relief in this action were available, apparent and known at the
9 time the Eastern District Action was commenced on September 20,
10 1977, at the time the Younger action was commenced on August 7,
11 1974 and at the time the Douglas County Action was commenced on
12 August 16, 1974.

13 25. Additional delay in the construction of Park's
14 project will result in a substantial increase in the total
15 cost of construction.

16 26. Park has engaged in continuous work on its project
17 pursuant to its August 27, 1973 building permit and has not
18 suspended or abandoned the building or work for a period of
19 120 days at any time from August 27, 1973 up to and including
20 the present time.

21 27. Plaintiffs' Second Claim for Relief relates to when
22 Park will be entitled to a certificate of occupancy; there is no
23 substantial controversy that the structure built by Park was
24 erected lawfully pursuant to a valid building permit; there is,
25 however, a genuine issue as to a material fact with respect to
26 that claim; and there is no present danger of immediate and
27 irreparable harm with respect to that claim.

28 From the foregoing Findings of Fact the Court makes the
29 following:

30 CONCLUSIONS OF LAW

31 1. The Court has subject matter jurisdiction pursuant to
32 28 U.S.C. section 1331(a).

1 2. Park's administrative permit was approved by operation
2 of law on June 27, 1973, which approval has the same legal effect
3 as an approval by unanimous vote of the governing body of the
4 TRPA.

5 3. Plaintiffs are collaterally estopped from relitigating
6 the bar of NRS 278.027 to their First Claim for Relief.

7 4. Plaintiffs' First Claim for Relief is barred by
8 NRS 278.027.

9 5. Park's building permit was valid when issued and is
10 presently valid.

11 6. Park has a vested right to complete construction of its
12 project in accordance with the terms of its building and
13 administrative permits.

14 7. Plaintiffs' First Claim for Relief is barred by the
15 equitable doctrine of laches as to Park.

16 8. Land Use Ordinance section 7.13 is not ambiguous and
17 plainly contemplates applications for and the granting of heights
18 substantially in excess of 40 feet, if the conditions of sections
19 7.13 and 8.33 are met.

20 9. Park's project meets all of the conditions of LUO
21 sections 7.13 and 8.33 and the determinations and findings of
22 the Douglas County Commission pursuant to those sections are
23 supported by substantial evidence.

24 10. Approval of Park's project by operation of law resolved
25 any deficiencies in the proceedings before Douglas County and the
26 Douglas County proceedings were not thereafter subject to attack
27 or review.

28 11. Plaintiffs' Second Claim for Relief does not at this
29 time present any prospect of immediate and irreparable harm and
30 Plaintiffs have not shown a likelihood that they will prevail on
31 the merits on that claim.

32 12. Plaintiffs cannot, as a matter of law, prevail on the


1 merits of their other claim for relief.

2 13. Plaintiffs have not shown that they will suffer
3 immediate and irreparable harm if preliminary injunctive relief
4 is denied.

5 14. All equities favor Park and a denial of preliminary
6 injunctive relief.

7 15. Plaintiffs are not entitled to preliminary injunctive
8 relief.

9 DATED: This 31st day of October, 1977.

10 
11 UNITED STATES DISTRICT JUDGE

12 Presented by
13 RICHARD W. BLAKEY, ESQ.
14 GORDON H. DePAOLI, ESQ.
15 WOODBURN, WEDGE, BLAKEY and FOLSOM

16 By Gordon H. DePaoli
17 Attorneys for Park Cattle Co.
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OCT 31 1977

CLERK U.S. DISTRICT COURT
DISTRICT OF NEVADA
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

CALIFORNIA TAHOE REGIONAL
PLANNING AGENCY; and PEOPLE
OF THE STATE OF CALIFORNIA

NO. CIV. R. 77-0158

Plaintiffs

vs.

TED JENNINGS; OLIVER KAHLE;
HARVEY'S WAGON WHEEL, INC.;
PARK CATTLE CO.,; and COUNTY
OF DOUGLAS

Defendants.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL JUDGMENT

THIS MATTER came before the Court on October 17, 18,
and 19, 1977, pursuant to plaintiffs' Motion for Summary
Judgment and Motion for Preliminary Injunction, and on various
Motions of the defendants, including defendant Harveys' Motion
to Dismiss, and the plaintiffs and all defendants having presented
evidence, and the Court having considered the evidence presented
by each party as being available to all parties, and the matter
having been argued and briefed and submitted to the Court, and
the Fourth Claim for Relief against defendant Harvey's Wagon Wheel,
Inc., having been dismissed by the Court pursuant to stipulation
of counsel, the Court being fully advised in the premises, and

EXHIBIT C

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1 based on the evidence submitted by plaintiffs and the undisputed
2 evidence and facts submitted by defendants, the Court finds and
3 concludes as follows:

4 FINDINGS OF FACT

5 1. That on or about June 20, 1973, the Douglas County
6 Commissioners, the permit-issuing authority pursuant to the
7 TRPA Land Use Ordinance, issued an administrative permit to
8 defendant Harvey's Wagon Wheel, Inc., approving its Master Plan
9 and allowing a new hotel tower with a height greater than 40
10 feet; that prior to issuing said administrative permit to said
11 defendant, the Douglas County Commissioners required the presen-
12 tation of extensive evidence in support of such additional height
13 pursuant to §7.13 and §8.33 of the TRPA Land Use Ordinance.

14 2. That the Douglas County Commissioners, prior to the
15 issuance of said administrative permit, fully complied with
16 all provisions of all applicable ordinances and regulations
17 including §§7.13 and 8.33 of the TRPA Land Use Ordinance.

18 3. That there was submitted to the Douglas County
19 Commissioners, prior to the issuance of the above referenced
20 administrative permit, substantial evidence pursuant to §§7.13
21 and 8.33, and upon such substantial evidence the Douglas County
22 Commissioners determined and found, inter alia, that "such greater
23 height will better promote the protection of the environment in
24 the area"; that the administrative record before Douglas County
25 contained substantial evidence to support such finding and
26 determination.

27 4. That said permit was subsequently submitted to
28 and approved by the Nevada TRPA, and thereafter on July 20, 1973,
29 was submitted to the TRPA for review; that on or about the 25th
30 day of July, 1973, a hearing was held on the Harvey's administra-
31 tive permit before the TRPA, at which time the governing body did
32 not obtain a dual majority vote to approve, modify or reject the

1 project, and that on or about September 20, 1973, the Harvey's
2 administrative permit was deemed approved by operation of law,
3 pursuant to the terms of the TRPA Compact and Land Use Ordinance.

4 5. That at the time of the adoption of the Land Use
5 Ordinance there existed in the area where defendant Harvey's
6 project is to be constructed several high-rise structures,
7 including structures which were higher than those in the project
8 proposed by defendant Harvey's; at that time, it was common know-
9 ledge that under the said Land Use Ordinance, and particularly
10 §7.13, there would be structures many times higher than 40 feet
11 or 45 feet.

12 6. That the plaintiffs herein did not appear at the
13 hearing before the Douglas County Commissioners when the Harvey's
14 administrative permit was approved; nor at the NTRPA hearing;
15 nor at the TRPA hearing. At no time in said hearings did the
16 plaintiffs herein raise any issue or contention that the Harvey's
17 project was in violation of §7.13 or §8.33 of the Land Use
18 Ordinance or otherwise was in violation of law.

19 7. That in processing defendant Harveys' application
20 for administrative permit the provisions of the TRPA Land Use
21 Ordinance were strictly and carefully followed and that the
22 administrative permit is valid and was, when issued, valid and
23 was valid on its face.

24 8. That after the administrative permit of defendant
25 Harvey's became final on or about September 20, 1973, defendant
26 Harvey's, in good faith, relied on that administrative permit and
27 has expended the sum of approximately \$2,795,348.88 in furtherance
28 of its project; that plaintiffs, with full knowledge, allowed
29 defendant Harvey's to proceed in reliance upon its administrative
30 permit which was valid on its face.

31 9. That on July 22, 1975, defendant Harvey's was issued
32 all necessary excavation, grading and building permits for the

1 "first addition" of its Master Plan project. Pursuant to these
2 permits, in a course of construction commencing September 10, 1975
3 and continuing until September 15, 1976, Harvey's constructed said
4 addition, including administrative offices, employee lockers and
5 cafeteria, warehouse and food lockers, all at a cost of approxi-
6 mately \$2,795,348.88. Thereafter, pursuant to an excavation,
7 grading and foundation permit issued February 4, 1977, Harvey's
8 commenced construction of its parking garage under said Master
9 Plan, accomplishing physical relocation of all utilities and
10 having a construction company crew ready to commence excavation
11 on September 1, 1977, when all activity was suspended voluntarily
12 due to the pendency of this action.

13 10. On September 20, 1973, the League to Save Lake
14 Tahoe and the Sierra Club brought an action against the TRPA,
15 Harvey's Wagon Wheel, Inc., Park Cattle Company and Tom Raley
16 in the United States District Court for the Eastern District
17 of California. The League to Save Lake Tahoe and Sierra Club
18 did not and have not at any time in said action effectively
19 seek or follow through with injunctive relief against Harvey's in
20 that action.

21 11. That plaintiff, State of California, on or about
22 August 7, 1974, filed suit in federal District Court entitled
23 State of California ex rel Evelle Younger, Attorney General,
24 versus Tahoe Regional Planning Agency, et al, case number R-74-
25 108 BRT, (hereinafter referred to as the "Younger case"), which
26 action attacked the validity of the administrative permits issued
27 to defendants Jennings and Kahle and alleged, inter alia, that
28 said projects if constructed "will be in violation of the TRPA
29 Ordinance on land use intensity and height limits".

30 12. That on or about August 16, 1974, plaintiff
31 League to Save Lake Tahoe filed suit number 6566 in Douglas
32 County, Nevada (hereinafter "Douglas County" case), which action

1 attacked the administrative permit issued to defendant Harvey's
2 and alleged, inter alia, said permit was issued in violation of
3 §§7.13 and 8.33 of the TRPA Land Use Ordinance; was not supported
4 by substantial evidence; and therefore was arbitrary, capricious
5 and contrary to law.

6 13. That on or about June 5, 1975, plaintiff California
7 petitioned the Douglas County Court to file an amicus curiae
8 brief in the Douglas County action.

9 14. That on or about May 3, 1976, the League to
10 Save Lake Tahoe filed a suit in federal District Court under the
11 Clean Air Act, case number R-76-86 BRT, entitled League to Save
12 Lake Tahoe v. Roger S. Trounday, et al (hereinafter referred to
13 as the "Trounday case"), which suit sought to enjoin defendant
14 Jennings' project.

15 15. That the Younger action was appealed to the Ninth
16 Circuit Court of Appeals and the appellate Court first issued
17 its opinion on April 30, 1975, and amended the same on June 11,
18 1975.

19 16. That none of the plaintiffs at any time have
20 effectively sought and followed through with injunctive relief
21 against defendant Harvey's project.

22 17. That all actions and claims set forth in the
23 within action were available, apparent, and known to plaintiffs
24 at the time the Eastern District Action was commenced on September
25 20, 1973; and at the time of the filing of the Younger suit on
26 August 7, 1974, and the within claims could and should have been
27 included therein.

28 18. That all causes of action and all claims set
29 forth in the within matter were available, apparent and known
30 to plaintiffs at the time of filing the Douglas County case on
31 August 16, 1974.

32 19. That the plaintiffs delayed an unreasonable period

1 of time in commencing the within action.

2 20. That any objections that a building higher than
3 40 feet violated §7.13 of the Land Use Ordinance should have
4 been made by plaintiffs in the permit-issuing procedures and
5 at the hearings before the Douglas County Commissioners, the
6 Nevada Tahoe Regional Planning Agency, and the TRPA.

7 21. That after the decision of the Ninth Circuit
8 Court of Appeals in the Younger case, plaintiffs made no attempt
9 to amend their Complaint or file another action setting out the
10 claims included in the within action.

11 22. That the Douglas County action was dismissed
12 against the League to Save Lake Tahoe with prejudice, which
13 dismissal was affirmed by the Nevada Supreme Court on May 3,
14 1977.

15 23. That additional delay in the construction of
16 Harvey's project will result in substantial increase in the
17 total cost of construction.

18 24. That the language of §7.13 of the TRPA Land Use
19 Ordinance is not ambiguous.

20 CONCLUSIONS OF LAW

21 1. The Court has subject matter jurisdiction pursuant
22 to 28 U.S.C. 1331(a).

23 2. That defendant Harvey's administrative permit was
24 approved by operation of law under the terms of the TRPA Compact
25 on or about September 20, 1973, which approval has the same legal
26 effect as an approval by the unanimous vote of the governing body
27 of the TRPA.

28 3. That plaintiffs' claims against defendant Harvey's
29 are barred by NRS 278.027.

30 4. That plaintiffs' claims against defendant Harvey's
31 are barred by the doctrine of laches as a matter of law,
32

1 5. That plaintiffs' claims against defendant Harvey's
2 are barred by the doctrines of res judicata and collateral
3 estoppel.

4 6. That in issuing the administrative permit to
5 defendant Harvey's, Douglas County complied with all applicable
6 local, state and TRFA ordinances, rules and regulations, and
7 said permit was validly issued and is presently valid.

8 7. That defendant Harvey's has a vested right to
9 complete construction of its project in accordance with the
10 terms of its building and administrative permits.

11 8. That the Land Use Ordinance §7.13 is not ambiguous
12 and plainly contemplates applications for, and the granting of,
13 heights substantially in excess of 40 feet if the conditions of
14 §7.13 and §8.33 are met.

15 9. That Douglas County made adequate findings that
16 defendant Harvey's project meets all the conditions of §§7.13
17 and 8.33 of the Land Use Ordinance, and said determinations and
18 findings are supported by substantial evidence in the record.

19 10. That the plaintiffs' claims against the defendant
20 Harvey's were not timely raised or asserted before the various
21 administrative bodies that reviewed the Harvey's administrative
22 permit, and that therefore the plaintiffs have failed to preserve
23 said claims for judicial review and the within action is barred
24 for the failure of plaintiffs to exhaust and timely assert
25 available administrative remedies.

26 11. That the First and Second Causes of Action
27 against defendant Harvey's fail to state a claim for which relief
28 can be granted.

29 JUDGMENT OF DISMISSAL

30 Pursuant to the Findings of Fact and Conclusions of
31 Law set forth above, and good cause appearing, it is hereby
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ORDERED, ADJUDGED AND DECREED as follows:

- 1. That the Motion of plaintiffs for Preliminary Injunction be and the same hereby is denied.
- 2. That the Motion of plaintiffs for Summary Judgment be and the same hereby is denied.
- 3. That the Motion of defendant Harvey's to Dismiss the First and Second Claims for Relief be and the same hereby is granted.
- 4. That the First and Second Claims for Relief are dismissed with prejudice and judgment is entered in favor of defendant Harvey's together with costs.

DATED this 31st day of October, 1977.

Robert W. Clumpner
U.S. DISTRICT JUDGE

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STEVEN D. McMORRIS
District Attorney
Douglas County, Nevada
Douglas County Courthouse
Minden, Nevada 89423
Telephone: (702) 782-5176

Attorney for Defendant
Douglas County

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[Signature]

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CLERK U. S. DISTRICT COURT
DISTRICT OF NEVADA
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

CALIFORNIA TAHOE REGIONAL
PLANNING AGENCY; and PEOPLE
OF THE STATE OF CALIFORNIA,

Plaintiffs,

vs.

TED JENNINGS; OLIVER KAHLE;
HARVEY'S WAGON WHEEL, INC.;
PARK CATTLE CO.; and COUNTY
OF DOUGLAS,

Defendants

No. Civ R 77-0158 BRT

ORDER DISMISSING FIRST AND
SECOND CLAIMS FOR RELIEF
(Pursuant to granting of
County's Motion to Dismiss)

This Court having heretofore made its Order granting
defendant County's Motion to Dismiss the First and Second Claims
of plaintiffs' Complaint.

NOW, THEREFORE, it is ORDERED and ADJUDGED that plain-
tiffs' First and Second Claims for Relief be, and they hereby
are, dismissed.

DATED: *October 31, 1977*

[Signature]
Judge of the United States District
Court for the District of Nevada

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

CALIFORNIA TAHOE REGIONAL
PLANNING AGENCY; and PEOPLE
OF THE STATE OF CALIFORNIA,

No. Civ. R. 77-0158 BRT

Plaintiffs,

vs.

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AS TO PARK CATTLE CO.

TED JENNINGS; OLIVER KAHLE;
HARVEY'S WAGON WHEEL, INC.;
PARK CATTLE CO.; and COUNTY
OF DOUGLAS,

Defendants.

_____ /

The Plaintiffs filed a motion for summary judgment on their First and Third Claims for Relief and a motion for a preliminary injunction against Defendant Park Cattle Co. (hereafter "Park"). Park filed a motion for summary judgment directed to all claims for relief.

All motions came on for hearing before the above-entitled Court on October 17, 18 and 19, 1977. All parties were represented by counsel. By order of Court the evidence presented was made available to all parties. The Court, having considered the evidence, the points and authorities and the arguments of counsel, and being fully informed, makes its Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1
2 1. Plaintiffs contend that this Court should construe Land
3 Use Ordinance (LUO) section 7.13 as setting up an absolute height
4 limit which may not be exceeded, except to a very minor extent
5 under exceptional circumstances.

6 2. Park was granted an administrative permit for its
7 project by Douglas County on April 20, 1973. That administrative
8 permit was delivered to the Tahoe Regional Planning Agency
9 (TRPA) on April 24, 1973.

10 3. By agreement with Park the TRPA was given up to and
11 including June 27, 1973 in which to take final action on Park's
12 proposal and the permit delivered on April 24, 1973. On June
13 27, 1973 at a formally noticed meeting the governing body
14 of the TRPA failed to achieve a dual majority to approve, dis-
15 approve or modify the proposal and permit.

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17 pursuant to which it promptly embarked upon the grading necessary
18 for the project.

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21 Understanding concerning construction of certain street improve-
22 ments in and around the Stateline/casino area.

23 6. On August 27, 1973 at a special meeting the Douglas
24 County Commissioners reviewed, approved and adopted a traffic
25 plan named the Douglas County Stateline Road Plan.

26 7. On August 27, 1973 Douglas County issued a building
27 permit to Park. Construction was commenced pursuant to that
28 building permit.

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32 and approvals necessary to construct its project. Between June

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11 the TRPA had failed to comply with the provisions of the Compact
12 and the Regional Plan in adopting certain land coverage
13 provisions in its Land Use Ordinance and therefore had granted
14 invalid approvals to the defendants. The League to Save Lake
15 Tahoe and the Sierra Club did not move for injunctive relief
16 against Park in that action, until August 1, 1977, when they
17 unsuccessfully sought injunctive relief in the Ninth Circuit Court
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23 and the Douglas County Commission (hereafter the "Douglas County
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25 project violated the LUO. The League to Save Lake Tahoe did not
26 pursue either its motion for a preliminary injunction or prayer
27 for injunctive relief against Park in that action.

28 11. Park filed an answer in the Douglas County Action on
29 October 1, 1974 wherein it admitted that it had commenced and
30 asserted that it was continuing construction of its project. In
31 August of 1974 Park's project had reached its designed height.

32 12. On February 25, 1975 an order was entered dismissing

1 the Douglas County Action without prejudice as to Park pursuant
2 to a written stipulation between counsel for the League and Park.

3 13. On August 7, 1974 the State of California filed an
4 action in the United States District Court for the District of
5 Nevada, number R 74-108 BRT, against Ted Jennings and Oliver
6 Kahle (hereafter referred to as "Younger"). In that action it
7 was contended that the granting of administrative permits for
8 Jennings' and Kahle's projects violated the Compact.

9 14. The Younger action was appealed to the Ninth Circuit
10 Court of Appeals. That Court's opinion was first issued on
11 April 30, 1975 and amended on June 11, 1975. Plaintiffs, the
12 League to Save Lake Tahoe and the Sierra Club were aware of
13 that opinion but did not file this action until August 12, 1977.
14 The rights Plaintiffs claim in this action were available and
15 readily apparent as soon as the Younger opinion was pronounced.

16 15. Park in good faith reliance on its administrative
17 permit, TRPA's automatic approval thereof, and its building permit
18 has now expended in excess of \$10,000,000 toward the construction
19 of its project.

20 16. Plaintiffs did not seek judicial review of or relief
21 from the granting of Park's administrative permit until this action
22 was filed on August 12, 1977, more than four years after TRPA's
23 automatic approval.

24 17. At the time LUO section 7.13 was adopted there
25 were structures at Lake Tahoe, particularly on the South Shore,
26 which exceeded forty feet in height and the TRPA was aware
27 of that fact.

28 18. In a serious and determined effort to comply with the
29 provisions of LUO sections 7.13 and 8.33 the Douglas County
30 Commission, prior to issuing Park's administrative permit pursuant
31 to LUO section 8.33 and section 7.13, required the presentation
32 of substantial evidence concerning the conditions required to be

1 met under those sections.

2 19. Prior to the issuance of the administrative permit,
3 Park presented substantial evidence to Douglas County, which
4 evidence showed that: provision had been made for protection
5 from fire hazards and against aviation accidents; consideration
6 had been given to the protection of view and to the character
7 of the neighborhood; proper provision had been made for light
8 and air; and such greater height would better promote the pro-
9 tection of the environment in the area; the establishment,
10 maintenance or operation of the use in that particular case was
11 not detrimental to health, safety, peace, morals, comfort and
12 general welfare of persons residing or working in the neighbor-
13 hood of such proposed use, or detrimental or injurious to
14 property and improvements in the neighborhood or to the general
15 welfare of the region, and would not cause any substantial
16 harmful environmental consequences on the land of the applicant
17 or on other lands or waters.

18 20. The determination of the Douglas County Commissioners
19 that Park's proposal met all of the conditions of LUO sections
20 7.13 and 8.33 is supported by adequate findings and substantial
21 evidence.

22 21. No contentions were made by anyone at any hearing on
23 Park's administrative permit, including the June 27, 1973 TRPA
24 hearing, that its project would be in violation of LUO sections
25 7.13 and 8.33.

26 22. The provisions of the Compact and the LUO were
27 strictly and carefully followed at all stages of the adminis-
28 trative proceedings set up for processing Park's application for
29 an administrative permit.

30 23. All claims set out in Plaintiffs' First and Second
31 Claims for Relief in this action were available, apparent and
32 known at the time the Eastern District Action was commenced on

1 September 20, 1973, at the time the Younger action was commenced
2 on August 7, 1974 and at the time the Douglas County Action was
3 commenced on August 16, 1974.

4 24. Additional delay in the construction of Park's
5 project will result in a substantial increase in the total
6 cost of construction.

7 25. Park has engaged in continuous work on its project
8 pursuant to its August 27, 1973 building permit and has not
9 suspended or abandoned the building or work for a period of
10 120 days at any time from August 27, 1973 up to and including
11 the present time.

12 26. Plaintiffs' Third Claim for Relief relates to when
13 Park will be entitled to a certificate of occupancy; there is no
14 substantial controversy that the structure built by Park was
15 erected lawfully pursuant to a valid building permit; there is,
16 however, a genuine issue as to a material fact with respect to
17 that claim; and there is no present danger of immediate and
18 irreparable harm with respect to that claim.

19 From the foregoing Findings of Fact the Court makes the
20 following

21 CONCLUSIONS OF LAW

22 1. The Court has subject matter jurisdiction pursuant to
23 28 U.S.C. section 1331(a).

24 2. Park's administrative permit was approved by operation
25 of law on June 27, 1973, which approval has the same legal
26 effect as an approval by unanimous vote of the governing body
27 of the TRPA.

28 3. Plaintiffs' First Claim for Relief is barred by
29 NRS 278.027.

30 4. Park's building permit was valid when issued and is
31 presently valid.

32 5. Park has a vested right to complete construction of its

1 project in accordance with the terms of its building and
2 administrative permits.

3 6. Plaintiffs' First and Second Claims for Relief are
4 barred by the equitable doctrine of laches as to Park.

5 7. Land Use Ordinance section 7.13 is not ambiguous and
6 plainly contemplates applications for and the granting of heights
7 substantially in excess of 40 feet, if the conditions of sections
8 7.13 and 8.33 are met.

9 8. Park's project meets all of the conditions of LUO
10 sections 7.13 and 8.33 and the determinations and findings of
11 the Douglas County Commission pursuant to those sections are
12 supported by substantial evidence.

13 9. Approval of Park's project by operation of law resolved
14 any deficiencies in the proceedings before Douglas County and the
15 Douglas County proceedings were not thereafter subject to attack
16 or review.

17 10. Plaintiffs' Third Claim for Relief does not at this
18 time present any prospect of immediate and irreparable harm and
19 Plaintiffs have not shown a likelihood that they will prevail on
20 the merits on that claim.

21 11. Plaintiffs cannot, as a matter of law, prevail on the
22 merits of their other claims for relief.

23 12. Plaintiffs have not shown that they will suffer
24 immediate and irreparable harm if preliminary injunctive relief
25 is denied.

26 13. All equities favor Park and a denial of preliminary
27 injunctive relief.

28 14. Plaintiffs are not entitled to preliminary injunctive
29 relief.

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DATED: This 31st day of October, 1977.

Bruce D. Thompson
UNITED STATES DISTRICT JUDGE

Presented by
RICHARD W. BLAKEY, ESQ.
GORDON H. DePAOLI, ESQ.
WOODBURN, WEDGE, BLAKEY and FOLSOM

By Gordon H. DePaoli
Attorneys for Park Cattle Co.

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ASSEMBLYMAN DINI:

The Chair recognizes E. H. Seaton.

E. H. SEATON:

Ladies and gentlemen of the Legislature, I am representing Round Hill General Improvement District. We are a small district which has been put in the middle of a very adverse situation, namely, the glorious Tahoe Regional Planning Agency greenbelted some four hundred acres of sewer-bonded indebtedness acreage. Now for four hundred members of the local area to figure out how to pay off some 3.5 million dollars of decollateralized bonds, which I can't find in the Constitution any place where you are supposed to be able to do this. However, it was done. I want to thank the Legislature and all you people here who worked on this Bill to see that we still have a breath of life left by being able to sell some land and pay off these decollateralized bonds. I want to thank you very much.

ASSEMBLYMAN DINI:

The Chair recognizes Peggy Twedt.

PEGGY TWEDT:

I am Peggy Twedt. I am representing the League of Women Voters of Nevada. The League of Women Voters of Nevada supports this revision of the bi-state Compact. Since the League has supported past legislation to improve TRPA, our stand comes as no surprise. Actually the League in Nevada has been under pressure to change its support from TRPA to a national scenic area. Such legislation has been introduced in Washington by Congressman Fazio from California. In analyzing the Fazio Bill, the League was concerned with some of its provisions. One, in particular, might be of concern to you. The Secretary of Agriculture would, through the approval of all licenses, become involved in gaming in Nevada. Although this may not be the intent, it still should be of concern. Because of this concern and other weaknesses we see in the basic concept, we concluded that Basin management would be best accomplished by a stronger TRPA rather than a national scenic area. In May of this year, our members voted to give California and Nevada one more opportunity to improve the bi-state Compact. We were optimistic that the two states could overcome their differences and reach an agreement. The Bill in front of you confirms this hope. California has passed it. Now it is up to you. If you fail to pass this, it would seem that the two states cannot agree and our only alternative is federal intervention. I don't feel that this particular stand is unusual to the League of Women Voters. I think others in the state feel the same way. Keep in mind that any attempt to amend the Bill is the same as killing the Bill. The Bill must be voted on as is to proceed on to Congress for its approval. This is your last chance to revitalize TRPA. The League of Women voters urges your support of the bi-state Compact.

SENATOR NEAL:

The Chair recognizes George Finn.

GEORGE FINN:

Chairman Neal, I am the president, chairman, board of directors of the League to Save Lake Tahoe and I am the only member. I think we owe a round of applause or a thank-you to Senator Joe Neal and his twin chairman, Assemblyman Joe Dini, for the fair and impartial and excellent manner in conducting this unnecessary hearing. I am in favor of the Bill contrary to what you all may think, or others may think. I have to, in all honesty, say that this legislation—the manner in which this Bill was drawn—it does just exactly what it is supposed to do. And I think we owe a debt of gratitude to Spike Wilson, although he is a lawyer, I know you must know everything about the Federal Constitution, and the State Constitution and I am surprised that Joe Dini was so up on this matter, because if you read this thing properly, whoever drew it must have known every single thing about those two Constitutions—or they could not have abrogated it so completely. It is a personal satisfaction to me to be on your side this time because I met with Senator Dodge last night in a restaurant and he said, "George, are you going to testify tomorrow?" And I said, "I think so." "Gosh," he said, "you've been testifying for forty years." So I said, "Well, you've been legislating for fifty." But it brought to my attention of all the time that I've been opposing everything, nobody

was paying any attention to me, so I decided to get on your side and hope that this Bill passes. It will do one thing, at least for me, for George Finn personally, I won't have to come to any more of these predetermined hearings and expect to make an impression on anyone. I also will not have to worry about my representatives, to see whether or not they are following the will of the majority of the people, because under this Compact there won't be any representatives, and I'll be able to sleep at night. So I am taking a rather personal view of it. We are also protected against, from what I read in the paper this morning, there was a coup, a military coup, in Turkey. We can't have that happen in the Basin because it'll be all taken over by the TRPA. And there is no need for a military coup anymore. We will not have to worry, either, about voting. You know, you have to go and register. The day I went to register, they told me that I had a criminal record and I couldn't register. I could register but I would have to ask the judge if he would restore my civil rights which were taken from me by the federal government when I arrested the United States Attorney in Los Angeles for denying me a constitutional right under color of law. So I won't have to worry about voting because you can't vote in the Tahoe Basin on any matters concerned with the use of your property, your right to breathe the air—pure or impure—or any control over the water, or any of the essential, necessary elements of a daily life—you will not have, we will not have, in the Tahoe Basin any control whatsoever. That's all going to be delegated to a handful of appointees—queers, kooks, whatever anybody can think of to put on that agency to support the environmental image of a pure Lake Tahoe, and you can't make it any purer than it is now. So we don't need this legislation, but I am for it. I'm for it as much as I am for all the other unnecessary, unneeded legislation that we pass in this railroad station. And I want to say it is comforting to know that I am not going to be run over by a train or miss it even, because I've learned that it has already departed. Somebody told me the other day, "We want this legislation, George, the industry wants it, and take it easy on us." I am taking it easy; I want you to pass it so I will be relieved of the responsibility of having to defend, as I have so many times, the Constitution of the United States, and the Constitution of the State of Nevada—I won't really have to worry anymore—there won't be anything to defend, after you pass this. And it is lucky for us, those of you who want it to pass, that there is not a majority of good Americans in this assemblage, otherwise this Bill would never see the light of day. Thank you.

SENATOR NEAL:

The Chair recognizes Dave Nicholas.

DAVE NICHOLAS:

Chairman Neal, ladies and gentlemen of the Legislature, ladies and gentlemen in the visitors' gallery. My name is Dave Nicholas and I represent a very small group in Incline Village, the Architectural Committee, whose responsibility it is to review all of the plans that go through for final approval by the building group in Washoe County. You will be interested to know, I'm sure, that in the last several days we have already passed that magic number of 739 and so far as North Lake Tahoe is concerned, and Washoe County, and there will, of course, be questions by those who are now putting in for building permits as to exactly what the disposition is going to be as far as their plans are concerned. They are coming in at a very steady stream. We had a meeting yesterday and did discuss what concerns we had and we don't have concerns that are mainstream concerns. It appeared, as we discussed this situation, that the chances were very good that tomorrow, indeed, this compact would pass, and for a number of very good reasons. So we thought that what we would address would not be items in the Compact that you would debate and be aware of so completely, but other items that we would hope that you would take into consideration, perhaps at a later date, perhaps in a small way tomorrow. Our first concern had to do with some of the major proposals that have been put on the shelf as having been too big or having too much of an effect on the environment on the Nevada side. We would like you to know that some of those are good ones, not all are bad. Study will show that some of them are better designed, leave more green belt land and use less of the property than many approved projects, including groups of single family dwellings. Second, and this emphasizes one of the things that Senator Spike had brought up to you this morning, as far as single family homes are concerned, urge the regulators who are given the power in the Compact

to use great care in forcing environmental impact study preparation on small landowners, especially. Now regulators, from my experience, have the habit of answering questions by putting in more restrictions, more regulations, more reports. I've prepared environmental impact statements in the past—some cost thousands of dollars to put together, as a matter of fact, most cost thousands of dollars to put together. Be careful, please, how you burden the small taxpaying lot owners in the Basin in this case. Now, third, the same accountability that you ask from the private landowner should ultimately be asked of governmental landowners. Who owns most of the Basin? What restrictions are being placed on road maintenance and construction in terms of siltation control? I ask you to answer these questions yourselves, if you would, please. And, finally, keep as much accountability in the hands of local officials as is possible. Otherwise, we will be facing a wider and wider gap between the people in the Basin, some seventy-five thousand of them, and the ones who regulate those same people. Now a number of people have spent a lot of time putting this Compact together; it has a lot of good ideas in it. There are some considerations, also, for Basin residents, and it is a very positive move. Please make sure that those who represent Basin interests have input. When I listened personally to Congressman Burton speaking in Sacramento in the Santini-Burton Bill hearings, a couple of his comments bothered me. When the discussion came to what part local government should play in making Basin decisions, Burton said, "If local government is allowed to override the secretary, I'll drop the Bill." That's just absurd. He also said, "Local government veto power would not make the Bill worthy of support." Well, all of us at the local level feel that we know Congressman Burton a little better because of his penetrating remarks. I'm glad, as are most of the Basin people I've talked to, that the Compact is couched in more reasonable terms. I hope that you will join me in being skeptical of Congressman Burton's attitude towards local government. I hope, also, that you will join me in wanting to keep an eye on things in the Basin ourselves, and not leaving it to those who don't really have a direct responsibility to the people who are going to be affected. And because the Compact says to me that you will do that, that there will be local membership on TRPA, that local elected officials will have a say, when it says that, in my opinion, you deserve a chance to follow through on this issue. Thank you very much.

SENATOR NEAL:

The Chair recognizes Frank Payne.

FRANK PAYNE:

Chairman Neal, members of the Legislature. I am a bit confused at this point because I thought my Board of Directors had given me guidance and I had my position all set. Then I hear George testify here that he's on the pro side of this Bill and no way are we going to be on the same side as the League to Save Lake Tahoe.

I think that Huey Johnson probably had a hand in preparing those remarks so I'll just set them aside. I am Frank Payne, I am a property owner, I am a resident of Incline Village, I am president of the Nevada North Tahoe Property Owners Association. We have one thousand, over one thousand, membership; it is in the Washoe County portion of the North side of the Lake. Senator Spike Wilson came up and talked to us several weeks ago and explained the Compact and where we stand—he came up last Saturday and spent time Saturday afternoon at our annual membership meeting, going over very carefully the Compact changes. Our association adopted a motion to support this Compact. The association agrees that the proposed Bill is not going to make everybody happy, but it is much preferred as an alternative to massive federal control in the Basin. The bottom line is that the benefits far outweigh the defects. The Association supports the concept that a strengthened bi-state agency —TRPA— is the most appropriate governing body to control growth in the Basin. And certainly we would like to go on record that Nevada's Senator Spike Wilson and Assemblyman Joe Dini are commended for their outstanding work in the long negotiating process. Also, Governor List is applauded for his concern and efforts to coordinate the process with Governor Brown. And especially Governor List is commended for getting this out to the public and the issues out prior to it being considered in the California Legislature. And I think he orchestrated that very well. We have heard a lot of comments from

Nevada about the negotiations with the Californians. Certainly the negotiating job well done by the Nevadans is greatly appreciated by the property owners of Incline Village. And we also have concerns about the turkeys that may be appointed to this TRPA governing body and the advisory commission. Now that's very important. We feel that that is the bottom line, really, and the key to the success of TRPA. Selecting and appointing highly qualified, highly motivated individuals with high standards and principals are the real keys to the success of the Bill over the long term. The future of TRPA, the future of the environment within the Basin, the future of the individual property rights will rest in the hands of these appointees. Our Association is most willing to cooperate in identifying a list of acceptable nominees for the appointing process. We need to work together to find acceptable individuals for the background, the knowledge, the interest and the willingness to attend meetings and make these hard choices that will protect the overall environment, the interests of taxpayers, property owners, and individual rights. And if we do that, and get these highly qualified people on the TRPA, we are confident that this strengthened body will work and we'll be very pleased with it. Therefore, we urge the Nevada Legislature to pass this Bill and further urge Governor List to promptly sign the Bill into law. Thank you.

SENATOR NEAL:

The Chair recognizes David Horton

DAVID HORTON:

Chairman Neal: My name is David Horton. I am legal counsel of the National Committee to Restore the Constitution, and one of our activities is to address ourselves to the question of regional government. There have been Bills introduced in twenty-two state legislatures to investigate the constitutionality of regional government. I think there have been reports out of some five, all of whom conclude that regional government does in fact violate the U.S. Constitution. The Tahoe Regional Planning Agency is kind of a pilot program for more ambitious regional government schemes. And the name itself is something of a deception. It is called a planning compact. That is how it was first introduced, that is how it was first merchandised. Actually, it is a regional government having a governing body, exercising all sorts of powers over the lives and property of our citizens, an unelected governing body, not subject to recall or any other form of direct accountability to the people whose lives and property are so immediately controlled. Now, on page 21 and page 25, of the typewritten version of this Bill, we find all kinds of legislative powers being vested in an unelected body. This means that this measure constitutes a major department, departure from the principles of responsible government in the United States. Nowhere else is legislative or policy-making power vested in unelected hands lawfully. The former Bill required collaboration which affected local governments inside the newly over-governed area, now page 22 looks to "collaborative planning with local governmental agencies located outside the region." The "agency shall seek the cooperation and consider the recommendations of counties and cities." So who runs the show? They do. This is not a planning proposal, it is another layer of over-government exercising governmental power to the exclusion of our local government and our local elected officials. One portion of the Bill amounts to permanent injunction until some future date against the use of property. The Legislature is being asked, in effect, to pass a form of Bill of attainder with regard to these vested property rights. No process of law for the individuals affected is being afforded to the people whose rights are adversely torn down. On page 26, we have all sorts of prohibitions, even against our cities or counties having any say in what this non-elected body, that combines both legislative and executive powers, does with regard to that particular area. There is a case that I think illustrates a couple of points that should be considered. One is that there is already, and this Bill proposes to perpetuate, the legislative powers being delegated unlawfully by this measure. The case is unanimous in concluding that legislative immunity attaches to these so-called regional legislators. Now that means a number of things. It means that Section 3 of our Constitution is being already violated. This Bill proposes to continue the violation, by combining legislative and executive powers. Although the Supreme Court, in one of the myriad of cases that is involving the TRPA, and a cursory reading of only about half of this Bill convinces me that there are going to be a lot of other cases involving TRPA, although

they were unanimous in this respect, there is a dissent that points up clearly the nature of the legislative power involved here. I quote from Justice Marshall: "Immunity for appointed regional officials is without common law antecedents or state constitutional status." Even the Compact does not purport to confer immunity on TRPA officials and neither California nor Nevada has claimed any such intent in the briefs filed in the instant case. More significantly, none of TRPA's ten-member governing board is elected; six are appointed by county and city governments in the area, two are appointed by the governors of California and Nevada respectively and two are members by virtue of their offices in state natural resource agencies. Thus no member of the board is directly accountable to the public for his legislative acts. To quote, "These officials, with absolute protection from control by the electorate is so attenuated, subverts the very system of checks and balances that the doctrine of legislative privilege was designed to secure," and also the doctrine of Article III of our state Constitution requires that we secure. "Insulating appointed officials," continues Justice Marshall, "from liability, no matter how egregious their legislative misconduct, is unlikely to enhance the integrity of the decisional process. Nor will public support for the outcome of such processes be fostered by a scheme placing these decision-makers beyond constitutional constraints." Now the fact that there has been this large number of cases means that one of the functions of the present method of operation has been to pit public tax monies against private citizen dollars in litigating everybody to death. At least the citizens are litigated to death. The tax-eaters of course appear to survive quite handsomely. They have a basis for justifying their existence by means of all the lawsuits. Now some of the areas of constitutional violations include the fact that all of our constitutions and our very theory of representative government requires that we have a republican or representative form of government. Yet we find on page 4, lines 21 and 22, that this is to be denied certain citizens who happen to live in this Basin area. There is no authority for the establishment of regions composed of parts of states and counties, and exactly to that extent that there is a combination of governmental functions between California and Nevada, there is a violation of the interdiction contained in the United States Constitution against combining states or parts of states. It departs from the basic principle of American government that reposes the legislative policy-making power only in elected representatives of the government, and this is spelled out in Section I of the Constitution of the United States, Section IV of the Nevada and California Constitutions. This legislative power is non-delegable. It violates the mandate contained in Article III of our own Constitution, which is very explicit and is almost identical in language to the mandate of Article III of the California Constitution. Article IV, Section 3, Clause 1 of the U.S. Constitution, is what forbids the formation of new states from the junction of two or more states or parts of states without the consent of the legislatures and the Congress. But it is because these extensive governmental powers combine the powers of California and Nevada that they violate the prohibitions of this restriction. It abolishes county powers from the hands of the electors without their consent as required by Article IV, Section 36, of the Nevada Constitution. This also amounts to a further violation of our Nevada Constitution, Article IV, Section 20, which prohibits special legislation. In all other areas, our elected county officials control local matters. Only in this special area subject to this unlawful special legislation, are they controlled by non-elected "regional legislators." The TRPA further violates Article III of the Nevada Constitution by placing the execution of these very same special laws into the same hands as the regional legislators. The form of abolition of county government attempted by the TRPA is worse, however, than the abolition provided for by the Nevada constitutional provision when it is followed. Popular consent is required. In following the constitutional referendum process, the voters at least leave themselves with elected officials; if they vote to abolish their counties, they still have a county government where the officials are elected. The measure being considered totally deprives those living in the area of the powers over their own affairs that are exercised by their fellow Nevadans everywhere else. I think that there is an implicit slur in this proposal against the local officials and the citizens of the area affected. The Bill is saying that non-elected, unaccountable functionnaires can govern parts of our state in violation of our respective constitutions better than the citizens living there can in conformity with these constitutions. This is not only insulting but it is an error. Now there is a comparison between why the procedures provided in our constitutions are successful

and lawful and why free the enterprise system has been so successful, mainly, the man making the decision in his own shop makes fewer mistakes. Secondly, he corrects those mistakes. This is the same principle that we try to implement by having elected county officials control those affairs that are most closely associated with our daily lives. They make fewer mistakes. We locals don't claim to be perfect. We know we make mistakes. But we don't make as many of them because we know the situation better. Secondly, we have to look eyeball-to-eyeball to the citizens who are picking up the tab, and that is as close as we can get to an analogy in the free enterprise system in applying these principles to our government. It happens also to be what is provided for and indeed required, both by the Nevada Constitution and the Constitution of the United States. The philosophy of this measure, therefore, is wrong, both constitutionally and it is against human nature. Therefore, only mischief can be reasonably expected. Just like the number of pages devoted to this —

SENATOR NEAL:

Excuse me for interrupting you, but how many more pages do you have to go through? Are you just about through?

MR. HORTON:

I have two more pages of notes.

Just like the number of pages devoted to the topic has burgeoned from twelve to twenty to now three, so the innocuous sounding planning project as it was initially represented, has grown and will continue to grow to the monstrous proportions of yet another irresponsible, unaccountable layer of government on the people of the area. It is more reasonable to conclude, as a matter of policy, as a matter of legislation, that the control of an area should be left in the hands of those that live there, as our Constitution provides, as both our Constitutions provide. It is not reasonable, it is not logical, it is not fair. In fact, it is presumptive and impudent to conclude that those who sincerely admire the beauties of the area enough that they go to live there will mess up their own environment. Yet that is the philosophy behind this measure. The humanitarians are going to protect us from this irresistible impulse to despoil our own environment. Mr. chairman, it is not the circle of despoilers that we need protection from, it is from the dear fools who will take away our liberties under the guise of protecting us from ourselves. There are several other items that I think need to be invited to the attention of this group. I think everyone is aware of the haste in which this is presented. We find that the Special Session was announced on Wednesday, yesterday copies of the Bill, 50 pages long, in typewritten legal size paper, are available, today there is this hearing and tomorrow, presumably, there is going to be some action. Now particularly in view of what has been represented to be the alternative, namely that the Legislature is being presented with a package deal, liberty consists of the right to accept or refuse one thing at a time. The package deal compromises and prejudices the legislative discretion that the people of this state have a right to expect from their elected representatives. The intimidation that has been mentioned frequently here today, that if we don't buy this bad Bill, that I think even the gaming industry admits is bad, but they are intimidated into thinking that they will get something worse, if they don't swallow this, is in effect a contempt of the Nevada Legislature. It should be treated as such. It should not be knuckled under to. Not only is the intimidation very forceful, but it is a paper tiger. I would remind some of the legislators that a very few short years ago there was a phrase in the ordinance preceding the Nevada Constitution containing what is called the disclaimer clause, and it was thought at that time: "Look out, we cannot do anything to assert our control over public lands." Today it is difficult in some parts of the state to find any public officials who are not in favor of this measure. And the seed to this change is the realization that we have vast legislative powers that are not being used to protect ourselves and our government from this very type of intimidation. Let me invite your attention to one further change that this Bill represents. As you are well aware, the public lands Bill was widely supported in both houses in the last session. It was a wise measure. It was an encouraging measure. You might say it put Nevada on the map. It has caused Nevada to become a leader in the effort to regain state sovereignty. And it shows great promise for not only improving our own lot but showing our sister states of how to get our Constitution back. Yet

what does this TRPA Bill provide on page 2 line 38? The public lands Bill was asserting that the federal government had no constitutional authority to exercise control over lands in the state unless: number one, they bought the land; number two, they got the consent of the legislature; and number three, they built a fort on it. That's Article I, Section 8, Clause 17, which is controlling so far as public land is concerned. It is also controlling so far as the activity of the federal government is concerned. Yet what does this measure ask the Nevada Legislature to do that has almost unanimously come out in favor of the U.S. Constitution and enforcing it? It asks the Nevada Legislature to agree, explicitly, to violate that very provision. Here it is: 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. In other words, this Bill is saying, "Back off from what you did last session. Change your minds. Knuckle under." And I think the idea of trying to deliberate on a measure of this complexity and having this far-reaching effect, should be met by three things, three steps, taken by legislators who are called into Special Session. First, of course, you should answer the roll call tomorrow. Secondly, you should move for adjournment which I understand is not debatable. Then, if enough of your colleagues are in favor of giving some attention to this, you should go home, not however, before presenting your travel vouchers. Thank you.

SENATOR NEAL:

The Chair recognizes Senator Dodge.

SENATOR DODGE:

Chairman Neal, I would like to make a comment that I think ought to be placed in the record to clear up some inferences that have been made by different speakers, I am sure, in good faith, that these amendments were negotiated in a vacuum by two people from the State of Nevada, that all the legislators were not enlightened about what was going on, we came in here without any prior information about this Bill. I want to point out, for the benefit of all the people here, not the legislators because they know this, —about three months ago we were furnished by our research division, an annotated version of the amendments that were being considered. It was a page-by-page recitation of the existing compact provisions and wherever there were amendments suggested, the amendatory language was opposite that with explanations. Now that was about three months ago. When the final version was negotiated, that Bill was mailed in the same form in which we see it printed today. It was a mimeographed form, it indicated all the deletions from the Compact and all the additions. And that was received by all the legislators about a month ago. Before we ever came here, all of us had the opportunity to spend whatever time and whatever investigation, and make whatever inquiry we wanted about the impact of those provisions. I want to point out further that for all the sessions that I can remember in the Seventies, we have been dealing with proposals on the TRPA that would try to reach some accord with the State of California where we could track in the same direction, and try to get away from the impasse and get something accomplished up there. Admittedly, every legislator was not here in all those sessions. Some people were here for the first time in the last session but we dealt with it then extensively. We dealt with it extensively in 1977 when Governor Michael O'Callaghan presented a proposal. We also dealt with it in prior sessions. I just want to point out that there are some people around the legislature who have a pretty good knowledge and a pretty good background and a pretty good idea about what the pros and cons are on all of the provisions that are in this TRPA. And in all the years that we have, in all the sessions we have considered this Bill, we had extensive hearings and we reviewed on the merits, the testimony that we received from people in the Basin, people from California and people in our own government. Mr. Chairman, I do want to remove from the public's mind any impression that this Legislature comes in here unprepared to deal with the judgments they need to deal with on these amendments.

SENATOR NEAL:

Thank you. The Chair recognizes Larry Hoffman.

LARRY HOFFMAN:

Chairman Neal, ladies and gentlemen of the Legislature. My name is Lawrence L. Hoffman. I am an attorney. I represent the Tahoe-Sierra Preservation Council; in spite of the fact that I am an attorney, I recognize that the hour is late and my remarks will be quite brief. Let me quickly tell you a little about the organization I represent so that you can understand where our position comes from. The Tahoe-Sierra Preservation Council is a large, in fact, the largest, property owner organization in the Lake Tahoe Basin.

There are approximately thirty to thirty-five thousand individual property owners in the Lake Tahoe Basin today. You are hearing today from two organizations. Mr. Payne spoke for the North Tahoe Property Owners' organization, I am speaking for the Tahoe-Sierra Preservation Council. Both organizations have a high degree of compatibility. We both support this legislation. It may seem a little bit incongruous to you to see the property owners for the first time come down to the Legislature and say that we are supporting this kind of legislation. Quite frankly, we've traced the alternatives. We know the scenario. I don't think the scenario is quite as brief and as quick as Mr. Fazio moving his Bill through Congress. I see a whole scenario if these compact negotiations break off. They can only end up with more onerous restrictions in the Tahoe Basin and much higher degrees of deprivation of property rights than currently exist. We're quite fearful of what will happen on the State of California side of the Basin. We're quite concerned what will happen through the EPA in both water quality planning and air quality planning. We're quite concerned about the transportation issues. There's a whole myriad of dominoes that seem to start falling over in ways that we perceive will be much more harmful. Our organization is committed to the notion that you can preserve and protect Lake Tahoe and preserve and protect property rights. What has changed in the last, I think, two to three years, which is very positive, is the fact that for the first time we are seeing at all levels of public government, federal, state and local, a recognition that you can no longer zone people into oblivion, regulate them into oblivion * * * that the fair and equitable way is to purchase their property. Our organization has worked very hard for the passage of the Santini-Burton Bill. The minimum estimate, under the Santini-Burton Bill, is one hundred fifty million dollars that will be available in the Lake Tahoe Basin over the next ten years. For the members of the Clark county delegation that are here today, I want you to know that the people in Lake Tahoe really believe and support the notion of that Bill and they're doing everything to get it passed this year if at all possible. On the California ballot this year, for the first time, is an eighty-five million dollar bond proposition. Eighty-five million dollars for land acquisition in the Lake Tahoe Basin. My message to you is, that it is absolutely essential, as the TRPA Compact goes ahead, to have substantial state and federal funding, as well as local funding, because up until now the burden has been on local governments to meet the other side of the equation. The other side of the equation is, as the Basin shuts down and slows down, and as more and more people are unable to use their property, equity, justice, and our view of the constitution says you ought to purchase that property. In the next Legislature I will be very hopeful that the Legislature will consider on the Nevada side as well, there is a need for additional funding on Lake Tahoe Basin on two scores: one, to assist in property acquisition, you will hear more about the acquisition of the Kahle site, our organization and most of the elected representatives in the Basin support that acquisition. We think that's important. But there are definite money problems there. And secondly, from our perspective, the most serious problem facing Lake Tahoe is not necessarily the private property owner. The private property owner only owns roughly twenty-nine percent of that Basin. Seventy-one percent of that Basin is in public hands. All those public agencies are starved for money. The road system, as most of you know that have been into the Basin, is in dire need of substantial repair or upgrading, to avoid run-off and erosion, road cuts, all of those kinds of problems. Those are the areas where we need money. We see the passage of this legislation, and believe me, we have had extensive dialogue at the national level with almost all the people involved, as absolutely essential to getting substantially more federal funding beyond Santini-Burton for those things that are necessary, including erosion control, two-way planning funds, water quality planning funds, which are essential in the Basin. We really urge this legislation. I know today is not the time, to seriously consider next year, your additional share of money. We have those

commitments from California. We are working in that direction. Believe me, we have not been at all pleased with the California administration. We have been very pleased with the attitude that was taken in the California Legislature to our plea for additional money. So as the bottom line, our organization, representing literally thousands of private property owners in the Lake Tahoe Basin, while we recognize that there are many problems with this Bill, on balance, it does lend its support to the passage of the Compact. Thank you.

ASSEMBLYMAN DINI:

The Chair recognizes Daisy Talvitie.

DAISY TALVITIE:

Chairman Dini, I am speaking as a private citizen. I am going to keep it short because I think we've heard enough rhetoric for the day. I am going to have just a few remarks to make. It seems to me that a large part of what I've heard today brings me back to thinking of that famous old statement " * * * What we have to fear is fear itself * * * ". Many of the fears I have heard expressed in terms of the EIS, in my view are unfounded. To require an EIS for a private residential unit, I would feel would be arbitrary and capricious, that any responsible governing board or body would know that rule of law and the rule of interpretation by the courts is almost always one that you must have a degree of reasonableness. If you tried to go that route they'd probably know they'd end up in court. So I don't have any fear that is the way there're going to go. I think that they will follow a rule of reasonableness. I'm concerned too about the Loop Road. But I also feel that there is another way in which we look at the situation in relation to the Loop Road. And that is, that instead of saying that we completely lost the ball game, maybe we should say we've won half of it. We have forced them to consider it. It's a part of it. In the past, California has been totally negative to even consideration of it. It's not precluded. We now have an assurance it will at least be considered. And I think that's a halfway step forward anyway, and that we might be making some progress. In terms of the fact that people are saying that the Lake is not polluted, there is a degree of truth in that. The lake is oligotrophic which is a state of purity. We don't want it to become eutrophic, which is a state of pollution. That is exactly what it's all about. But at the same time the oligotrophic state of the Lake is gradually decreasing and there are only two such lakes anywhere in the world. It's a great scientific rarity and that's what is responsible for its clarity and we have seen some decrease in that. So let's keep it in the present state of purity. Basically that is the main thing I want to say to you except let's not be afraid to move forward. Let's not visualize a lot of problems by stretching the imagination out there to find them. There is no such thing as a perfect piece of legislation. Every piece of legislation is going to be only so good as those people who implement it. That's going to be true whether it be at the state, local or federal level. What I would say to you today, when you ask the question "Is there really a federal threat?". Yes, there is. I've read the Fazio Bill and there are some real dangers in it, one of which is that it would bring the federal government into the licensing review on gaming, at least for a period of moratorium. I think that is the most dangerous that we could ever face in this state. I certainly would want to ward it off. There are a number of other features that I feel the same way about. But if we fail, during these next few days, those people who have now agreed to come back, and came back to the negotiating table after so long a time, probably won't come back to that negotiating table again. And it will go to the Congress, and there will be an increased push by those today who support the Compact who will feel they've lost their chance and they must turn to Congress. Very honestly, I much prefer to see this state take one giant step forward for Lake Tahoe and the Lake Tahoe Basin. I feel we'll be taking that great giant step between this Compact and the Santini-Burton Bill, which I would urge this Legislature, if you're going to do any resolutions at all, and I hesitate to even suggest one, if you were going to do one, the one thing I would suggest would be a resolution of support of Senate passage of the Santini-Burton Bill. I'm not asking to do one. I said if you were going to do any. If I were going to ask for one, that would be the one I was going to ask for. Thank you.

CHAIRMAN DINI:

The Chair recognizes Tom Cook.

TOM COOK:

Chairman Dini, members of the Legislature, my name is Tom Cook. I live in Reno at 30 Sonora Circle. Back in 1975 I had the honor of being appointed to the governing board of the Tahoe Regional Planning Agency by Governor Mike O'Callaghan. I served on that board until December of last year. Today, however, I am speaking only on behalf of myself. Reasonable people in both states agree that the present compact does not sufficiently protect the basin from overdevelopment. But the efforts to revise or amend the compact have taken time, a lot of time, patience and incredible forbearance and hard work. I particularly, at this time, want to commend the zeal and steadfast determination of Assemblyman Joe Dini and Senator Spike Wilson of Nevada and Assemblyman Calvo and Senator Garamendi of California. For those of you who don't know, John Polish knows, John Garamendi's father is from Ely. He played football at the University of Nevada at the same time John was playing. He was president of the student body of the A.S.U.N. So John Garamendi has some pretty good roots and I think that might have helped the negotiating process. He is also my cousin. This Bill, this proposal, it's not a California Bill and it's not a Nevada Bill. As Senator Gibson has pointed out, it is a compromise. It represents a compromise between two sovereign states and it doesn't obviously satisfy all interests. But no good compromise ever did. We should remember that no one is alone in thinking of the common good. None of us is infallible. In the world of public policy, the test is whether or not a compromise represents an advance over the status quo. With all of its compromises, the proposed revision of the compact represents a gigantic advance over the present bi-state compact. There are those that still have a lot of concern and a lot of worries about certain provisions in the Bill, fears that it isn't exactly as perfect as they would like it. I would answer those fears in the words of an old philosopher who said, "The man who insists on seeing with perfect clearness before he decides, never decides." The decision made in this Special Session will decide whether in future years, Tahoe will be a paradise of sparkling blue water, clean mountain air, and outdoor recreation or a monument to man's shorthandedness, short vision, with overcrowding, pollution, traffic jams and only the fading memory of a once-beautiful environment. As for me, I support the Bill, and I'm confident, I really am. I am confident that this time we will not fail and that Nevada and California will at last meet this challenge together. Thank you, Mr. Chairman.

ASSEMBLYMAN DINI:

Is Bryce Wilson here? Is Dick Scott here? If they are not here, the Chair recognizes Pete Perry.

ASSEMBLYMAN WEISE:

Mr. Chairman, while we're waiting for Mr. Perry to come down, could you ask the staff to clarify something before we come into session tomorrow and that is what types of taxes would be available to the transportation districts? I have a note from Mr. Daykin that says in fact, a personal income tax could be levied by the district, without legislative authority, also a license tax upon business based on square footage but not on gross receipts, also a flat per capita tax and finally, a tax on vehicles based on mileage or weight, but not value. If the staff could possibly get together with the legal staff so we could resolve this, we would appreciate it. Thank you.

CHAIRMAN DINI:

We'll have the staff work on it tonight. The Chair recognizes Pete Perry.

PETE PERRY:

Chairman Dini, members of the special legislative committee, my name is Pete Perry. I am an attorney, resident of Incline Village, Nevada, and I am a land developer there. As the majority of the speakers before me, I am in support of this proposal. I will not spend time on accolades to Assemblyman Joe Dini and Senator Spike Wilson. They certainly have earned them. They've worked long and hard against almost impossible odds and I believe the revised compact should be passed on your special legislative session tomorrow. I would like to point out one problem area, somewhat similar to the Douglas County problem area that exists. It's a problem area that exists in Incline Village, in Washoe County. Presently before the

TRPA are six projects. These projects began, in planning and development stage in 1977. Formal permits have been on application before the major project review authorities for over eighteen months. All six of these projects are presently in a category unique to TRPA itself, I suppose. It is a category called "Denied Without Prejudice". A definition of that category is that these projects would have received staff approval and recommendation to pass, to the board, but there are some sewer, water and traffic problems at Incline. To accommodate these projects, the TRPA with the consent of the projects, were placed in the category in a holding pattern so that they would, when the sewer, water and traffic problems were alleviated at Incline, be brought before the TRPA. We made application to go before the TRPA, for all six projects and we are on the September 24th agenda. Unfortunately, the part of the Bill that you are going to consider tomorrow, on the Nevada moratorium, would totally eliminate these projects from any further review by TRPA for two and a half years. And I would like to point out that in October of 1979, TRPA would not pass any projects from Incline. So there has been a year-long moratorium in effect while a study has been made of the area. So we have had no major projects in over a year already, another two and half years and then we're looking at three and a half years. I would like to point out some of the side effects of that. We've seen the rush to the courthouse, in a sense, not the traditional sense. We've seen over seven hundred and thirty-nine building applications this year alone. Those applications were predicated on fear of what might be contained in here. There are projects that have gone out and bought all of their building permits even though they can't build. They don't have the funds to build, because of fears of what was in here. Now that this has been published, that fear has been allayed. There is no concern about approved projects. The constitutional vesting that Senator Wilson mentioned, has not been tampered with. What the side effect of this is, that this is all that is eligible to build at Incline. There will be no more building beyond that for two and a half years. There's going to be an exodus from Incline and it's already started. George Sayer, whom many of you know, a nineteen-year resident of Incline Village, sold his house last week. He's a contractor up there. There are no projects. There is nothing that can be done at Incline, and I don't think that that was the intent of this legislation and these negotiations. Assemblyman Joe Dini and Senator Spike Wilson went back and raised the three hundred figure to seven hundred and thirty-nine, I believe, so that projects could continue to be built at Incline. But unfortunately there are no projects available, save those six projects that are presently before TRPA. So I'm asking just to give us a chance, to "grandfather" us in, to exempt us till we can go—just on the Nevada moratorium—I'm not asking any effect on the compact language which cannot be changed, I understand, I'm asking just for the Nevada moratorium to exempt those projects presently before the TRPA in the "Denied Without Prejudice" category, to give us a chance to go back to TRPA, to work with Douglas and Washoe County to try and resolve the sewer problem that is affecting us, to try and present new information that shows that there is adequate water for our projects and we also have other solutions that we want to present to them and would be presenting them en masse for the first time. This would give us an opportunity in the next thirty to sixty days to do that. I would also like to point out that one of these projects was at one time, when the man acquired it, the last remaining casino site on the North Shore of Lake Tahoe. This legislature met some years ago and legislated that casino site away from him. Now this legislature is meeting and will legislate his right to build even condominiums on that particular land. The six projects could contain seven hundred units. We're only asking to build two hundred and eighty. You can see the voluntary downzoning. The architect that appeared before you previously on the agenda, stated that these projects were good projects and deserve your consideration. At least give us a chance to go to the TRPA. Three-and-half year moratorium, in effect, is more than Incline can face. I thank you for your time.

ASSEMBLYMAN DINI:

The Chair recognizes Assemblyman Robinson.

ASSEMBLYMAN ROBINSON:

Chairman Dini, did you call me senator? Thanks for the promotion. I would like to—

ASSEMBLYMAN DINI:

You act like one. The Chair recognizes Assemblyman Robinson.

ASSEMBLYMAN ROBINSON:

Thank you, Mr. Chairman. I would like to take just a moment or two to support Senator Dodge's remarks as a Southern Nevada legislator. And particularly from the viewpoint of those of us who are on the Government Affairs Committees in both houses, that the testimony that we've been hearing today is coming from very much the same people and we're hearing very much the same problems and the same testimony that we heard on the Assembly Bill 503 and the Senate Bill 323, the freeze Bill on gaming and the Bill that we had out of the Assembly that really tightened up on the compact. These hearings that we had on the new county at the North Shore of the Lake also brought out about the same people, or very similar. So that the testimony we've heard over and over, we're hearing over and over again today. And what most of the legislators, except maybe perhaps some of those who didn't attend the meetings, will be hearing again as we discuss it further. My point in supporting Senator Dodge's statement, is that the accusation that the—that we haven't really been apprised of what's going on or that we may not understand it—the editorials in the press that the legislature is convening to try to consider a very complex problem in one day, when actually we've agonized over the thing for months and weeks and years and I don't know how many hours that we've spent in the committee hearings on it—means that we really were kept aware of what was going on as the negotiations were progressing between our representatives and those in California. I resented also the remark that, by one of the witnesses, that we be sure to fill out our travel vouchers, before we've adjourned. Intimating that perhaps we were here for the money that the state is so bountifully providing us for taking our time away from our work and our families. I'm not here because it was my idea. I'm here because the Chief Executive of the State of Nevada summoned me here, I think that is one thing that we and the press should realize, that the legislature should respect the wishes of the Governor of the State of Nevada that we review this. And so I did resent that remark, and I just wanted to support Senator Dodge on his explanation.

ASSEMBLYMAN DINI:

Thank you, Assemblyman Robinson. Is Phil Overlander here? Mr. Overlander doesn't wish to testify? Is there anyone who has not testified and who signed the roster?

ASSEMBLYMAN DINI:

The Chair recognizes John Riley.

JOHN RILEY:

Chairman Dini, I am John Riley and I wish to testify.

ASSEMBLYMAN DINI:

Is there anyone else besides Mr. Riley who has signed the roster and wishes to testify? If not, the Chair recognizes John Riley.

JOHN RILEY:

Chairman Dini, you will remember that I was the last speaker after midnight before this subcommittee here. So I am happy to know that I'm the last speaker tonight. I haven't much to say, but I want to speak to you on two points in your Bill which I have before me and you may or may not wish to refer to it. I am John McClintock Riley. I can't give you my address because I just moved my bank account from North Shore and my post office to South Shore so I don't remember what the box number is. But I'm a skier, a broken-down one. I've been skiing for more than fifty years. Got a new hip, I'm going to be skiing this winter. On page twelve, line nine to twelve "A Recreation Plan". Then go to line twelve "Areas for Skiing". I'm happy to see that that has been added in. I wish it had been a further alpine skiing. So I went before you to have you understand that skiing is both cross-country and downhill; and if you use downhill, the lazy skier today has to have a lift, which is my business. I spoke to Fazio about changing the schematics of his Bill and I am happy to have heard several speakers here use the term, "National Recreation Area" instead of scenic area. Ladies and gentlemen, this

whole Lake Tahoe is a recreation area and we should not try to change it to a scenic area. And I hope we will recognize that this is the case. There are four valleys that are ski-oriented. At the north is Squaw Valley, next is Alpine Meadows, the ski area that I founded fifteen years ago, Ward Valley where I have lifts and my real estate, and Blackwood, the next valley down and, ladies and gentlemen, there is no other skiing on the west side of Tahoe until you get clear down to Donner Ski Ranch, no, Sierra Ski Ranch. They are either too steep or too flat. Now if you could turn to page ten, I'm through.

ASSEMBLYMAN DINI:

Page ten, John?

MR. RILEY:

Yes, on line 48, you're going to develop "carrying capacities". I have said many times before and, I think at some later legislature, you and the legislature in California are going to have to face up to what is the holding capacity. When Dick Heikka had the TRPA, I think it came out three hundred thousand, three eighty thousand, whatever. When that number, after this study, results in two hundred thousand, three hundred thousand or at the original TRPA hearing in 1971, at which J. K. Smith presented the plan, I was picked up on a comment that I made (I always talk) I was picked up by the New York Times as saying that I believe there will be a million people living here some day. And ladies and gentlemen, if we don't legislate and this is my point, if we don't legislate a holding capacity and both states agree that when that point is reached, the gates will be closed and not one person can come in. This is true in Desolation Valley now. This is true in Yosemite, and we must recognize that if both states don't do it, if California does it by trying to keep their children small by buying only diapers instead of blue jeans, if California does that, people will come in through Nevada. So I ask you, to join with the two states and address the fact that we must have a limit on the number of people that can come here. And I thank you and I'm happy I'm the last person.

ASSEMBLYMAN DINI:

Thank you John. It's a pleasure having you with us again. The Chair recognizes Assemblyman Weise.

ASSEMBLYMAN WEISE:

Mr. Chairman, before you adjourn the committee, on behalf of my constituency, which is the largest populated district in Nevada, Incline and Crystal Bay, I'd like to thank you and the Commission and members of the Legislature for coming down here today, for holding the hearings, for the explanations but also the opportunities to allay many of the fears that I know several of the people in my districts had. They feel much better. I think the support from particularly the organized groups within the Basin speaks well for your efforts and, again, I particularly want to thank you for the public expression and opportunity that we have had today.

ASSEMBLYMAN DINI:

Thank you very much for your comments, Mr. Weise. Any other Assemblyman or Senator wish to say anything before this meeting's adjourned? I'll now turn it back over to Senator Ashworth, Chairman of the Legislative Commission. We thank you very much for your attention and for your fine remarks.

Senator Keith Ashworth in the Chair.

SENATOR ASHWORTH:

Thank you very much, I would also like to express my appreciation on behalf of the Legislative Commission to the two Joes, Senator Joe Neal and Assemblyman Joe Dini for chairing this meeting and for bringing the testimony before the legislators in this format. Senator Gibson and Speaker May, have requested that I announce that the Senate and the Assembly will meet in their respective houses in the morning at eight o'clock for organization purposes. At nine o'clock we will go into a Joint Session of the Senate and the Assembly to hear the Governor's address. Following the Governor's address, the Joint Session of the Senate and Assembly will meet in Joint Committee of the Whole. Following the meeting of the

Committee of the Whole, the Joint Session will be dissolved, and the Senate and the Assembly will then re-convene in their respective Houses. I would like to announce that it is not the intention of the Chairman of the Commission at this time to go into any further business of the Commission. However, I would like to announce, if tomorrow during the course of our deliberations there is any time available, hold yourself available for a Legislative Commission meeting. There are other matters on the agenda, that if we can possible handle tomorrow, it may alleviate calling another Legislative Commission real soon. There are three legislative committee reports available to be heard before the Commission, as well as some other routine matters. So if there is no further business to come before the Legislative Commission, I'll declare this meeting adjourned.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 1; Senate Bill No. 1; Assembly Resolution No. 1.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Getto, the privilege of the floor of the Assembly Chamber for this day was extended to Mrs. Marilyn Getto and Mr. Russell Brown.

On request of Assemblyman Harmon, the privilege of the floor of the Assembly Chamber for this day was extended to Mrs. Linda Harmon.

On request of Mr. Speaker, the privilege of the floor of the Assembly Chamber for this day was extended to Mrs. Lucille May.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker appointed Assemblymen Craddock, Fielding and Marvel as a committee to wait upon His Excellency, Robert List, Governor of the State of Nevada, and to inform him that the Assembly is ready to adjourn *sine die*.

Mr. Speaker appointed Assemblymen Jeffrey, Rhoads and Bergevin as a committee to wait upon the Senate, and to inform that honorable body that the Assembly is ready to adjourn *sine die*.

A committee from the Senate, consisting of Senators Neal, Echols and Dodge, appeared before the bar of the Assembly and announced that the Senate is ready to adjourn *sine die*.

Assemblyman Jeffrey reported that his committee had informed the Senate that the Assembly is ready to adjourn *sine die*.

Assemblyman Craddock reported that his committee had informed the Governor that the Assembly is ready to adjourn *sine die*.

Assemblyman Weise moved that the Fourteenth Special Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Assembly adjourned at 12:03 p.m.

Approved:

PAUL W. MAY
Speaker of the Assembly

Attest: MOURYNE B. LANDING
Chief Clerk of the Assembly

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COMMITTEE OF THE WHOLE—*Continued*A.B. 1—*Continued*Addressed by—*Continued*

- Assemblyman May, 14.
- Assemblyman Robinson, 13, 14.
- Assemblyman Weise, 12, 14.
- Mr. Fred Welden, 13.

- Resolve into, motion to, 11.
- Rise, motion to, 11.

COMMITTEE OF THE WHOLE, JOINT—*See Joint Committee of the Whole.*

COMMITTEES, SPECIAL—

Escort appointed for—

- Governor List, 7.
- Justices of Supreme Court, 7.
- President of Senate, 7.
- President pro Tempore of Senate, 6.
- Secretary of State Swackhamer, 2.
- Speaker of Assembly, 1.
- Inform Governor Assembly ready to adjourn *sine die*, 119.
- Inform Senate Assembly ready to adjourn *sine die*, 119.
- Invite Senate to meet in Joint Session, 6.
- Notify Governor Assembly organized, 2.
- Notify Senate Assembly organized, 2.

COMMITTEES, STANDING—*See also specific committees.*

- Members, appointment, 2, 3.

COMMUNICATIONS RECEIVED—

- Governor re Proclamation, 4.

COULTER, STEVEN A., ASSEMBLYMAN FROM WASHOE COUNTY, NO. 27 DISTRICT--

- Bill introduced by, A.B. 1, 5.
- Committee appointments, standing—
 - Environment and Public Resources (chairman), 3.
 - Judiciary, 3.
 - Taxation, 3.

CRADDOCK, ROBERT G., ASSEMBLYMAN FROM CLARK COUNTY, NO. 20 DISTRICT--

- Bill introduced by, A.B. 1, 5.
- Committee appointments—
 - Inform Governor Assembly ready to adjourn *sine die*, 119.
- Standing—
 - Education, 3.
 - Government Affairs, 3.
 - Health and Welfare, 3.
 - Taxation, 3.

D

DINI, JOSEPH E., ASSEMBLYMAN FROM LYON-STOREY-PART OF CHURCHILL DISTRICT—

- Addresses Committee of the Whole re A.B. 1, 11-14.
- Addresses Joint Committee of the Whole re A.B. 1, 9.
- Bill introduced by, A.B. 1, 5.
- Committee appointments—
 - Escort, Governor List, 7.
- Standing—
 - Agriculture, 2.
 - Environment and Public Resources, 3.

DINI, JOSEPH E.—*Continued*

Committee appointments—*Continued*

Standing—*Continued*

Government Affairs (chairman), 3.

Taxation, 3.

Remarks from the floor re A.B. 1, 15, 21, 32, 39, 40, 42, 45, 48, 49, 53, 54, 56-66, 106, 114-118.

E

EDUCATION, COMMITTEE ON—

Members, appointment, 3.

ELECTIONS, COMMITTEE ON—

Members, appointment, 3.

EMERGENCY MEASURES—

Rules suspended to declare, A.B. 1, 5; S.B. 1, 6.

ENVIRONMENT AND PUBLIC RESOURCES, COMMITTEE ON—

Members, appointment, 3.

ESCORT COMMITTEES—*See Committees, Special.*

F

FIELDING, JACK F., ASSEMBLYMAN FROM ESMERALDA-MINERAL-NYE DISTRICT—

Bill introduced by, A.B. 1, 5.

Committee appointments—

Inform Governor Assembly ready to adjourn *sine die*, 119.

Standing—

Agriculture, 2.

Environment and Public Resources, 3.

Judiciary, 3.

Labor and Management, 3.

FITZPATRICK, MICHAEL T., ASSEMBLYMAN FROM CLARK COUNTY, No. 12

DISTRICT—

Bill introduced by, A.B. 1, 5.

Committee appointments, standing—

Commerce, 2.

Government Affairs, 3.

Transportation, 3.

G

GETTO, VERGIL M., ASSEMBLYMAN FROM PERSHING-PART OF CHURCHILL DISTRICT--

Addresses Committee of the Whole re A.B. 1, 12.

Bill introduced by, A.B. 1, 5.

Committee appointments, standing—

Agriculture, 2.

Government Affairs, 3.

Health and Welfare, 3.

Remarks from the floor re A.B. 1, 50, 51.

GLOVER, ALAN H., ASSEMBLYMAN FROM PART OF CARSON CITY DISTRICT—

Addresses Committee of the Whole re A.B. 1, 11.

Bill introduced by, A.B. 1, 5.

Committee appointments—

Inform Governor Assembly organized, 2.

Standing—

Health and Welfare, 3.

Legislative Functions, 3.

GLOVER, ALAN H.—*Continued*Committee appointments—*Continued*Standing—*Continued*

Transportation, 3.

Ways and Means, 3.

Remarks from the floor re A.B. 1, 18, 34, 35, 47, 48.

GOVERNMENT AFFAIRS, COMMITTEE ON—

Members, appointment, 3.

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Escort appointed for, 7.

Informed Assembly organized, 4.

Informed Assembly ready to adjourn *sine die*, 119.

Message, 8, 18, 19.

Proclamation, 4.

Vote of thanks extended to, 9.

GUESTS EXTENDED PRIVILEGE OF THE FLOOR BY ASSEMBLYMAN—

Getto, 119.

Harmon, 119.

May, 119.

H

HARMON, HARLEY L., ASSEMBLYMAN FROM CLARK COUNTY, NO. 16 DISTRICT—

Bill introduced by, A.B. 1, 5.

Committee appointments—

Escort, Speaker of Assembly, 1.

Standing—

Elections, 3.

Government Affairs, 3.

Legislative Functions, 3.

Majority Floor Leader, designation as, 3.

Moves—

Adoption of resolution, A.R. 1, 5.

Assembly Standing Rules, adoption, 2.

Committee of the Whole, resolve into, A.B. 1, 11.

Joint Standing Rules, adoption, 2.

Suspend rules—

Declare emergency measure, A.B. 1, 5; S.B. 1, 6.

Transmit immediately to Senate, A.B. 1, 16; S.B. 1, 6.

Remarks from the floor re A.B. 1, 16.

HAYES, KAREN W., ASSEMBLYMAN FROM CLARK COUNTY, NO. 13 DISTRICT—

Bill introduced by, A.B. 1, 5.

Committee appointments—

Escort, President pro Tempore of Senate, 6.

Standing—

Education, 3.

Judiciary (chairman), 3.

Transportation, 3.

HEALTH AND WELFARE, COMMITTEE ON—

Members, appointment, 3.

HICKEY, THOMAS J., ASSEMBLYMAN FROM CLARK COUNTY, NO. 18 DISTRICT—

Bill introduced by, A.B. 1, 5.

Committee appointments, standing—

Agriculture (chairman), 2.

Elections, 3.

Ways and Means, 3.

Moves, press representatives, accreditation, 3.

- HORN, NICHOLAS J., ASSEMBLYMAN FROM CLARK COUNTY, No. 15 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Invite Senate to meet in Joint Session, 6.
 Standing—
 Commerce, 2.
 Elections (chairman), 3.
 Judiciary, 3.

J

- JEFFREY, JOHN E., ASSEMBLYMAN FROM CLARK COUNTY, No. 22 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Inform Senate Assembly ready to adjourn *sine die*, 119.
 Standing—
 Commerce (chairman), 2.
 Government Affairs, 3.
 Labor and Management, 3.

- JOINT COMMITTEE OF THE WHOLE—
 A.B. 1—
 Addressed by—
 Assemblyman Dini, 9.
 Assemblyman Mann, 9.
 Assemblyman Weise, 10.
 Senator Gibson, 9.
 Senator Raggio, 10.
 Senator Wilson, 10.
 Dissolve, motion to, 10.
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JOINT RULES—*See Rules.*

- JOINT SESSION—
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L

- LABOR AND MANAGEMENT, COMMITTEE ON—
 Members, appointment, 3.
- LANDING, MOURYNE B.—*See Chief Clerk of Assembly.*
- LAXALT, PAUL, U.S. SENATOR—
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- LEGISLATIVE FUNCTIONS, COMMITTEE ON—
 Members, appointment, 3.
 Resolution introduced by, A.R. 1, 5.
- LIST, ROBERT—*See Governor.*

M

MAJORITY FLOOR LEADER—*See Harmon, Harley L.*

- MALONE, MIKE, ASSEMBLYMAN FROM CLARK COUNTY, No. 4 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments, standing—
 Education, 3.
 Elections, 3.
 Judiciary, 3.
- MANN, LLOYD W., ASSEMBLYMAN FROM CLARK COUNTY, No. 2 DISTRICT—
 Addresses Joint Committee of the Whole re A.B. 1, 9.
 Committee appointments, standing—
 Agriculture, 2.
 Taxation, 3.
 Ways and Means, 3.
 Remarks from the floor re A.B. 1, 35, 36.
- MARVEL, JOHN W., ASSEMBLYMAN FROM HUMBOLDT-EUREKA-LANDER-CARLIN
 TOWNSHIP DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Inform Governor Assembly ready to adjourn *sine die*, 119.
 Standing—
 Agriculture, 2.
 Government Affairs, 3.
 Taxation, 3.
- MAY, PAUL W., ASSEMBLYMAN FROM CLARK COUNTY, No. 19 DISTRICT—
 Addresses Committee of the Whole re A.B. 1, 14.
 Appoints committees—
 Escort—
 President of Senate, 7.
 President pro Tempore of Senate, 6.
 Secretary of State Swackhamer, 2.
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 Notify Senate Assembly organized, 2.
 Escort committee appointed for, 1.
 Speaker of Assembly—
 Declared to be, 1.
 Nominated for, 1.
- MELLO, DONALD R., ASSEMBLYMAN FROM WASHOE COUNTY, No. 30 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments, standing—
 Legislative Functions, 3.
 Ways and Means (chairman), 3.
 Nominates Paul W. May for Speaker of Assembly, 1.
- MINORITY FLOOR LEADER—*See Weise, Robert L.*

N

NEWSPAPERS—*See Press Representatives.*

P

- POLISH, JOHN M., ASSEMBLYMAN FROM LINCOLN-WHITE PINE DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments, standing—
 Environment and Public Resources, 3.
 Judiciary, 3.
 Transportation, 3.
- PRENGAMAN, PAUL, ASSEMBLYMAN FROM WASHOE COUNTY, No. 26 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Escort, Secretary of State Swackhamer, 2.
 Standing—
 Environment and Public Resources, 3.
 Judiciary, 3.
 Transportation, 3.
- PRESS REPRESENTATIVES—
 Accreditation, 3.
- PRICE, ROBERT E., ASSEMBLYMAN FROM CLARK COUNTY, No. 17 DISTRICT—
 Committee appointments—
 Inform Senate Assembly organized, 2.
 Standing—
 Agriculture, 2.
 Environment and Public Resources, 3.
 Taxation (chairman), 3.
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- RADIO—*See Press Representatives.*
- REMARKS FROM THE FLOOR BY ASSEMBLYMAN—
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- RHOADS, DEAN A., ASSEMBLYMAN FROM ELKO-LESS CARLIN TOWNSHIP DISTRICT--
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Inform Senate Assembly ready to adjourn *sine die*, 119.
 Standing—
 Environment and Public Resources, 3.
 Labor and Management, 3.
 Ways and Means, 3.
- ROBINSON, ROBERT E., ASSEMBLYMAN FROM CLARK COUNTY, No. 8 DISTRICT—
 Addresses Committee of the Whole re A.B. 1, 13, 14.
 Bill introduced by, A.B. 1, 5.

ROBINSON, ROBERT E.—*Continued*

- Committee appointments—
 - Escort, Secretary of State Swackhamer, 2.
 - Standing—
 - Commerce, 2.
 - Government Affairs, 3.
 - Labor and Management, 3.
- Remarks from the floor re A.B. 1, 49, 116, 117.

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- Adoption, 2.
- Joint Rules, adoption, 2.
- Suspended—
 - Emergency measure, A.B. 1, 5; S.B. 1, 6.
 - Transmit immediately to Senate, A.B. 1, 16; S.B. 1, 6.

RUSK, ROBERT F., ASSEMBLYMAN FROM WASHOE COUNTY, NO. 28 DISTRICT—

- Bill introduced by, A.B. 1, 5.
- Committee appointments—
 - Inform Governor Assembly organized, 2.
 - Standing—
 - Commerce, 2.
 - Legislative Functions, 3.
 - Taxation, 3.

S

SANTINI, JIM, U.S. REPRESENTATIVE—

- Message, 20, 21.

SECRETARY OF STATE—

- Appoints committee, escort, Speaker of Assembly, 1.
- Calls Assembly to order, 1.
- Nominations in order for permanent officers, 1.
- Temporary Chief Clerk of Assembly, requests Mrs. Mouryne B. Landing to serve as, 1.
- Vote of thanks extended to, 2.

SENA, NASH M., ASSEMBLYMAN FROM CLARK COUNTY, NO. 21 DISTRICT—

- Bill introduced by, A.B. 1, 5.
- Committee appointments—
 - Inform Senate Assembly organized, 2.
 - Standing—
 - Commerce, 2.
 - Judiciary, 3.
 - Transportation (chairman), 3.

SENATE—

- Informed Assembly organized, 4.
- Informed Assembly ready to adjourn *sine die*, 119.
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- Invited to meet in Joint Session, 7.
- Messages from, 6, 17.

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- STEWART, JANSON F., ASSEMBLYMAN FROM CLARK COUNTY, NO. 14 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Escort, Justices of the Supreme Court, 7.
 Standing—
 Education, 3.
 Judiciary, 3.
 Transportation, 3.
- SUPREME COURT OF THE STATE OF NEVADA—
 Justices, escort committee appointed for, 7.
- SWACKHAMER, WILLIAM D.—*See Secretary of State.*

T

- TANNER, DARRELL D., ASSEMBLYMAN FROM CLARK COUNTY, NO. 9 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments, standing—
 Agriculture, 2.
 Commerce, 2.
 Legislative Functions, 3.
 Taxation, 3.
- TAXATION, COMMITTEE ON—
 Members, appointment, 3.
- TELEVISION—*See Press Representatives.*
- THANKS, VOTE OF—
 Governor List, 9.
 Secretary of State Swackhamer, 2.
- TRANSPORTATION, COMMITTEE ON—
 Members, appointment, 3.

V

- VERGIELS, JOHN M., ASSEMBLYMAN FROM CLARK COUNTY, NO. 10 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments, standing—
 Education (chairman), 3.
 Legislative Functions, 3.
 Ways and Means, 3.
 Moves, vote of thanks to Secretary of State Swackhamer, 2.
 Remarks from the floor re A.B. 1, 57, 58.
- VOTE OF THANKS—*See Thanks, Vote of.*

W

- WAGNER, SUE, ASSEMBLYMAN FROM WASHOE COUNTY, NO. 25 DISTRICT—
 Bill introduced by, A.B. 1, 5.
 Committee appointments—
 Escort, President of Senate, 7.
 Standing—
 Education, 3.
 Transportation, 3.
 Ways and Means, 3.
- WAYS AND MEANS, COMMITTEE ON—
 Members, appointment, 3.

- WEBB, DOUG, ASSEMBLYMAN FROM WASHOE COUNTY, NO. 32 DISTRICT—
Bill introduced by, A.B. 1, 5.
Committee appointments—
 Invite Senate to meet in Joint Session, 6.
 Standing—
 Education, 3.
 Labor and Management, 3.
 Ways and Means, 3.
- WEISE, ROBERT L., ASSEMBLYMAN FROM WASHOE COUNTY, NO. 23 DISTRICT—
Addresses Committee of the Whole re A.B. 1, 12, 14.
Addresses Joint Committee of the Whole re A.B. 1, 10.
Bill introduced by, A.B. 1, 5.
Committee appointments, standing—
 Commerce, 2.
 Legislative Functions, 3.
 Taxation, 3.
Minority Floor Leader, designation as, 3.
Moves, adjournment *sine die*, 119.
Remarks from the floor re A.B. 1, 115, 118.
- WESTALL, PEGGY, ASSEMBLYMAN FROM WASHOE COUNTY, NO. 31 DISTRICT—
Bill introduced by, A.B. 1, 5.
Committee appointments—
 Escort, President of Senate, 7.
 Standing—
 Education, 3.
 Government Affairs, 3.
 Legislative Functions (chairman), 3.
 Transportation, 3.
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