

1 *House* BILL NO. *675*  
 2 INTRODUCED BY *Meloy Kuenenberry Russell Bradley*  
 3 *Shelden VINCENT* *James Moore*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A PROCESS  
 5 FOR DETERMINING STATEWIDE GROWTH POLICIES AND GUIDELINES AND  
 6 TO IDENTIFY AREAS OF CRITICAL STATE CONCERN; PROVIDING FOR  
 7 THE PROMOTION OF COORDINATED STATEWIDE LAND AND RESOURCE  
 8 CONSERVATION AND DEVELOPMENT; AND APPROPRIATING MONEY FOR  
 9 THE PURPOSES OF THIS ACT."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Legislative policy statement. The  
 13 legislature finds that:

14 (1) Uncoordinated use of lands and resources within  
 15 this state threaten the orderly development, the environment  
 16 of this state and the health, safety, order, convenience,  
 17 prosperity, and welfare of the people of this state.

18 (2) In order to determine the extent and the manner in  
 19 which the people of Montana wish to permit the development  
 20 of the state's land and resources, it is necessary to  
 21 establish a process for obtaining that information and  
 22 translating it into growth policies and guidelines.

23 (3) The formulation of this policy shall be derived  
 24 from the people of Montana through the process established  
 25 by this act.

1 (4) To promote coordinated administration of land and  
 2 resource uses consistent with comprehensive plans adopted  
 3 throughout the state, it is necessary to establish a process  
 4 for the review of state agency, city, county, and special  
 5 district land and resource conservation and development  
 6 plans for compliance with statewide growth policies and  
 7 guidelines.

8 (5) Except as otherwise provided in subsection (4) of  
 9 this section, local governing units should remain as the  
 10 agencies to consider, promote, and manage the local aspects  
 11 of land conservation and development for the best interests  
 12 of the people within their jurisdictions.

13 (6) The promotion of coordinated statewide land and  
 14 resource conservation and development requires the creation  
 15 of a statewide planning commission to prescribe growth  
 16 policies and guidelines to be applied by state agencies,  
 17 cities, counties, and special districts throughout the  
 18 state.

19 (7) The impact of proposed development projects upon  
 20 the public health, safety, and welfare, requires a system of  
 21 permits reviewed by a statewide agency to carry out  
 22 statewide growth policies and guidelines prescribed for  
 23 application for areas of critical state concern throughout  
 24 this state.

25 Section 2. Definitions. As used in this act, unless

1 the context requires otherwise:

2 (1) "Commission" means the Montana growth policy  
3 commission as established by this act.

4 (2) "Committee" means the joint subcommittee on  
5 natural resources.

6 (3) "Comprehensive plan" means a generalized,  
7 coordinated land use map and policy statement of the  
8 governing body of a state agency, city, county, or special  
9 district that interrelates all functional and natural  
10 systems and activities relating to the use of lands and  
11 resources, including, but not limited to, sewer and water  
12 systems, transportation systems, educational systems,  
13 recreational facilities, and natural resources and air and  
14 water quality management programs. "Comprehensive" means  
15 all-inclusive, both in terms of the geographic area covered  
16 and functional and natural activities and systems occurring  
17 in the area covered by the plan. "General nature" means a  
18 summary of policies and proposals in broad categories and  
19 does not necessarily indicate specific locations of any  
20 area, activity, or use. A plan is "coordinated" when the  
21 needs of all levels of governments, semipublic and private  
22 agencies and the citizens of Montana have been considered  
23 and accommodated as much as possible. "Land" includes  
24 water, both surface and subsurface, and the air.

25 (4) "Director" means the director of the staff of the

1 commission.

2 (5) "Special district" means any unit of local  
3 government, other than a city or county, authorized and  
4 regulated by statute and includes, but is not limited to,  
5 water conservation districts, grazing districts, irrigation  
6 districts, regional air quality control authorities, fire  
7 districts, school districts, hospital districts, sanitary  
8 districts, and soil conservation districts.

9 (6) "Staff" means the staff employed by the  
10 commission.

11 (7) "Voluntary association of local governments" means  
12 a regional planning agency in this state officially  
13 designated by the governor pursuant to the federal office of  
14 management and budget circular A-95 as a regional  
15 clearinghouse.

16 Section 3. Establishment of growth policy commission.

17 (1) There is established the Montana growth policy  
18 commission consisting of five (5) members appointed by the  
19 governor and confirmed by the senate.

20 (2) In making appointments under subsection (1) of  
21 this section, the governor shall select from residents of  
22 this state one member from each public service commission  
23 district provided for in section 70-101.1, R.C.M. 1947.  
24 Consideration shall be given to their qualifications to  
25 analyze and interpret growth, land and resources use trends,

1 and like information; to appraise programs and activities of  
 2 the state government in the light of the policy set forth in  
 3 section 1 of this act; to be conscious and responsive to the  
 4 scientific, economic, social, aesthetic, and cultural needs  
 5 and interests of the state; and to formulate and recommend  
 6 state growth policies as they relate to statewide land and  
 7 resource conservation and development.

8 (3) The commission is created for a period ending on  
 9 the day the forty-sixth (46th) legislature convenes in  
 10 January of 1979.

11 (4) If there is a vacancy for any cause, the governor  
 12 shall make an appointment to become immediately effective  
 13 for the unexpired term.

14 (5) A majority of the members of the commission  
 15 constitutes a quorum for the transaction of business.

16 (6) The commission is designated a quasi-judicial  
 17 board as provided in section 82A-112, R.C.M. 1947, except  
 18 that subsections (2)(a) and (5) of that section shall not  
 19 apply.

20 Section 4. Meetings - compensation of members. The  
 21 commission may determine the time and place of its meetings  
 22 but shall meet at least once each quarter. Each member of  
 23 the commission shall, unless he is a full-time salaried  
 24 officer or employee of this state, be paid twenty-five  
 25 dollars (\$25) for each day in which he is actually and

1 necessarily engaged in the performance of commission duties,  
 2 and shall also be reimbursed for actual and necessary  
 3 expenses incurred while in the performance of commission  
 4 duties. Members who are full-time salaried officers or  
 5 employees of this state may not be compensated for their  
 6 service as members, but shall be reimbursed for their  
 7 expenses.

8 Section 5. Powers and duties of commission. (1) The  
 9 commission shall:

10 (a) direct the performance by the director and his  
 11 staff of their functions under this act;

12 (b) in accordance with the provisions of the Montana  
 13 Administrative Procedure Act, promulgate rules that it  
 14 considers necessary in carrying out this act;

15 (c) cooperate with the appropriate agencies of the  
 16 United States, this state, and its political subdivisions,  
 17 any other state, any interstate agency, any person or groups  
 18 of persons with respect to land and resource conservation  
 19 and development;

20 (d) appoint citizen advisory committees to aid it in  
 21 carrying out this act and provide technical and other  
 22 assistance, as it considers necessary, to each such  
 23 committee;

24 (e) establish statewide growth policies and guidelines  
 25 consistent with regional, county, and city concerns;

1 (f) coordinate inventories of land uses;  
 2 (g) prepare statewide planning guidelines;  
 3 (h) review comprehensive plans for conformance with  
 4 statewide growth policies and guidelines;  
 5 (i) coordinate planning efforts of state agencies to  
 6 assure conformance with statewide growth policies and  
 7 guidelines and compatibility with city and county  
 8 comprehensive plans;  
 9 (j) insure widespread citizen involvement and input in  
 10 all phases of the process;  
 11 (k) prepare model zoning, subdivision and other  
 12 ordinances and regulations to guide state agencies, cities,  
 13 counties, and special districts in implementing growth  
 14 policies and guidelines, particularly those for the areas  
 15 listed in subsection (1) of section 23 of this act;  
 16 (l) administer the areas of critical state concern  
 17 provisions of this act;  
 18 (m) report periodically to the legislature and to the  
 19 committee; and  
 20 (n) perform other duties required by law.  
 21 (2) The commission may:  
 22 (a) apply for and receive moneys from the federal  
 23 government and from this state or any of its agencies or  
 24 departments;  
 25 (b) contract with any public agency for the

1 performance of services or the exchange of employes or  
 2 services by one to the other necessary in carrying out this  
 3 act;  
 4 (c) contract for the services of and consultation with  
 5 professional persons or organizations, not otherwise  
 6 available through federal, state, and local governmental  
 7 agencies, in carrying out its duties under this act; and  
 8 (d) perform other functions required to carry out this  
 9 act.  
 10 Section 6. Staff of commission -- director. (1) (a)  
 11 The commission shall appoint a person to serve as the  
 12 director of the staff of the commission. The director shall  
 13 hold his office at the pleasure of the commission and his  
 14 salary shall be fixed by the commission unless otherwise  
 15 provided by law.  
 16 (b) In addition to his salary, the director shall be  
 17 reimbursed, subject to any applicable law regulating travel  
 18 and other expenses of state officers and employes, for  
 19 actual and necessary expenses incurred by him in the  
 20 performance of his official duties.  
 21 (2) Subject to policies adopted by the commission, the  
 22 director shall:  
 23 (a) be the administrative head of the staff;  
 24 (b) coordinate his activities with such functions of  
 25 federal agencies, other state agencies, cities, counties,

1 and special districts; and

2 (c) appoint, reappoint, assign, and reassign all  
3 subordinate officers and employes of the staff, prescribe  
4 their duties and fix their compensation.

5 Section 7. Interagency land use advisory council to  
6 serve as advisory committee to the commission. The  
7 interagency land use advisory council established in house  
8 joint resolution 9 (1973) shall serve as an advisory  
9 committee to the commission for purposes of this act.

10 Section 8. Joint subcommittee established. (1) The  
11 committee shall consist of four (4) members of the house of  
12 representatives who serve on the natural resources  
13 committee, appointed by the speaker, and three (3) members  
14 of the senate who serve on the natural resources committee,  
15 appointed by the president. No more than three (3) house  
16 members of the committee shall be of the same political  
17 party. No more than two (2) senate members of the committee  
18 shall be of the same political party.

19 (2) The committee has a continuing existence and may  
20 meet, act, and conduct its business during sessions of the  
21 legislature or any recess thereof, and in the interim period  
22 between sessions.

23 (3) The term of a member shall expire when his term of  
24 office expires, or if reelected, fifteen (15) days after the  
25 convening of the legislature in regular session next

1 following the commencement of the member's term. When a  
2 vacancy occurs in the membership of the committee in the  
3 interim between sessions, until such vacancy is filled, the  
4 membership of the committee shall be deemed not to include  
5 the vacant position for the purpose of determining whether a  
6 quorum is present and a quorum is the majority of the  
7 remaining members.

8 (4) Members of the committee shall be reimbursed for  
9 actual and necessary expenses incurred or paid in the  
10 performance of their duties as members of the committee.

11 (5) The committee shall select a chairman.

12 (6) Action of the committee shall be taken only upon  
13 the affirmative vote of the majority of the members of the  
14 committee.

15 Section 9. Powers and duties of committee. The  
16 committee shall:

17 (1) review and make recommendations to the legislature  
18 on proposals for additions to, or modifications of,  
19 designations of areas of critical state concern;

20 (2) review and make recommendations to the legislature  
21 on statewide planning goals and guidelines approved by the  
22 commission;

23 (3) study and make recommendations to the legislature  
24 on the implementation of a program for compensation by the  
25 public to owners of lands within this state for the value of

1 any loss of use of such lands resulting directly from the  
 2 imposition of any zoning, subdivision, or other ordinance or  
 3 regulation regulating or restricting the use of such lands.  
 4 Such recommendations shall include, but not be limited to,  
 5 proposed methods for the valuation of such loss of use and  
 6 proposed limits, if any, to be imposed upon the amount of  
 7 compensation to be paid by the public for any such loss of  
 8 use; and

9 (4) make recommendations to the legislature on any  
 10 other matter relating to resource and land use planning in  
 11 Montana.

12 Section 10. Statewide inventory. (1) Within  
 13 thirty-six (36) months of the effective date of this act a  
 14 statewide land and water resources inventory shall be  
 15 completed by the departments of natural resources and  
 16 conservation, fish and game, state lands and  
 17 intergovernmental relations. Other state agencies shall  
 18 cooperate with the provision of inventory data as necessary.  
 19 The inventory shall be coordinated by the commission.  
 20 Within six (6) months of the effective date of this act, the  
 21 four (4) departments named in this section shall jointly  
 22 prepare an inventory methodology, with provisions for  
 23 coordinating existing inventory programs and effectively  
 24 using existing data from the public and from appropriate  
 25 federal, state, and local agencies. The methodology shall

1 include:

2 (a) criteria and guidelines for the identification and  
 3 geographical designation of areas of more than local  
 4 concern;

5 (b) identification of key resource elements in each  
 6 type of area of more than local concern;

7 (c) provisions insuring that the named departments  
 8 will comprehensively inventory all nonfederal lands within  
 9 the state of Montana at an adequate scale to identify those  
 10 areas which are potentially of more than local concern; and

11 (d) provisions for identifying and describing all  
 12 historical, cultural, aesthetic, and natural systems.

13 (2) Any county involved in the formulation of a  
 14 countywide comprehensive plan may apply to the commission  
 15 for matching funds to conduct a resource inventory locally.  
 16 Such inventory shall comply with the methodology provided  
 17 for in subsection (1) of this section. The commission shall  
 18 insure that all locally-conducted inventories are properly  
 19 correlated to the statewide land and water resources  
 20 inventory. Counties may provide in-kind services for  
 21 matching purposes.

22 (3) The departments shall make maximum use of  
 23 inventory information supplied by members of the public.  
 24 Within eighteen (18) months of the effective date of this  
 25 act a preliminary inventory of all potential areas of more

1 than local concern shall be completed and submitted by the  
2 commission to the public to assist in specifying the growth  
3 guidelines and policies provided for in section 12.

4 Section 11. Citizen involvement in policy formulation.  
5 To assure widespread citizen involvement in all phases of  
6 the policy formulation process:

7 (1) Within ninety (90) days after the effective date  
8 of this act, each county governing body shall submit to the  
9 commission a program for citizen involvement in the  
10 formulation of a growth policy for the state and the county.  
11 This program shall at least contain provision for a citizen  
12 advisory committee or committees broadly representative of  
13 geographic areas and of interests relating to land uses and  
14 land use decisions.

15 (2) Upon request the staff shall assist each county in  
16 the preparation and establishment of the citizen involvement  
17 program.

18 (3) The commission shall review the proposed programs  
19 submitted by each county to determine whether or not the  
20 proposed program adequately provides for public involvement  
21 in the process.

22 Section 12. The commission and staff, in cooperation  
23 with the county governing body, shall utilize the programs  
24 established pursuant to the preceding section to formulate a  
25 growth policy and recommendations for implementation of the

1 policy.

2 Section 14. Criteria for policy formulation. In the  
3 goals formulation process, the commission shall elicit  
4 citizen input through the various programs relative to the  
5 following aspects of growth and development:

6 (1) quality of life, including those physical,  
7 environmental, social, economic, or other attributes of an  
8 area which contribute to the way of life of the residents of  
9 that area;

10 (2) expansion of local and statewide economic base,  
11 including employment potential;

12 (3) resource development;

13 (4) residential development, surrounding cities;

14 (5) core city development;

15 (6) second home development;

16 (7) industrial development;

17 (8) subdivisions of rural lands;

18 (9) conversions of land from agricultural uses;

19 (10) recreational development;

20 (11) development of alternative energy sources;

21 (12) maintenance of the agricultural base of the  
22 economy.

23 Section 15. Preparation of growth policy,  
24 recommendations, and guidelines. The staff shall consolidate  
25 the input obtained through the formulation process and on

1 that basis shall prepare a growth policy with implementing  
 2 legislative recommendations and guidelines. Upon completion  
 3 of the proposed policy, recommendations, and guidelines, the  
 4 staff shall submit them to the commission for approval.

5 Section 15. Commission hearings. Upon receipt of the  
 6 proposed policy, recommendations, and guidelines prepared  
 7 and submitted to it by the staff, the commission shall:

8 (1) hold at least ten (10) public hearings on the  
 9 proposal. The commission shall cause notice of the time,  
 10 place, and purpose of the hearings and the place where  
 11 copies of the proposal are available before the hearings  
 12 with the cost thereof to be published in a newspaper of  
 13 general circulation in the state not later than thirty (30)  
 14 days prior to the date of the hearing. The staff shall  
 15 supply a copy of its proposal to the governor, the  
 16 committee, affected state agencies, and special districts  
 17 and to each city and county without charge. The staff shall  
 18 provide copies of such proposal to other public agencies or  
 19 persons upon request and payment of the cost of preparing  
 20 the copies of the materials requested.

21 (2) consider the recommendations and comments received  
 22 from the public hearings conducted under subsection (1) of  
 23 this section, make any revisions in the proposal that it  
 24 considers necessary and approve the proposal as it may be  
 25 revised by the commission.

1 Section 16. Revision of policies and guidelines. The  
 2 commission may periodically revise, update, and expand the  
 3 initial proposal adopted under this act. Such revisions,  
 4 updates, or expansions shall be made in the manner  
 5 provided in section 14 and 15 of this act.

6 Section 17. Review of comprehensive plans by counties.  
 7 Following the approval by the commission of the growth  
 8 policy and its implementing guidelines and recommendations,  
 9 each county governing body shall review all comprehensive  
 10 plans for land and resource conservation and development  
 11 within the county, both those adopted and those being  
 12 prepared. The county governing body shall advise the state  
 13 agency, city, county, or special district preparing the  
 14 comprehensive plans whether or not the comprehensive plans  
 15 are in conformity with the growth policy and guidelines.

16 Section 18. Reports by counties to commission. Upon  
 17 the expiration of one (1) year after the date of the  
 18 approval of the growth policy and guidelines and annually  
 19 thereafter, each county governing body shall report to the  
 20 commission on the status of comprehensive plans within each  
 21 county. Each such report shall include:

22 (1) copies of comprehensive plans reviewed by the  
 23 county governing body;

24 (2) for those areas or jurisdictions within the county  
 25 without comprehensive plans, a statement and review of the



1 progress made toward compliance with the growth policy and  
2 guidelines.

3 Section 19. Conformance of local laws to growth policy  
4 and guidelines. (1) Notwithstanding any other provision of  
5 law, after the expiration of one (1) year after the date of  
6 the approval of the initial growth policy and guidelines  
7 upon ninety (90) days' notice to the affected governing body  
8 or bodies, and upon public hearings held within thirty (30)  
9 days thereafter, the commission shall prescribe and may  
10 amend and administer subdivision or other ordinances and  
11 regulations necessary to develop and implement the growth  
12 policy and guidelines within the boundaries of a county,  
13 whether or not within the boundaries of a city, that do not  
14 comply with the growth policy and guidelines approved under  
15 this act and any subsequent revisions or amendments thereof.

16 (2) If the city or county has under consideration a  
17 comprehensive plan or zoning, subdivision or other  
18 ordinances or regulations for lands described in subsection  
19 (1) of this section, and shows satisfactory progress toward  
20 the adoption of such comprehensive plan or such ordinances  
21 or regulations, the commission may grant a reasonable  
22 extension of time after the date set in this section for  
23 completion of such plan or such ordinances or regulations.

24 (3) Any comprehensive plan or zoning, subdivision or  
25 other ordinance or regulation adopted by the commission

1 under subsection (1) of this section shall comply with the  
2 growth policy and guidelines approved under this act and all  
3 subsequent revisions or amendments thereof.

4 Section 20. Appeals to commission. (1) In the manner  
5 provided in sections 21 and 22 of this act, the commission  
6 shall review upon:

7 (a) petition by a county governing body, a  
8 comprehensive plan provision or any zoning, subdivision or  
9 other ordinance or regulation adopted by a state agency,  
10 city, county, or special district that the governing body  
11 considers to be in conflict with the growth policy and  
12 guidelines approved under this act;

13 (b) petition by a city or county governing body, an  
14 action taken by a state agency, city, county, or special  
15 district that the governing body considers to be in conflict  
16 with growth policy and guidelines approved under this act;

17 (c) petition by a state agency, city, county, or  
18 special district, any county governing body action that the  
19 state agency, city, county, or special district considers to  
20 be improperly taken or outside the scope of the governing  
21 body's authority under this act; and

22 (d) petition by any person or group of persons whose  
23 interests are affected, a comprehensive plan provision or  
24 any zoning, subdivision or other ordinance or regulation  
25 alleged to be in violation of growth policy and guidelines

1 approved under this act.

2 (2) A petition filed with the commission pursuant to  
3 subsection (1) of this section must be filed not later than  
4 sixty (60) days (excluding Saturdays and holidays) after the  
5 date of the final adoption or approval of the action or  
6 comprehensive plan upon which the petition is based.

7 Section 21. Conduct of review proceedings. (1) All  
8 review proceedings conducted by the commission under section  
9 20 of this act shall be based on the administrative record,  
10 if any, prepared with respect to the proceedings for the  
11 adoption or approval of the comprehensive plan provision or  
12 action that is the subject of the review proceeding.

13 (2) The commission shall adopt such rules, procedures,  
14 and regulations for the conduct of review proceedings held  
15 under section 20 of this act, in accordance with the  
16 provisions of the Montana Administrative Procedure Act for  
17 hearings and notice in contested cases.

18 (3) A city, county, state agency, special district, or  
19 any person or group of persons whose interests are affected  
20 may intervene in and be made a party to any review  
21 proceeding conducted by the commission with the approval of  
22 the commission, upon the request of the hearings officer  
23 appointed to conduct such proceeding or upon the approval by  
24 the hearings officer of a request by such agency, person, or  
25 group of persons for intervention in the review proceeding.

1 (4) In carrying out its duties under section 20 of  
2 this act, the chairman of the commission shall assign each  
3 petition to be reviewed by the commission to a hearings  
4 officer who shall conduct the review proceeding.

5 (5) A hearings officer shall conduct a review  
6 proceeding in accordance with the rules, procedures, and  
7 regulations adopted by the commission. Upon the conclusion  
8 of a hearing, the hearings officer shall promptly determine  
9 the matter, prepare a recommendation for commission action  
10 upon the matter and submit a copy of his recommendation to  
11 the commission and to each party to the proceeding.

12 (6) The commission shall review the recommendation of  
13 the hearings officer and the record of the proceeding and  
14 issue its order with respect to the review proceeding within  
15 sixty (60) days following the date of the filing of the  
16 petition upon which such review proceeding is based. The  
17 commission may adopt, reject, or amend the recommendation of  
18 the hearings officer in any matter.

19 (7) No order of the commission issued under subsection  
20 (3) of this section is valid unless all members of the  
21 commission have received the recommendation of the hearings  
22 officer in the matter and at least four (4) members of the  
23 commission concur in its action in the matter.

24 (8) Any party to a review proceeding before the  
25 commission who is adversely affected or aggrieved by the

1 order issued by the commission in the matter may appeal the  
2 order of the commission to the district court.

3 (9) The commission may enforce orders issued under  
4 subsection (3) of this section in appropriate judicial  
5 proceedings brought by the commission therefor.

6 Section 22. Referral back to hearings officer. (1)  
7 If, upon its review of the recommendation of a hearings  
8 officer and the record of the review proceeding prepared  
9 following a review proceeding before the commission, the  
10 commission is unable to reach a decision in the matter  
11 without further information or evidence not contained in the  
12 record of the proceeding, it may refer the matter back to  
13 the hearings officer and request that the additional  
14 information or evidence be acquired by him or that he  
15 correct any errors or deficiencies found by the commission  
16 to exist in his recommendation or record of the proceeding.

17 (2) In case of a referral of a matter back to the  
18 hearings officer pursuant to subsection (1) of this section,  
19 the sixty (60) days period referred to in subsection (6) of  
20 section 21 of this act is suspended for a reasonable  
21 interval not to exceed sixty (60) days.

22 Section 23. Designation of areas of critical state  
23 concern. (1) The commission may recommend to the committee  
24 the designation of areas of critical state concern. Each  
25 such recommendation shall specify the criteria developed and

1 reasons for the proposed designation, the damages that would  
2 result from uncontrolled development within the area, the  
3 reasons for the implementation of state regulations for the  
4 proposed area, and the suggested state regulations to be  
5 applied within the proposed area.

6 (2) The commission may act under subsections (1) of  
7 this section on its own motion or upon the recommendation of  
8 a state agency, city, county, or special district. If the  
9 commission receives a recommendation from a state agency,  
10 city, county, or special district and finds the proposed  
11 area to be unsuitable for designation, it shall notify the  
12 state agency, city, county, or special district of its  
13 decision and its reasons therefor.

14 (3) Immediately following its decision to favorably  
15 recommend to the legislature the designation of an area of  
16 critical state concern, the commission shall submit the  
17 proposed designation accompanied by the supporting materials  
18 described in subsection (1) of this section to the committee  
19 for its review.

20 Section 24. Criteria for designation of an area of  
21 critical state concern -- public hearings. (1) Between the  
22 effective date of this act and January 1, 1976, the staff  
23 shall assemble and make available to the public such natural  
24 resource inventory data and information as is required to  
25 assist citizens, local governing bodies, and the commission

1 in determining criteria for designation of areas of critical  
2 state concern.

3 (2) Between January 1, 1976 and April 1, 1976, the  
4 commission shall hold no fewer than fifteen (15) public  
5 hearings throughout the state for the purpose of eliciting  
6 public comments, identifying public concerns, gathering  
7 information with respect to land use problems in the area,  
8 identifying regulatory needs not adequately addressed within  
9 the current framework of local government, and gathering  
10 such other information as will assist the full and effective  
11 implementation of this act.

12 (3) Not later than May 1, 1976, the commission shall  
13 make available to the governor, the legislature, and the  
14 public a report of the hearings conducted under subsection  
15 (2). Copies of the report shall be forwarded to the  
16 department for use in developing the guidelines required for  
17 the implementation of this act.

18 (4) Based upon the information obtained pursuant to  
19 subsections (1) and (2), as well as all other relevant  
20 information available to the commission, and in consultation  
21 with federal, state, and local agencies with relevant  
22 expertise, the commission shall, no later than July 1, 1976;

23 (a) adopt guidelines for the identification of areas  
24 of state concern. These guidelines shall provide for the  
25 identification of:

- 1 (i) areas of significant agricultural value;
- 2 (ii) areas of significant natural resource development  
3 value;
- 4 (iii) areas in which development may endanger life or  
5 property because of natural or artificially caused hazards  
6 such as landslides, avalanches, flooding, or earthquakes;
- 7 (iv) areas in which development may substantially  
8 affect major public facilities or other projects, existing  
9 or approved, which represent a substantial expenditure of  
10 public funds;
- 11 (v) areas of ecological or biological importance or  
12 fragility;
- 13 (vi) areas of significant aesthetic, historical,  
14 recreational, scientific, or cultural value;
- 15 (vii) proposed sites for new town developments;
- 16 (b) adopt procedures for the nomination of areas for  
17 designation as areas of state concern, and specify the  
18 information that must be submitted to nominate an area. The  
19 required information shall include:
- 20 (i) a geographic description of the area;
- 21 (ii) a statement of the reasons why the area is of  
22 state concern, referring specifically to the criteria set  
23 forth in the guidelines prepared under paragraph (a) of this  
24 subsection;
- 25 (iii) a description of the land use and ownership of

1 the area and adjacent land;

2 (iv) a description of any existing plans or  
3 regulations affecting land use in the area, a list of the  
4 state and local agencies responsible for the administration  
5 of those plans and regulations, and a statement of the  
6 reasons why those plans and regulations are not sufficient  
7 to insure proper management of the area;

8 (v) a description of the land use controls needed to  
9 insure proper management of the area; and

10 (vi) any other data or information relevant to the  
11 nomination.

12 (c) adopt guidelines for the formulation by governing  
13 bodies of plans and regulations for management of areas of  
14 state concern recommended to the legislature.

15 Section 25. Recommendation of designation of area of  
16 critical state concern to legislature. (1) When the  
17 committee has completed its review of a potential area of  
18 critical state concern, it shall present its findings and  
19 recommendations to the legislature. Upon receipt of the  
20 committee's recommendations, the legislature may act upon  
21 the committee's recommendations at its next regular session.

22 (2) Upon designation of an area of critical state  
23 concern by the legislature, the legislature shall adopt a  
24 specific regulatory plan for development within the area.  
25 In adopting a regulatory plan for a specific area, the

1 legislature shall take into consideration those controls  
2 necessary and sufficient to manage and protect those special  
3 characteristics which caused the area to be designated an  
4 area of state concern.

5 Section 26. Legislative review. (1) The commission  
6 shall report monthly to the committee in order to keep the  
7 committee informed on progress made by the commission,  
8 counties, and other agencies in carrying out the provisions  
9 of this act.

10 (2) Prior to the end of each even-numbered year, the  
11 department shall prepare a written report for submission to  
12 the Montana legislature describing activities and  
13 accomplishments of the department, commission, state  
14 agencies, cities, counties, and special districts in  
15 carrying out the provisions of this act.

16 (3) A draft of the report required by subsection (1)  
17 of this section shall be submitted to the committee for its  
18 review and comment at least sixty (60) days prior to  
19 submission of the report to the legislature. Comments of  
20 the committee shall be incorporated into the final report.

21 (4) Growth policies and guidelines adopted by the  
22 commission shall be included in the report to the  
23 legislature submitted under subsection (2) of this section.

24 Section 27. Appropriation of moneys. There is  
25 appropriated from the general fund the amount of two hundred

1 thousand dollars (\$200,000) for the biennium ending June 30,  
2 1977, to carry out the purposes of this act.

3 Section 28. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

9 Section 29. Effective date. This act is effective on  
10 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 258-75

FISCAL NOTE

Form BD-15

In compliance with a written request received March 14, 19 75, there is hereby submitted a Fiscal Note for House Bill 675 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 675 provides for creation of a Montana growth policy commission to recommend statewide growth policies and guidelines to the Legislature, to recommend areas of critical state concern to be regulated by the legislature, and coordinate planning efforts of state agencies and review local comprehensive plans for conformance with statewide growth policies and guidelines. The bill also calls upon four state agencies to complete a "statewide land and water resources inventory" within 36 months.

ASSUMPTIONS:

1. The commission would be created May 1, 1975. Commission cost are based on the following:
  - 5 members - none employees of the state
  - 12 - 2 day meetings per year (plus 1 day of travel per meeting)
  - 10 public hearings on growth policies - 2nd year of biennium
  - 15 public hearings on guidelines for critical areas - 1st year of biennium
  - Commission salary is \$25 per day and expenses are assumed to be \$25 per day
  - Travel cost is assumed to average 400 miles round-trip per member whether meetings are held in Helena or elsewhere in the State.
2. The commission would be allocated by the Governor to the Department of Intergovernmental Relations as provided in 82A-115. The existing State Land Use Bureau program within Intergovernmental Relations would be assigned totally to fulfilling the functions of this bill (approximate cost of these services if this assumption is not valid would be \$281,644 for the biennium). Considerable support would also come from the Local Planning Services Bureau.
3. The commission would need seven professional staff positions in addition to the support described above. These people would be employed July 1, 1975, at an average salary of \$15,000.
4. Sufficient water resource data exist to fulfill the requirements of this bill. The most feasible technology to use in a land inventory would be a land classification taken from satellite photographs. The cost of such analysis is \$10,000 per 13,000 square mile photograph or \$250,000 for the 25 photos needed to cover all of Montana.

FISCAL IMPACT:

	FY 75	FY 76	FY 77
Personal Services	\$ 1,500	\$ 158,045	\$ 166,655
Operating Expenses	480	292,720	45,144
Equipment		10,000	
Total Expenditures	<u>\$ 1,980</u>	<u>\$ 460,765</u>	<u>\$ 211,799</u>

LOCAL IMPACT:

Each county must develop a citizen involvement program consisting of a citizen advisory committee as a minimum. Such committees are normally totally voluntary with no explicit expenses. Larger counties would likely support such a committee from the existing county planning budget.

CONCLUSION: Enactment of House Bill 675 will result in additional state expenditures of \$675,544 during the 1975-77 biennium, and an additional expenditure of \$1,980 during the current fiscal year.

TECHNICAL NOTE: Page 26, Section 25(2), lines 11 and 13 - "department" is not defined in the bill, it appears from the context that the references should be to the commission.

*Michael B. Balling*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: March 17, 1975