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Report to the Colorado General Assembly

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DESIGNING FOR GROWTH



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 195

December, 1972

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OF THE
COLORADO GENERAL ASSEMBLY

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* * * * *

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

DESIGNING FOR GROWTH

**Legislative Council
Report to the
Colorado General Assembly**

**Research Publication No. 195
December, 1972**

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LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-2286
AREA CODE 303

November 27, 1972

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REP. CLARENCE QUINLAN

To Members of the Forty-ninth Colorado General Assembly:

In accordance with the provisions of House Joint Resolution No. 1033, 1971 Session, and Senate Joint Resolution No. 11, 1972 Session, the Legislative Council herewith submits the accompanying report and recommendations of its Committee on Balanced Population.

The report of the Committee on Balanced Population appointed to carry out this study was accepted by the Legislative Council for transmittal to the Governor and the First Regular Session of the Forty-ninth Colorado General Assembly.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

CPL/pm

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Chairman

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LEGISLATIVE COUNCIL

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November 20, 1972

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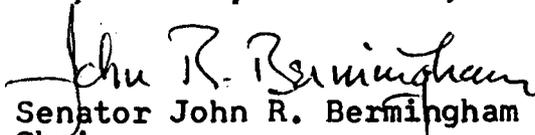
Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 46, State Capitol
Denver, Colorado 80203

Dear Mr. Chairman:

Pursuant to the provisions of House Joint Resolution No. 1033, 1971 Session, and Senate Joint Resolution No. 11, 1972 Session, the Committee on Balanced Population submits the following report and recommendations for consideration by the Legislative Council.

The committee recommends that the First Regular Session of the Forty-ninth Colorado General Assembly consider the legislative recommendations contained on page xii of this report.

Respectfully submitted,



Senator John R. Birmingham
Chairman
Committee on Balanced Population

JRB/pm

FOREWORD

Pursuant to House Joint Resolution No. 1033, 1971 Session, and Senate Joint Resolution No. 11, 1972 Session, a committee was named by the Legislative Council to undertake a study of balanced population and to study the foreseeable beneficial and detrimental consequences of each of the following and to make recommendations with respect thereto: (a) a continuation of uncontrolled population growth; (b) adoption by communities of population growth limits; (c) efforts to attract new industry to Colorado or to certain parts of the state; (d) efforts to stabilize Colorado's population as soon as possible; (e) efforts to stabilize metropolitan Denver's population as soon as possible; (f) dispersal of anticipated new growth away from the front range; (g) development of new cities or new population growth centers; and (h) concentration of anticipated new growth into existing front range cities. The following members of the Forty-eighth Colorado General Assembly were appointed to serve as members of the Committee on Balanced Population:

Sen. John Bermingham
Chairman
Rep. Ray Black
Vice-Chairman
Sen. Clarence Decker
Sen. Hugh Fowler
Sen. Kenneth Kinnie
Sen. Vincent Massari
Sen. Dan Noble
Sen. Maurice Parker
Sen. Carl Williams*

Rep. Thomas Farley
Rep. Robert Jackson
Rep. Richard Lamm
Rep. Michael Strang
Rep. Walt Younglund

* Chairman of the committee during the 1971 interim.

The committee conducted a total of ten meetings during the 1971 and 1972 interims. In addition to these ten meetings, drafting sessions were conducted by the committee chairman during the latter part of the 1972 interim, for the purpose of work on the bill concerning resource design (planning and management) districts and a Colorado regional planning review board, which has been recommended by the committee "in concept". Particular credit and thanks are given to the efforts and contributions of those who attended these drafting sessions: Hugh Weed, J. D. Arehart, and Phil Schmuck, Department of Local Affairs; Ken Baskette, Colorado Rural Development Commission; Curtis Blyth, Ken Bueche, and Jerry Kempf, Colorado Municipal League; Clark Buckler, Leonard Liss, and Tom Means, Colorado State Association of County Commissioners; Robert Farley and Dwight Heffner, Denver Regional

Council of Governments; Joe Madonna, Boulder County Planning Commission; and Gilbert McNeish, Colorado Land Use Commission.

In addition, many individuals and groups offered aid and advice during the course of the committee's deliberations for which the committee expresses its deep appreciation. Included among them were: Dr. Gilbert White and other members of the Institute of Behavioral Sciences of the University of Colorado; Robert Bronstein, Coordinator of Environmental Problems; Gerald Brown, city planner, Glenwood Springs; Palmer Burch, State Treasurer; the Denver, Fort Collins, and Grand Junction Chambers of Commerce; Blake Chambliss, architect, Grand Junction; the Colorado League of Women Voters; the Department of Highways; the Division of Air Pollution Control in the Department of Health; the Division of Commerce and Development in the Department of Local Affairs; the Geological Survey in the Department of Natural Resources; Dr. Eric Johnson, Boulder; Terese Lucas, Planning Dynamics Corporation; Walter McKinstry, President, First National Bank of Julesburg; Mountain Bell Telephone Company; George Nez, Federation of Rocky Mountain States, Inc.; the Regional Transportation District; the Rocky Mountain Developers' Association; Colorado chapters of the Sierra Club; the Southern Colorado Economic Development District; Systems Search, Inc.; Olie Webb, Colorado Association of Commerce and Industry; and Colorado chapters of Zero Population Growth.

Bill drafting services and legal assistance were provided to the committee by Terry Walker and Doug Brown of the Legislative Drafting Office. Dave Morrissey, Assistant Director, had primary responsibility for preparation of the committee report, assisted by John Silver, Research Assistant.

December, 1972

Lyle C. Kyle
Director

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SUMMARY OF COMMITTEE ACTIVITY

1971 INTERIM

In the first year of its study, the Committee on Balanced Population requested that the Colorado Legislative Council forward three recommendations to the Governor and the Colorado General Assembly:

- (1) An environmental policy act. This proposal passed the Senate but was killed in the House of Representatives. A revised version has been prepared for introduction into the 1973 session of the Colorado General Assembly.
- (2) A council of population advisors. The committee's recommendation, in modified form, was adopted under House Bill 1076 (1972 session).
- (3) A program for rural revitalization. Senate Bill 51, which altered the duties and direction of the Division of Commerce and Development, was not a direct committee recommendation, but was a step in furtherance of this program.

1972 INTERIM

Senate Joint Resolution 11 (1972 session) directed the Committee on Balanced Population to examine the consequences of eight alternate population distribution policies. While some support was found to exist for each policy, the support seemed to be based more on hunch and feel rather than on hard data or study. Consequently, the committee turned its efforts to procedures and institutional arrangements under which information and specific policies could be developed.

Conclusions and Recommendations

The committee found general agreement among its members and in the public at large on the following basic policies:

- (1) Urban growth must be brought under control, particularly along the front range.
- (2) Rural areas must be revitalized.

The following bills (approved by the committee either specifically or in concept) and resolution are recommended for consideration and adoption by the Colorado General Assembly in 1973. If adopted, they will assist in the fact-gathering and study process that is necessary before specific, detailed policies can be adopted and implemented, and they will also provide some assistance in furthering the two basic policies listed above:

- (1) Creation in the Governor's office of a capability for long-range projections and analysis.
- (2) Creation of regional agencies to deal with day-to-day planning and development efforts.
- (3) Adoption of an environmental policy for the state, providing for impact studies to be required for specific types of projects.
- (4) Establishment of a mechanism for controlling governmental services along the Colorado front range.
- (5) Continuation of this committee's studies for an additional two years.

Each of the bills is discussed in greater detail in the following sections.

Central Analysis -- Coordinator

With few exceptions, state executive agencies and the various agencies of local government are not charged by law or do not have the time and technical skills to interrelate their actions with respect to the total economic, social, and environmental conditions and needs of the State of Colorado.

On the other hand, the Governor of the State of Colorado is in a unique position to utilize the resources of the various line agencies of state government such as the Departments of Revenue, Highways, Natural Resources, Health, Education, and Social Services to assemble a multitude of data which will shed some light on the problems facing Colorado's governments and the effect of existing and proposed policies of state government. The mass and complexity of data, programs, and problems, however, necessitates that the Governor be provided with the tools for analyses, projections, and development of comprehensive matrices which are essential for formulation of long-range policies.

The committee recommends that a coordinator of long-range projection and analysis be established in the Governor's office. The coordinator would be responsible for the design and modification of all data collection systems of state agencies with a view toward meeting the overall needs of state policy development. He would be responsible for analyzing and establishing the interrelationships of trends in consumption of energy, land use, housing, transportation, government finance, etc., and for forecasting changes and making recommendations to the Governor and the General Assembly.

Resource Design Districts

A primary concern of the Colorado Rural Development Commission has been that the State of Colorado has had no designated sub-state planning regions to the federal Office of Management and Budget. Currently, there are federal grants for local and regional planning on a functional basis such as health, shale oil, etc. As a result, there is some overlapping of regional planning and planning districts in Colorado. More importantly, this fractionalization of regional planning and goal-setting is confusing to local officials, and such functional planning may even be working at cross purposes.

The committee supports the concern of the Colorado Rural Development Commission for state designation and financial assistance for the establishment of regional resource design

agencies which are to be governed by locally-elected officials. Specifically, the committee recommends the development of resource design districts (commonly known as "planning and management districts") in all regions of the state. The committee applauds the efforts of local communities to formulate councils of governments under the provisions of Chapter 88, Article 2, C.R.S. 1963, as amended (an intergovernmental contracting act). The committee recommends that such councils be made the foundation for the establishment of resource design districts throughout the state.

The resource design commissions would be charged with the development of a comprehensive regional guide for the orderly development of the physical, social, and economic elements of the region. Applications for all state and federal assistance monies for local government projects would be submitted to the regional commission for its approval, if regional review is required by federal or state law. The committee believes that the regional agencies would be effective not only in assisting local governments in grant applications but also in delineating priorities of greatest need for federal and state assistance. Needless to say, the regions would centralize the diverse functional planning now taking place in the regions.

(NOTE: On November 17, 1972, Governor John Love, by executive order, delineated the boundaries of twelve "planning and management districts".)

State Resource Design Board

The committee recommends the establishment of a state resource design board. The state board would provide an opportunity for local input into the development of an overall state resource guide. A member from each regional resource design commission would be appointed to and comprise the membership of the state board. Thus, individual members would be knowledgeable of both regional and local problems.

The state board would be responsible for the coordination of regional guides and the implementation of state concerns by regional agencies, and would serve as a board of appeals for review of decisions by regional agencies with respect to actions on federal and state grant applications. The Division of Planning would provide staff services for the state board. The status of the Land Use Commission would remain unchanged under this proposal, and close liaison would be made between the L.U.C. and the state board. Furthermore, the state board would play a major role in the implementation of the recommendations of the Land Use Commission once these

recommendations are submitted and approved by the Colorado General Assembly.

Environmental Policy Act

The "Colorado Environmental Policy Act" was a primary recommendation of the Colorado Environmental Commission. The act, as redrafted, would provide for an environmental policy and would authorize impact studies. It creates a procedural policy, not a substantive policy. This is a very important distinction. It states how to handle environmental problems, but does not attempt to impose possible substantive policies such as: preservation of prime agricultural lands, prohibition of transmountain water diversions, recycling of resources, etc.

The bill has two parts:

- (1) The first contains an articulation of policy (section 106-6-104), imposes a duty on governmental agencies (section 106-6-105), and states guidelines (section 106-6-106 -- no duty is imposed on private parties); and
- (2) The second requires that actions which may have significant environmental impact shall be preceded by reasonable efforts to anticipate and minimize such adverse environmental consequences, but does not create any new or additional powers to prohibit such actions.

Front Range Commission

The committee believes that there is substantial concern with the problems of unmanageable metropolitan growth along the front range. At present, however, neither state agencies nor local governments have been charged with responsibility for the improved management of growth in the front range area. Furthermore, governments at all levels have fostered programs or practices that stimulate sprawl, and by inadvertence or by inaction have magnified the problem. For example, federal mortgage insurance programs have tended to make the purchase of new homes easier than the purchase of older homes. Property taxes in unincorporated areas in which

little or few governmental services are provided, at least initially, are low.

The long-term costs of rapid urbanization of undeveloped land, on the other hand, are high. Direct costs, of course, are involved in new construction for schools, streets, and utilities for the areas involved. Hidden costs also are apparent to the older communities. The quiet streets of a mature subdivision may become congested or even turned into one-way thoroughfares in an attempt to facilitate traffic flow. Subsequently, noise levels rise and the concentration of air pollution increases. Heavy traffic volumes often result in declining land values. The cost of expansion of public services such as electricity, gas, and communications to new residential areas may be borne, in part, by the older communities. Finally, the older community may find that its services, such as parks, must serve residents of new growth areas, again at a substantial loss of amenities for residents of the older community.

In general, the committee is concerned that urban sprawl is a drain on both resources and people. When a metropolitan area grows like a giant sponge, it is difficult to design transportation systems that can reduce dependence on the individual family vehicle. As the population of the Denver metropolitan area spirals, the amount of land that must be devoted to moving and parking vehicles will also increase geometrically. Adding to the problem is the threat of a national fuel shortage. However, alternate community design patterns could reduce such consumption of land and fuel resources. The planned unit developments authorized by the General Assembly in the 1972 session, for example, may permit lower utility and street costs in individual subdivisions through savings in open space, resources, and materials.

The committee recommends the establishment of a Front Range Commission or other governmental vehicle for regional review of:

- (1) Incorporation of new cities and towns;
- (2) Annexation of lands by municipal governments;
- (3) Extension of municipal and special district services to areas which are not being served; and
- (4) Establishment of special districts under Chapter 89 of Colorado Revised Statutes 1963.

In addition to powers with respect to these activities, the commission could be charged with responsibility for review of new highways and major extensions in utility services.

To provide a basis for review and action to curtail sprawl, a Front Range Commission would need to incorporate all state, regional, and local designs into a composite guide for the entire area. On the basis of this guide and of a charge to limit unmanageable growth, the Front Range Commission would delineate areas for expansion of governmental services.

Relationship to Municipal Government. The bulk of front range residents live in incorporated cities and towns. The proposed Front Range Commission would not have to exercise jurisdiction over activities within the existing boundaries of these communities. However, the commission would be concerned with the extension of governmental services to unincorporated areas, since such expansion could disrupt the objectives of the commission in controlling sprawl. Thus, some kind of veto power over municipal annexation would be a necessary tool of the commission. Of course, since the commission would be channeling rather than curtailing governmental services, the use of such veto power probably would be minimal.

County Government. For the most part, county government would not be affected to any significant degree by the activities of the Front Range Commission. Counties simply are not in the business of providing extensive urban services. One possible exception is the construction of new roads to areas which presently are not being served. The commission would be concerned that the construction of public streets and highways in the front range would not contribute to urban sprawl. Of course, the commission would study in great detail the planning programs of each county in the front range to determine the total effect of such plans on the minimization of urban sprawl in the entire region.

Special Districts. Existing special districts would not be affected by the activities of the commission with respect to the provision of services within their boundaries. As is true of municipal annexation, however, the expansion of the service area of any special district government would need to be evaluated in terms of its effect on urban sprawl. The primary function of the Front Range Commission would be to exercise complete control over the formation of special district governments in unincorporated areas of the front range.

New Incorporations. As previously mentioned, the commission would not exercise jurisdiction over areas contained

within a municipality. Obviously, however, the indiscriminate incorporation of new towns could defeat the purposes of the commission in containing urban sprawl. On the other hand, if the commission is given authority with respect to new incorporations, it could be instrumental not only in reducing the "sponge growth" occurring in the Denver area but also in redirecting that growth in order to achieve a balanced community in the front range.

In summary, the proposed Front Range Commission would not exercise control over sewer, water, or other utility services for areas within the boundaries of cities, towns, or special districts currently administering such services. The commission would assume jurisdiction for review of the extension of municipal service lines outside of the boundaries of the respective municipalities.

For example, the Denver Water Board is a key agency involved in the expansion of domestic water services to the front range. The proposed commission would not interfere in any way with the administration of the Denver Water Board's present service activities. However, the extension of Denver Water Board services to new areas would be of paramount concern to the commission.

In the western United States, the availability of water may be the key factor influencing urban expansion. The Denver Water Board, however, is not charged with reducing sprawl or minimizing the environmental decay of the front range community. Perhaps the board cannot function in this capacity because it is not representative of the entire front range community. If the Front Range Commission were given authority to regulate the location of utility services (such as domestic water service), the Denver Water Board would be provided with the guidelines essential to a reduction of the impact of water distribution as a contributor to sprawl.

COLORADO'S POPULATION IMBALANCE -- PROBLEM AREAS

In the past 30 years, Colorado's population has doubled from a little over one million to 2.2 million in 1970. Until very recently, growth for Colorado was looked upon with great favor, and the policies of state and local governments were directed toward this goal. Furthermore, for vast rural areas of the state -- the eastern plains, the San Luis Valley, and the majority of western slope counties -- not only has growth failed to materialize, but a major export of these rural communities has been young people. For example, since 1960, 32 of the state's 63 counties have lost population. In contrast, the front range has experienced massive urbanization. In the five-county Denver SMSA alone, the percent of population growth since 1940 has ranged from a low of 59 percent for Denver County to a high of 726 percent for Adams County.

There is growing concern that the urbanization of the front range is reminiscent of the California experience. California, of course, has been the magnet state; its 1940 population of 6.9 million is now a colossal 20 million -- an increase of 190 percent. With increased evidence that Colorado now is assuming the "magnet" role, and with its expanded population base, many citizens have expressed concern that the impact of urbanization on the front range will have a far more drastic impact in the next 30 years than that which has occurred since 1940.

In essence, Colorado, like many of her sister states, is faced with a two-fold issue: explosive urbanization accompanied by devitalization of neighboring rural regions.

Problems of Excess Urbanization

Given the present developmental patterns of the front range, what will an additional one million Colorado residents mean for this growing metropolis? What effect will it have on an area which already is experiencing:

- (1) Substantial air, noise, water, and land pollution;
- (2) Congested highways with practically no alternate forms of transportation;
- (3) Legal isolation of governments within a total functional area with all the attendant problems of racial and economic separation;
and

- (4) A continuing spread of urban activity in all directions, necessitating increased dependence on the automobile; higher infrastructure costs; a greater consumption of materials, fuels, and open space land; and increased economic and social costs in the delivery of goods and services?

The Advisory Commission on Intergovernmental Relations is particularly concerned that sprawling urban areas have lost economic and social balance. Prior to World War II, municipalities contained social and economic balance, with low-income areas offset by high tax producing sections in which commercial and industrial activity took place. The competing demands of various classes were moderated in the political process of these large cities.^{1/} However, this balanced system has shifted to a state of imbalance since World War II with massive growth of the suburbs.

Imbalance in Distribution of Low-Cost Housing and Welfare Caseloads. An examination of federally-assisted low and moderate-income housing in the Denver community clearly illustrates an imbalance in the provision of social services. In February of 1971, there were 8,241 federally-assisted low and moderate-income housing units in Adams, Arapahoe, Denver and Jefferson Counties. Although Denver comprised less than half of the population for the four-county area, the core city provided 7,607 units, or over 92 percent of the total low and moderate-income housing:

<u>County</u>	<u>Number of Units of Federally-Assisted Low and Moderate- Income Housing</u>	<u>Percent of Total</u>
Adams	124	1.50%
Arapahoe	157	1.91
Denver	7,607	92.31
Jefferson	<u>353</u>	<u>4.28</u>
TOTAL	8,241	100.00%

^{1/} Advisory Commission on Intergovernmental Relations, "Urban America and the Federal System", m-47, pages 9 and 10.

Needless to say, the domination of low-cost housing in Denver probably increases the welfare burden relative to that of the adjacent suburban counties. For example, Denver's public assistance cases amount to 73.53 percent of the cases in the four-county area.

<u>County</u>	<u>Number of Public Assistance Cases*</u>	<u>Percent of Total Cases</u>	<u>Population</u>	<u>Number of Cases Per 1,000 Population</u>
Adams	6,116	12.36%	185,789	32.9
Arapahoe	3,189	6.45	162,142	19.7
Denver	36,389	73.53	514,678	70.7
Jefferson	<u>3,793</u>	<u>7.66</u>	233,031	16.3
TOTAL	49,487	100.00%		

*Number of cases in May of 1971

Uncoordinated Land Use Regulation. The fractured legal structure of the front range not only poses problems of competing tax jurisdictions and unequal distributions in housing opportunities, but local government is the only vehicle through which land use controls are exercised. A Council of State Governments report points out that:

The real problem is the structure of zoning itself, with its emphasis on...local control of land use by a dizzying multiplicity of local jurisdictions...The state enabling act was directed at delegating land use control to the local level, historically [that is] at the city level where the problems which called zoning into being first arose. It has become increasingly apparent that the local zoning ordinances, virtually the sole means of land use control in the United States for over half a century, have proved woefully inadequate to combat a host of problems of statewide significance (social problems as well as problems involving environmental pollution and destruction of vital ecological systems)... 1/

1/ Fred R. Bosselman and David Callies, "The Quiet Revolution in Land Control - Summary Report". State Planning Issues '72 (The Council of State Planning Issues and the Council of State Governments: March, 1972) 74-82.

Highway Problems. Highway expenditures and police services appear to be particularly expensive for large urban areas.

Professor R. J. Smeed, one of the world's leading traffic systems analysts, has shown that the more commuters a town has, the more highways per capita it must build. He shows that where there are 10,000 commuters in a town, they require eight square feet of roadway per person; 100,000 commuters require 28 square feet per person; and 1,000,000 commuters require 97 square feet of roadway per person. Thus, Dr. Smeed shows a 100-fold increase in population requires not a 100-fold increase in roadway, but a 1200-fold increase in roadways.^{1/}

Ezra J. Mishan states:

The extent of the social damage inflicted by traffic congestion, even on itself alone, tends to be underrated by a public which habitually thinks in terms of an average figure rather than in terms of the appropriate marginal concept... Suppose that, over a certain period just about a hundred cars can use a given stretch of road comfortably. Ten more cars contemplating the use of the road need reckon only the congestion to themselves. Ignoring all other social costs and assuming, for argument's sake, that the costs of congestion are the same to each motorist, the increment of cost caused by these ten is eleven times as high as the costs actually experienced by them...

The same principle applies to the additional firm that settles in a crowded city, so adding personnel and traffic that further impede the movement of others in the city. The firm, however, need take account only of its relatively negligible share of the additional inconvenience it inflicts on everyone. Analogous remarks apply to constructing additional floor space,

^{1/} Representative Richard D. Lamm, "An Alternative Future for Colorado" (unpublished report), p. 3.

and to demolishing an old building in order to build a taller one with a more "economical" use of floor space. They need take no account of the spill-over effects on the city's traffic.1/

Rural Concerns

There is considerable sympathy in support of the statement of Governor John Love that:

It is increasingly apparent that tremendous concentrations of people create economic problems, social problems, psychological problems and perhaps even biological problems. It seems clear to me that the states and the federal government need to devise policies of population dispersal which will give to those who presently live, and those who would like to live, in rural and small town America, the chance to do so.2/

To many in rural Colorado, the front range appears as a cancer. The Colorado Rural Development Commission report states:

As the magnetism of the state's major growth area and market increases, it will create more jobs and attract more and more people. Inevitably, increasing amounts of the state's limited resources will be required to support the tremendous burden of spectacularly increasing numbers of people in the growth areas. Only a strong public policy can change this explosive trend to orderly development. Water and land policies are the most effective tools available for modifying the current development trends in the state.3/

1/ Ezra. J. Mishan, The Costs of Economic Growth (New York: F. A. Praeger, 1967), pp. 75-76.

2/ Statement of Governor John Love to United States Senate, Agriculture and Forestry Subcommittee on Rural Development, April 29, 1971.

3/ Colorado Rural Development Commission, A Position on Policy for Growth and Development, February, 1972, p. 1.

The Colorado Environmental Commission reports that:

...rural Colorado, like much of rural America, has stagnated and is beginning to decay. As rural Colorado loses people, the aging of the remaining mix creates major social, political, and economic problems. The poverty in rural Colorado is a classic for all America. In the Denver metropolitan counties, the annual average per capita income is \$3,129; the figure for the balance of Colorado is \$2,152. Typically, the young people in rural Colorado leave the farms to seek careers in the city. For the rural areas, this represents future disaster. Nevertheless, as a state, we continue to put our colleges "where the people are." We do the same with medical facilities, highways, cultural amenities, government services, and every economic aspect of our society. By example, we say to the young: "The jobs, money, education, and prestige are all in the city." In short, no jobs in rural Colorado will mean that no young people can stay there.^{1/}

Committee Approach to Study of Alternate Population Policies

Senate Joint Resolution No. 11 directed the Committee on Balanced Population to study the foreseeable beneficial and detrimental consequences of: a continuation of uncontrolled population growth; attracting new industry to Colorado or to certain parts of Colorado; adoption by communities of population growth limits; the stabilization of Colorado's population; the stabilization of metropolitan Denver's population; dispersal of anticipated new growth away from the front range; development of new communities or new population centers; and continuation of the concentration of new growth into existing front range cities.

In an attempt to determine how the eight population growth alternatives specified in S.J.R. 11 would affect Colorado and its society, the committee chairman, Senator John Bermingham, drafted an outline and questions concerning the population alternatives contained in S.J.R. No. 11. The out-

^{1/} Colorado Environmental Commission, Second Interim Report, December, 1971, p. 17.

line was submitted to more than fifty interested individuals and organizations representing utility, real estate, industrial, and other business interests; local, regional, state, interstate, and federal agencies; population, environmental, civic, agricultural, and other special interest groups; as well as the academic community. These parties were requested to comment on the alternate approaches to population growth and stabilization and to present their comments at the September 25 and 26 committee meetings.

Two general responses were given to Senator Bermingham's inquiry: 1) there is real concern among Colorado citizens with the problems of unmanaged growth; and 2) the complexity of interrelationships of the state's economy, environment, government, and social values in dealing with urban and rural problems is nearly beyond comprehension.

As Dr. Gilbert White, Institute of Behavioral Science, University of Colorado, emphasized:

...the state has passed the time when it can proceed as though its resources of land, waters, minerals, and timber are unlimited. It should recognize that there are finite limits to each which are set by human ability and ingenuity. The policies appropriate to our best estimates of resources and of human capacities to manage them need to be assessed not once but repeatedly as social and technical conditions change...1/

Merle Goddard, Fort Collins Chamber of Commerce, commented:

We feel that it is inevitable that the front range will continue to be the growth area of the state. However, we do feel that we can use the examples of the failures of other growth areas and profit by their mistakes. We must make use of plans to reserve open space and recreation areas, to develop land use plans on a front range basis, and to develop and implement programs for the elimination of pollution of air,

1/ Committee on Balanced Population (Colorado General Assembly), Minutes of Meeting, September 25, 1972, pp. 19-20, (Typewritten.)

land, and water. This program will be one that requires the entire population to participate in the cost and they must be willing to accept the cost, which will be enormous. When we speak of an overall plan we do not mean just a few stop gap measures, nor can we anticipate that this program can accomplish its purpose immediately; it will require a span of time for implementation and the final goal.^{1/}

Complexity of Socio-Economic Relationships. In regard to the complexity of economic, environmental, and social relationships, Blake Chambliss, Grand Junction architect, pointed out:

Because of our single-purpose orientation toward solving problems of an increasingly complex social and economic environment, we have built bureaucratic barriers between a direct analysis of the cause and effect relationship of governmental spending at all levels. We create opportunities to bring in new industry and development to increase our tax base, yet studies in many cities indicate that the indirect influx of people brought in or encouraged to relocate by that new industry has often increased the cost of local governmental services over and above the tax benefit of the new industry, thereby creating a total net loss to that community's citizens.

For example, in a statewide context, it may be possible that the building of a new university campus in downtown Denver may create congestion and further impact the area and increase costs sufficiently so as to deteriorate other social and community services with the result that the city and the state end up with a net value loss. Apparently, there presently is no coordinating agency with the capability to analyze primary and secondary impacts of such capital spending on local communities at the state level. In

^{1/} Ibid., September 26, 1972, pp. 42-43.

the same example, the relocation of such a facility in another location (or locations) could create a net positive benefit on the total educational as well as social and environmental amenities that the state has to offer.^{1/}

Olie Webb, Colorado Association of Commerce and Industry, pointed out that population distribution has been influenced by two basic kinds of decisions: 1) political and 2) economic. The location of federal installations, such as the National Center for Atmospheric Research, the National Bureau of Standards, military installations, institutions of higher education, and the state hospital, are all examples of political decision-making.

With respect to economic considerations, Mr. Webb told the committee that cities in rural Colorado:

...have found it difficult to influence new companies to locate unless there was an immediate market opportunity for the product manufactured or where transportation was not an important factor in distribution or where a high cost, low weight product was made and transportation costs were a minor proportion of the total. An analysis of industrial directories of Colorado will show a high proportion of local industries, occupying local industrial parks or assisted by local development groups, to be local in origin...

Even if local communities outside metropolitan areas of the state become more successful in their efforts to obtain new industry, new payrolls and new business, such activities will probably continue to stimulate development in our metropolitan and heavily urbanized areas. The reason is simple: the small communities are dependent upon larger cities for services, goods and financing. It is thus enigmatic that efforts to encourage economic development and population growth in outlying areas of our state will probably continue to develop the very areas we are desirous of bringing under control.^{2/}

^{1/} Ibid., September 26, 1972, pp. 48-49.

^{2/} Ibid., September 26, 1972, p. 35.

Mountain Bell Telephone officials also outlined to the committee the effect of various population policies with respect to the individual operations of their utility. The location of a new industry in a rural area poses immediate communication problems which would not be prevalent in a large metropolitan area. Nevertheless, uncontrolled metropolitan growth poses serious problems and large demands for telephones can place an area office in jeopardy in less than a year. Heavy in-migration places severe strains on long distance switching systems. In any event, this is one tiny example of how each industry is affected by alternate growth policies.

John Rold, Colorado Geological Survey, Department of Natural Resources, pointed out that although very little is known about the interrelationships of artificial constraints to growth such as zoning and taxation, information on natural constraints is totally inadequate.

As an example, everyone visualizes the effect of topography yet few people realize that only 60% of the state is covered by adequate topographic mapping. The last complete aerial photographic coverage of the state was flown in the mid-fifties. When we consider geologic factors which exert dominant control over every natural and several of the artificial factors, we are in even worse shape. Only 25% of the state has ever been mapped to the scale and detail necessary to evaluate geologic control over these population factors.^{1/}

Professor Charles W. Howe, chairman of the Department of Economics, University of Colorado, submitted a brief report of some of the complex analytical tools needed to evaluate the effect to air and water quality standards resulting from certain patterns of economic activity. For example, the expansion of activity of certain extractive industries may have a direct bearing on the capacity of the environment of a region to sustain long-term growth in the areas of recreation and tourism.

In summary, the continuation or alteration of present growth patterns in Colorado will have far-reaching effects on the state's social and economic structure, as well as its environment. Each individual, organization, and region is affected differently by growth. Needless to say, the development of a new subdivision not only involves the decision-

^{1/} Ibid., September 25, 1972, p. 26.

making process of public planning and zoning officials but banks and other lending institutions, utilities, bond and zoning attorneys, consulting engineers, land appraisers, builders, subcontractors, realtors, market analysts, insurance agents, as well as the developer. Of course, the subdivision in turn will have an impact on the transportation systems, tax structure, schools, and infrastructure costs of the community.

Inadequacy of Present Programs for Planning and Evaluation of State Needs

Central Planning Programs. Two basic mechanisms have been employed by governments in attempting to assist policy-makers in the correlation or analysis of information essential to the guidance of governmental programs:

- (1) Central planning agencies; and
- (2) Planning-programming-budgeting systems.

Perhaps a prime reason for the creation of a central state planning agency in Colorado, as well as in many other states, was the complexity of the organization of state government. Prior to reorganization in 1970, over 130 agencies, boards, and commissions reported directly to the Governor. Needless to say, the coordination of these programs was an imposing task. Perhaps Colorado's initial attempt at state planning evolved out of the old State Board of Immigration. Interestingly, the Commissioner of Immigration was charged with responsibility for collecting

...reliable information and statistics regarding agriculture, stock growing and feeding, horticulture, mining, manufacturing, climate and health in Colorado, and to publish the same with a view of attracting health seekers, tourists, investors and prospective settlers to the State.^{1/}

In 1935, the General Assembly established the Colorado State Planning Commission, and the Commissioner of Administration was transferred and appointed as the planning director. The duty of the planning director was the formulation of a

^{1/} Session Laws of Colorado 1909, Chapter 59, pp. 163-166.

state master plan. This concept for state planning followed the physical planning utilized by urban communities. Although the physical planning process has worked for some cities, it did not prove to be effective for the states in dealing with complex socio-economic factors and the broad problems of human resource development.^{1/}

The state planning programs in the 1930's also received their impetus from the federal Public Works Administration and the National Planning Board.^{2/} At this time, planning was not viewed as an integrated function of the administration of government and the popular organization was through independent boards.

In 1957, the General Assembly revised the state planning program. The planning commission was dropped as well as the provision for a master plan. Emphasis still seemed to be placed on physical plans and the planning division was assigned responsibility for coordination and long-range planning for state buildings, excluding highways.^{3/} In 1963, the Division of Commerce and Development was established and charged with economic planning. In turn, the planning division was abolished in 1965 and replaced by a Public Works Division. The latter seemed to be the main thrust of the legislation to begin with.

The need for coordination of state and local activities remained an issue, and the 1967 General Assembly once again turned to the concept of a state planning program. A coordinator of planning and an advisory board were placed in the Governor's office. A planning office was placed under the direction of the coordinator. Planning employees in the Commerce and Development Division were transferred to the reestablished planning office. Land use controls came under serious debate in the 1971 session. Recognition of state interest in such controls was initiated with the development of the Land Use Commission (LUC). The LUC did not replace the state planning office, but the planning office was made a division in the Department of Local Affairs.

1/ Planning-Programming-Budgeting Systems for State and Local Governments, A Seminar on New Concepts of Financial, Planning, Management and Control, State of Washington, p. 17.

2/ State Planning and Federal Grants, A Public Administration Service Publication, Council of State Governments.

3/ Session Laws of Colorado 1957, Chapter 196, pp. 567-575.

There is some conflict in the language establishing the Land Use Commission and the Planning Division. The present Planning Division is concerned, for the most part, with providing assistance to local governments, processing federal 701 grants, etc. On the other hand, the Land Use Commission orients its entire approach to effective subdivision controls and the technical analysis of land use for submission of a land use plan to the General Assembly. Perhaps the difference between the development of a master plan or other plans as provided in the original state planning programs and that of the LUC is that the former were based on concepts of suggested design while the latter would form the basis for state involvement in land use regulation. Neither approach, however, is designed to provide broad analyses of human needs and goals, the delivery of governmental services, or other socioeconomic relationships.

Planning-Programming-Budgeting Systems (PPBS). For state government, the concept of PPB systems began to emerge in the mid-1960's. Basically, there are four goals to be accomplished in any PPB system:

- (1) identification and articulation of governmental objectives;
- (2) extensive collection, assimilation, and analysis of resource requirements and performance capabilities needed to reach those objectives;
- (3) assessment of costs and benefits of programs and alternatives designed to reach stated objectives; and
- (4) allocation of resources among programs.

Although proponents of PPB systems place emphasis on the examination of the physical and social needs of the governmental jurisdiction, in practice the PPB system must concentrate on the day-to-day operations of government in order to provide the financial analysis and evaluation of existing programs necessary to make allocations among those line agencies competing for governmental resources.

The popularity of PPB rose rather rapidly, but the complexity of implementation and problems encountered by various states has resulted in a great deal of caution in the establishment of PPB programs in the states. New York, for example, in June of 1970, three years after attempting to implement a PPB system, began to revise its approach to a simpler

system of program analysis and review.^{1/} This is not offered or intended as a criticism, but simply to indicate that, similar to traditional state planning agencies, the mechanism itself will not insure success.

The executive budget office is taking initial steps toward integrating a PPB system. The budget form has been revised to assist in the identification of agency goals and objectives, and departments are attempting to assemble and improve the data base upon which program results and budget requests are measured. The development and assimilation of information necessary to an effective PPB system will, of course, take considerable time. As the data base develops, perhaps a more analytical or scientific approach can be made between programs competing for the state's finite financial resources. An effective tool for measuring cost-benefit analysis of competing programs, however, may not provide the means for articulation of problems and needs that are not readily identifiable by existing agency functions.

Problems of Central Agencies in Meeting State Needs.

Any centralized program which takes an advocacy position which would involve a re-direction of government policy must face the realities of the political process. The long-range planning taking place in a line agency does not necessarily commit the Governor or the General Assembly. In this sense, such planning simply is advocating a direction which may or may not be sustained for implementation. On the other hand, if a central agency can exercise control over or countermand the action of a line agency, or otherwise call for a new direction, then the planning process must be sustained by the convictions and commitment of the Governor or General Assembly.

Traditional physical planning and sophistication of the processes of budgetary decision-making may not respond to some of the following concerns. Many state and local agencies such as the Regional Transportation District, the Denver Water Board, the Public Utilities Commission, or the Water Conservation Board, have no state direction with respect to environmental problems affected by their respective programs. The Division of Planning is charged with preparation of demographic information, an inventory of public and private natural resources, and preparation of studies affecting development of

^{1/} Stephen M. Fletcher, "From PPBS to PAR in the Empire State", State Government, XLV: 3 (The Council of State Governments: Summer, 1972), p. 198.

the state. Other state agencies also have a wealth of information on human resources, etc. However, there is no single state agency with the resources to coordinate the data available. Furthermore, the cumulative effects of pollution, congestion, sprawl, inadequate housing, etc., are not analyzed though the existing organizational structure of state government.^{1/}

Perhaps states are not in the position to totally solve the economic problems of rural communities. Nevertheless, there is much the state could do in the way of encouraging new concepts such as agri-business communities, impact zoning, decentralization, and regionalization of state governmental services. Once again, evaluation of the interrelationships of complex socio-economic problems is needed.

Conclusion

Colorado's current and projected patterns of growth indicate that the front range will continue to be subject to explosive urbanization. At the same time, many of Colorado's rural communities will continue to witness the emigration of their young people to the metropolitan areas of the state. Three points emerge from attempts to analyze this problem:

- (1) There is considerable concern on the part of many persons that unmanaged growth along the front range must be brought under control.
- (2) There is currently a need in the State of Colorado for a comprehensive system of regional planning agencies with responsibility for resource management and goal-setting. Such a system is the primary recommendation of the Colorado Rural Development Commission.
- (3) Responses to a committee request by a cross section of representatives from industry, science, and government indicate

^{1/} Senator John R. Bermingham, "Colorado Environmental Policy Act: Need for Bill -- Analysis of Bill" (unpublished report), December 2, 1971.

that the state does not have a mechanism for analysis and integration of information which could provide policy-makers with information about the impact of specific state growth policies on Colorado's complex socio-economic structure.

In response to these three points, the committee directed its attention toward the consideration of legislation which would:

- establish a mechanism for control of governmental services along the Colorado front range;
- create regional agencies to deal with day-to-day planning and development efforts;
- create in the Governor's office a capability for long-range projections and analyses; and
- provide an environmental policy for the state, requiring impact studies for specific types of projects.

APPENDIX A

A BILL FOR AN ACT

CONCERNING LONG RANGE PROJECTIONS AND ANALYSES AND ESTABLISHING A
COORDINATOR OF LONG RANGE PROJECTIONS AND ANALYSES AND
MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 3, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 36

Coordinator of Long Range Projections and Analyses

3-36-1. Coordinator of long range projections and analyses.

In order to assist the governor in data assimilation and in the development of policies to deal effectively with long term changes that are occurring or are likely to occur within this state, there is hereby created in the office of the governor a coordinator of long range projections and analyses. As used in this article, "coordinator" means the coordinator of long range projections and analyses.

3-36-2. Duties of the coordinator. (1) (a) The coordinator shall prepare and maintain or be able to locate current information, projections, and analyses relating to the following subjects and shall maintain a descriptive index therefor:

(b) The quantity, quality, use, and depletion of limited and nonrenewable resources within the state such as water, mineral resources, and land particularly the land suited for agricultural, recreational, and wilderness purposes;

(c) The consumption of energy by its users and the sources of such energy;

(d) The pollution of the air and waters of this state as well as visual, noise, and radiation pollution;

(e) The trends in population growth, migration, distribution, and age structure;

(f) The economic trends within the state, including trends pertaining to industrial and commercial activity and per capita income;

(g) The trends in health care, housing, transportation and modes of transportation, and the distribution and availability of goods and services;

(h) The congestion and disruptions of services in certain areas of the state;

(i) The trends in various taxation bases, particularly those relating to property, sales, and income taxes; and

(j) The impact of national trends, particularly the demands for raw materials and energy and energy source materials to be exported from this state.

(2) The coordinator shall, from time to time, conduct public hearings to encourage maximum public understanding and agreement as to factual data and assumptions upon which projections and analyses are based, and also to receive suggestions as to types of projections and analyses that are

needed.

(3) The coordinator shall analyze the interrelationships and interactions of the trends enumerated in subsection (1) upon one another and shall annually submit to the governor and the general assembly a report which forecasts changes that are to be expected as well as problems that can be expected to arise as a consequence of those trends and changes in trends, and recommendations and alternative projections as to how such problems can be met.

(4) The coordinator shall insofar as practicable provide information and recommendations to and cooperate with the general assembly and the general public.

(5) The coordinator shall exercise great care so as not to duplicate work done by other state, federal, local or private agencies, but shall utilize such work to the maximum extent possible.

3-36-3. Relationship with other state agencies. (1) No agency of the state shall undertake any long range projection or analysis without informing the coordinator. The coordinator shall advise any agency undertaking any long range projection or analysis as to any relevant existing projections and analyses.

(2) In accordance with the power of the governor as provided in section 3-28-4, C.R.S. 1963, for the supervision, approval, direction of departments, divisions, units, and sections of the executive agencies of state government, the coordinator is authorized to review with and require such agencies to reorient, redesign, or otherwise modify their respective data collection systems to meet the requirements of

the governor for comprehensive policy development. Any such redesign of data collection systems shall be made within the limits of available appropriations.

(3) Agencies in the various executive departments as well as institutions of higher learning shall provide such reasonable assistance and information as may be appropriate.

3-36-4. Staff assistance. (1) The coordinator shall have such staff assistance as may be assigned to him by the governor.

(2) The coordinator of environmental problems, the council of population advisors, and land use commission and its staff shall provide such information and assistance as requested by the coordinator.

SECTION 2. Appropriation. In addition to any appropriation heretofore made, there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the fiscal year beginning July 1, 1973, to the office of the governor, the sum of two hundred fifty thousand (\$250,000), or so much thereof as may be necessary for the implementation of this act.

SECTION 3. Effective date. This act shall take effect July 1, 1973.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

APPENDIX B

SUMMARY OF MAJOR PROVISIONS OF DRAFT LEGISLATION CONCERNING RESOURCE DESIGN DISTRICTS (AS CONSIDERED AT TECHNICAL DRAFTING SESSIONS)

Senator Bermingham, the committee chairman, held three drafting sessions with persons having expertise in planning and local government affairs in order to develop language, in bill form, that would accomplish the committee's recommendation in support of the concept of establishing resource design districts throughout Colorado. The following outline for legislation is proposed as a result of these drafting sessions.

On November 17, 1972, Governor John Love designated twelve "planning and management districts". It is suggested that the term "resource design" be revised to conform to the Governor's designation. The revision would redesignate "resource design districts" as "planning and management districts", "resource design commissions" as "planning and management commissions", and the "Colorado resource design board" as the "Colorado regional planning review board".

It is also recommended that each planning and management commission (having authority over a planning and management district) be constituted as follows:

(1) if the boundaries of a planning and management district are coterminous with the boundaries of an association of governmental units formed pursuant to Article 2 of Chapter 88, C.R.S. 1963, as amended, the governing body of the association will be the planning and management commission for that district;

(2) if a service authority is formed pursuant to Article 25 of Chapter 89, C.R.S. 1963, as amended, the area encompassed by the service authority shall constitute a planning and management district, and the governing board of the service authority will be the planning and management commission for that district; and

(3) if there exists no association of governmental units or service authority within a planning and management district, the Governor will specify the method by which a planning and management commission will be formed within the district. Included in the suggested legislation will be spe-

cific options for formation of a commission, one of which will be specified by the Governor.

It is proposed that each planning and management commission be responsible for the preparation of a comprehensive district guide for resource design and management, which shall include standards for: (1) the identification of areas of critical ecological balance; (2) land use; (3) water use, collection, treatment, and distribution; (4) urban and regional growth centers; (5) transportation and utility facilities and corridors; and (6) health, education, and other social service delivery and distribution systems. Each commission could additionally be charged with the coordination of any regional planning conducted within the district pursuant to federal or state law and with appointment responsibilities for state and federal functional planning programs.

The commission would review plans or revisions to plans of local governments within the district or of state agencies. ("Local government", it is suggested, would include municipalities, counties, cities and counties, and all special districts.) If a commission determines that such a local or state agency plan is inconsistent with the comprehensive district guide, is detrimental to the orderly and economic development of the district, or will cause inefficient or uneconomic delivery of services to the district's inhabitants, it may prohibit the local government or state agency from taking any action in implementation of the plan (insofar as the plan affects the district).

It is recommended that local governments within each district be required to file applications for federal or state financial assistance with the planning and management commission. If a commission reviews such an application and determines that it is inconsistent with the comprehensive district guide, is detrimental to the orderly and economic development of the district, or will cause inefficient or uneconomic delivery of services to the district's inhabitants, it will comment unfavorably on the application before it is submitted to the appropriate federal or state agency.

The "Colorado regional planning review board" would be responsible for hearing appeals by local governments on decisions of planning and management commissions in regard to local or state agency plans or federal funding applications. It is suggested that the state board not be charged with responsibility for developing a state resource design guide (the initial draft of the suggested legislation charged the board with this responsibility). Rather, the regional planning review board could serve to coordinate and resolve conflicts between the guides and decisions of the regional planning and management commissions.

The Division of Planning in the Department of Local Affairs is suggested as the staff agency of the regional planning review board.

APPENDIX C

A BILL FOR AN ACT
CONCERNING THE ENVIRONMENT, DECLARING A POLICY FOR ENVIRONMENTAL
QUALITY IN THIS STATE, AND PROVIDING FOR ENVIRONMENTAL
IMPACT STUDIES TO BE SUBMITTED TO THE LAND USE COMMISSION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 106, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 6

Colorado Environmental Policy

Comment

This bill is a partial implementation of the primary recommendation of the Environmental Commission. It creates an environmental policy and authorizes impact studies. It creates a procedural policy, not a substantive policy. This is a very important distinction. It states how to handle environmental problems, but does not attempt to impose possible substantive policies such as: preservation of prime agricultural lands, prohibition on transmountain water diversions, recycling of resources, etc.

The bill has two parts:

Part 1 has three functions: The articulation of policy in section 106-6-104; the duty imposed on governmental agencies in section 106-6-105; and the statement of guidelines in section 106-6-106. No duty is imposed on private parties.

Part 2 requires that actions which may have significant environmental impact shall be preceded by reasonable efforts to anticipate and minimize such adverse environmental consequences, but does not create any new or additional powers to prohibit such actions.

(ARTICULATION OF STATE POLICY)

106-6-101. Title and citation. This article, as from time to time amended, is entitled and may be cited as the "Colorado Environmental Policy Act".

106-6-102. Legislative declarations. (1) The general assembly hereby finds and declares that protection of the quality of the environment in each portion of this state is a matter of statewide concern and is affected with a public interest and that the provisions of this article are enacted for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

Comment

The finding of "statewide concern" is legally necessary to permit state law to be operative in areas that otherwise might be held to be within the exclusive jurisdiction of local government.

(2) All units of government are permitted and encouraged to further the policies and provisions of this article and nothing in subsection (1) of this section shall preclude any home rule city, town, county, or city and county from adopting environmental policy and control provisions which are consistent with the provisions of sections 106-6-101 to 106-6-107 and sections 106-6-201 to 106-6-213.

Comment

The words "consistent with" are preferable to "more restrictive than" since the purpose of this bill is to liberate agencies to think big and broadly; the purpose is not to restrict.

(3) No person has any absolute or unrestrictable right or privilege to use his property in a way that degrades the

environment of other persons.

(4) The policies, regulations, laws, ordinances, resolutions, and orders of the state and of all units of local government shall, to the fullest extent possible, be interpreted and administered in accordance with the policy and provisions set forth in this article.

Comment

Subsection (4) is patterned after the National Environmental Policy Act (NEPA), section 102 (1). This is an effort to inject environmental thinking into agencies which presently are not required to give any thought to the environment; e.g. dept. of agriculture, oil and gas commission, P.U.C., water conservation board, Denver water board, regional transportation district, regional service authorities, etc.

106-6-103. Definitions. (1) As used in this article:

(2) "Environment" means the air, water, land, and ecological systems which encompass man and of which he is an integral part and upon which he is in any way dependent.

(3) "Wholesome environment" means an environment which not only nourishes the physiological, mental, emotional, and spiritual well-being of man, but also fosters man's respect for, and appreciation of, and assistance to, other forms of life.

Comment

The definitions of "environment" and "wholesome environment" originated in Senate Bill No. 283 (1971). They are purposely broad and loose so as to encourage imaginative thinking about consequences. These terms are not used as parts of definitions creating rights, duties, liabilities, etc. (Such definitions should always be tightly drawn.)

(4) "Unit of government" means and includes the state of Colorado, every county, city and county, municipality, school district, special district, and authority located in this state, every municipal or quasi-municipal corporation established by or under the constitution or any law of this state, and every

agency, board, bureau, commission, council, department, division, institution, instrumentality, or section of any of the foregoing, but excluding the general assembly, the courts and officers within the judicial branch, and the governor of this state.

Comment

The "unit of government" definition was developed from a similar definition written by Palmer Burch for Senate Bill No. 40 (1972).

106-6-104. Fundamental environmental policy and goals. (1)

It is the continuing policy of this state that a wholesome environment shall be fostered and maintained by:

Comment

Subsections (2) through (7) are copied verbatim from NEPA, sections 101 (b) (1) through (6). The purpose of this language is to stimulate and suggest direction to the minds of persons dealing with environmental problems. This language does not create any enforceable rights or duties, Bucklein v. Volpe, N. D. Cal (1970), and Env. Defense Fund v. Corps of Engineers, E.D. Ark. (1971).

Many persons would prefer language different from subsections (2) through (7) to describe environmental goals, but use of this federal language is recommended because: (1) This language presently is the law of the land at the federal level, (2) this language is being adopted in other states that pass environmental quality act, and (3) uniformity is desirable and desired by large interstate corporations.

(2) Fulfillment of the responsibilities of each generation as trustee of the environment for succeeding generations;

(3) Assurance for all Coloradoans of safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(4) Attainment of the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(5) Preservation of important historic, cultural, and

natural aspects of our state heritage, and maintenance, wherever possible, of an environment which supports diversity and variety of individual choice;

(6) Achievement of a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(7) Enhancement of the quality of renewable resources and achievement of the maximum attainable recycling of depletable resources.

106-6-105. Duties of employees and agencies of state and local governments to implement policy. (1) Every public officer, public employee, and unit of the state government having any responsibility for any decision which involves the environment shall implement the policy set forth in section 106-6-104 by all practical means and shall follow the guidelines set forth in section 106-6-106 to the fullest possible extent and shall cooperate with other persons having any such responsibility in order to eliminate duplication of effort and expense.

(2) Every public officer, public employee, and unit of local government having any responsibility for any decision which involves the environment is encouraged, but not required to implement the policy set forth in section 106-6-104 by all practical means and to follow the guidelines set forth in section 106-6-106 to the fullest possible extent and to cooperate with other persons having any such responsibility in order to eliminate duplication of effort and expense.

Comment

Senate Bill No. 43, as introduced, was mandatory for all levels of government. Senate Bill No. 43 as proposed for

House passage was not mandatory - compliance was merely "encouraged, but not required". This version represents a compromise. Note that there is no enforcement mechanism even in the mandatory version other than the normal expectation that the executive branch will reasonably and responsibly endeavor to perform duties assigned to it.

106-6-106. Guidelines for environmental analysis. (1)

Guidelines recommended for proper preparation and proper implementation of any plan, project, activity, decision or other action that is likely to have an environmental impact include:

(2) The use of all reasonable means and measures in support of the fundamental environmental policy and goals set forth in section 106-6-104;

(3) The prevention, control, and abatement of environmental degradation;

(4) The utilization of a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(5) The giving of appropriate consideration to presently unquantified environmental amenities and values, along with economic and technical considerations;

(6) (a) The preparation or obtaining and making public of a written analysis which attempts to foresee and advise how to prevent, correct, and minimize adverse environmental consequences of any proposed action and which covers:

(b) The environmental impact of the proposed action;

(c) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(d) Alternatives to the proposed action;

(e) The relationship between local and short-term uses of man's environment and the maintenance and enhancement of

long-term productivity;

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

(7) The study, development, and description of appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(8) The obtaining and utilization of ecological information in the planning and development of resource-oriented projects;

(9) The coordination and cooperation with state, local and private entities in planning actions and in preserving and improving the environment;

(10) The resolution of conflicts between incompatible needs and interests, in cases of doubt, in favor of the policy that a wholesome environment be fostered and maintained.

Comment

Subsections 106-6-106 (4) through (8) are adapted from NEPA, section 102 (2). Verbatim copying was not possible. Note again, the language in section 106-6-106 merely recommends, but does not require anyone to do anything. The only duty to follow these guidelines is for state officials as set forth in section 106-6-105 (1).

106-6-107. State and local agencies - cooperation - review of authority. (1) On request of any person or unit of government, each agency of the state shall make available the information possessed by it which may be useful in restoring, maintaining, or enhancing the quality of the environment except as they may contain confidential sales or marketing data, processes, or methods of manufacture or production.

(2) Each unit of government shall review its present

statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this article and shall, not later than September 1, 1973, provide the legislative council with a written report of such review, including proposals for such measures as may be necessary to bring its authority and policies into conformity with the intent, purposes, and procedures set forth in this article. Units of government in the same class may submit their recommendations jointly, but this authority shall not excuse any unit of government from compliance. The legislative council shall compile such reports and transmit a summary thereof to the general assembly.

(Part 2)

(IMPACT STUDIES)

Comment

Part 2 (sections 106-6-201 through 106-6-213) is a draft incorporating a number of ideas that emerged during work on Senate Bill No. 43 in 1972. It is completely independent of Part 1, and uses the Land Use Commission as its administrative agency.

106-6-201. Legislative Declaration. (1) (a) The general assembly finds and declares that:

(b) Many public and private actions are accompanied by significant changes that are detrimental to the environment.

(c) It is desirable to anticipate and minimize the adverse environmental consequences of proposed public and private actions and any person proposing any action which will or is likely to

degrade the environment of other persons may be required by any unit of government having jurisdiction to prepare or obtain and make public an analysis of the reasonably foreseeable environmental consequences of such action.

(d) No single definition or list can describe the many different types of actions which need to be preceded by reasonable efforts to foresee and minimize potential adverse environmental consequences and it is appropriate and desirable to delegate to the land use commission the power and duty to define the types of major actions for which environmental impact studies may be required before any such action proceeds.

(e) It is the purpose of sections 106-6-201 to 106-6-213 to require that actions which may have significant environmental impact shall be preceded by reasonable efforts to anticipate and minimize such adverse environmental consequences, but not to create any new or additional powers to prohibit such actions.

Comment

Subsection (e) emphasizes that sections 106-6-201 through 106-6-213 are requirements as to procedure, not substance.

(2) The powers created in sections 106-6-201 to 106-6-213 are granted under the police power of this state to protect the public peace, health, safety, and general welfare of the state.

(3) Except as may otherwise be decided by judicial decision as to specific federal actions, the provisions of sections 106-6-201 to 106-6-213 apply to every major action in this state without regard to whether the proponent is a unit of federal, state, or local government, a public agency or private firm or corporation, or a resident or nonresident; and also without regard to whether the owner of the land on which the action is

proposed is a unit of federal, state, or local government, or a private person, firm, or corporation.

Comment

No one knows where the line is between state and federal authority. Section 106-6-201 (3) is worded to give the state maximum authority to be an advocate and protector for its own interests.

106-6-202. Major action may not proceed if declaration or study is not accepted. No action may proceed for which a declaration of proposed major action or environmental impact study is required by this act if such declaration or study has not been accepted in accordance with section 106-6-210, nor if a hearing scheduled pursuant to section 106-6-209 is pending.

Comment

Section 106-6-202 is the provision that prevents a project from moving ahead unless required procedures have been completed.

106-6-203. Definitions. (1) As used in sections 106-6-201 to 106-6-213, unless the context otherwise requires:

(2) "Commission" means the Land Use Commission.

(3) "Environmental impact" means an appreciable and significant effect, whether immediate or delayed, on any component of the environment in any portion of the state.

(3) "Action" means any project, activity, decision, or other conduct, whether proposed or in progress, which is likely to have an environmental impact.

(5) "Declaration of proposed major action" means a brief written statement which describes a major action and which includes the name and Colorado address of the proponent.

(6) (a) "Environmental impact study" means an analysis of a proposed major action and written report based thereon which sets

forth the name, qualifications, and address of the author and such factual details as are necessary for a comprehensive understanding of:

- (b) The environmental impact of the proposed major action;
- (c) Any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (d) Alternatives to the proposed major action;
- (e) The relationship between the local, short-term uses of man's environment and the maintenance and enhancement of long-term productivity;
- (f) Any irreversible and irretrievable commitments of resources involved in the proposed major action should it be implemented.
- (g) The relationship of the proposed action to existing land use plans of the commission and of other state and local units of government.

Comment

Subsections (6) (b) through (f) are copied directly from NEPA, section 102 (2) (c). Subsection (g) is new.

106-6-204. Major actions - examples - commission to define additional types. (1) An action is a "major action" if, but only if, it is either one of the following or is a type of action defined by the commission pursuant to section 106-6-204 (2):

Comment

The following list is set forth for illustrative purposes. The items have not been drafted in final form. Substantial refinement is needed.

- (b) Ground and surface water diversions from one drainage basin to another;
- (c) Oil shale development activities;

- (d) Clear cutting operations;
- (e) Strip mining operations;
- (f) Highway locations, relocations or enlargements;
- (g) Airport locations or enlargements;
- (h) Ski area locations or enlargements;
- (i) Construction of dams or reservoirs;
- (j) Location or relocations of any private or public enterprise employing more than one hundred persons;

(k) Any new residential development including more than five hundred home sites;

(l) Location or relocation of any private or public enterprise, or the location of a new residential development, requiring more than two hundred thousand gallons of water per day or waste water treatment facilities with a capacity of one hundred thousand gallons per day or more;

(m) Nuclear detonations.

(2) In addition to duties enumerated elsewhere, the commission shall maintain a continuing review of the various types of environmental degradation that are occurring or likely to occur in this state and, after public hearing and to the extent the council deems appropriate, shall adopt, promulgate, and from time to time, amend and modify regulations defining various types of major actions in addition to those specifically listed in section 106-6-204 (1).

106-6-205. Standards for commission in making definitions.

(1) In the formulation of each such definition, the commission shall give consideration to, but not be limited by the following:

(2) The purpose of defining major actions in addition to

those specifically listed in section 106-6-204 (1) is to designate types of actions which should be preceded by environmental impact studies.

(3) The adverse environmental impacts normally associated with actions falling within the types of classes listed in section 106-6-204 (1) are suggestive of the degree of impact that should not be permitted to occur unless preceded by an environmental impact study.

(4) A major action is one that is likely to result in a change in the character of a significant portion of any county, or will occur or have significant impact in more than one county, or will have a significant adverse affect upon a natural historical or scientific feature which is unique, irreparable, or well-known throughout the state.

(5) (a) A major action is characterized by one or more of the following:

(b) Complexity, which means involvement of more than one type of environmental degradation, and the kinds of environmental degradation involved are not subject to review or control by one public agency;

(c) Extensiveness, which means affecting more than one area of the state;

(d) Cumulativeness, which means that the consequences of the action are likely to combine with the consequences of one or more other actions in such a way as to have statewide significance;

(e) Uniqueness, which means involving a natural, historic, or scientific site which is irreplaceable and unique;

(f) Not subject to local analysis, which means that no local unit of government will analyze the potential environmental degradation of the action;

(g) Severity, which means an action found by the commission to have a relatively high degree of environmental degradation.

(h) Likelihood of creating congestion, which means that a likely consequence of the action is that substantial numbers of persons will be impeded or delayed in their movements or presence of other persons.

(i) Likelihood of creating a serious hazard, which means that a reasonably possible consequence of the action is the creation of a condition that will be or may become dangerous for the public.

Comment

Subsection (5) is the same provision as appeared in Senate Bill No. 43 except "notoriety" has been dropped and "likelihood of creating congestion" and "likelihood of creating a hazard" have been added.

106-6-206. Requirements for regulations - Effective date.

(1) (a) Regulations containing definitions adopted pursuant to section 106-6-203 shall:

(b) Be worded in appropriate terms, such as the nature of the action, or the nature of the possible adverse environmental consequences, or both, or by any other method appropriate to the purposes of sections 106-6-201 to 106-6-213.

(c) Be worded in language that is as definite and clear as practicable;

(d) Specify, with legal definiteness, the portion of the state with respect to which the regulation is applicable, whether

by zone of altitude or by territory, such as a particular county, watershed, or other area;

(e) Specify whether the regulation applies solely to actions subsequently commenced or both to actions subsequently commenced and also to actions then in progress;

(f) Specify types of decisions by units of government that are intended to be covered, if any.

(2) Regulations promulgated pursuant to section 106-6-204 shall not take effect until thirty days after they have been filed with the secretary of state.

106-6-207. Duty of proponent of major action to file declaration or study. (1) If an action is defined as a major action by section 106-6-204 (1) or by regulation of the commission pursuant to section 106-6-204 (2), a declaration of proposed major action shall be filed by the proponent with the commission before proceeding with the action.

Comment

The purpose of a "Declaration" is to minimize red tape for private industry. The state is put on notice by this simple device; a study is required only if specifically requested or if the action is clearly of a type for which a study obviously is necessary.

(2) (a) The commission may require a declaration of proposed major action to be supported by an environmental impact study:

(b) As part of any regulation adopted pursuant to section 106-6-204 if the type of action is of such magnitude or character that an environmental impact study is invariably necessary for proper evaluation of each action of the type defined; or

(c) The commission has grounds to question the accuracy or

adequacy of a declaration of proposed major action that has been filed or determines that further details are necessary for the proper evaluation of the proposed major action.

(3) Preparation of an environmental impact study shall be at the expense of the proponent thereof.

(4) The commission shall accept as fulfilling the requirement of subsections (1) and (2) of this section a complete copy of an environmental impact statement approved under section 102 of the federal "National Environmental Policy Act of 1969" and related regulations and guidelines, unless the commission determines that such statement does not adequately consider any specifically designated aspect of the probable impact of the proposed major action.

106-6-208. Public availability of declarations and studies.

(1) All records of the commission, and all declarations and studies submitted to the commission, shall be public records, except as they may contain confidential sales and marketing data, processes, or methods of manufacture or production.

(2) The commission shall prepare and publish a weekly list of major actions with respect to which declarations or studies have been filed. Such list shall be mailed by the commission to anyone requesting the same upon payment of an annual fee of twenty-five dollars. The commission shall furnish a copy of any particular declaration to any person requesting it upon payment of a fee of two dollars. Copies of studies shall be made available to any person at the cost of reproduction.

106-6-209. Hearings on proposed major actions. A public hearing on any proposed major action shall be held by the

commission if two hundred or more qualified electors so request in writing within forty-five days after the filing of a declaration, or if the commission determines that such a hearing is desirable in the public interest, or if the proponent so requests within fifteen days after the rejection or required modification of a proffered declaration or study. No hearing shall be held until at least forty-five days after the date for the hearing has been set by the commission, but the hearing shall be held not more than ninety days after the hearing date has been set by the commission. The commission may utilize a hearing officer to receive evidence.

106-6-210. Acceptance and rejection of declarations and studies on procedural grounds. (1) The commission shall accept or reject a declaration or study as promptly as possible after the filing thereof. The commission may reject any proffered declaration or study only if it finds that there has been an inadequate coverage of environmental considerations or that there has been a failure to comply with any of the procedural requirements of sections 106-6-201 to 106-6-213 or of regulations promulgated by the commission. In the event a declaration or study has been on file for forty-five days and the commission has failed within such period to send written notice to the proponent that a hearing has been scheduled or that the declaration or study has been rejected, such declaration or study shall be deemed to have been accepted. If a hearing is held, the commission shall render its decision within thirty days after the date of the hearing. Acceptance means the declaration or study complies with procedural requirements and shall not be construed

to mean the action is approved on its merits.

(2) The commission may request from the real estate commission such information regarding applications for registration and registrations under article 16 of chapter 118, C.R.S. 1963, as the commission may require to perform its duties and functions under this chapter.

106-6-211. Commission authorized to issue cease and desist orders - apply for temporary and permanent injunctions. (1) Whenever the commission shall determine, after investigation, that any person is proceeding with an action which is subject to the provisions of this article and which is prohibited from proceeding under the provisions of section 106-6-202 (2), the commission shall issue a written cease and desist order to said person that he shall immediately discontinue such action.

(2) If any person fails to comply with a cease and desist order that is not subject to a stay pending administrative, judicial, or legislative review, the commission may request the district attorney for the district in which the alleged violation exists, or the attorney general, to bring, and if so requested it shall be his duty to bring, a suit for an injunction to prevent any further or continued violation of such order.

106-6-212. Judicial review. (1) Any final order or determination by the commission shall be subject to judicial review in accordance with the provisions of this article and the provisions of article 16 of chapter 3, C.R.S. 1963. The reviewing court may, in its discretion, stay such final order or determination pending its decision.

(2) Any party in the review proceeding may move the court

to remand the case to the commission in the interests of justice, for the purpose of adducing additional specified and material evidence, and making findings thereon, but only if such party shall show convincing reasonable grounds for the failure to adduce such evidence at the time the matter was previously before the commission.

(3) Any proceeding for judicial review of any final order or determination of the commission shall be filed in the district court for any district in which the proposed action is to occur, and shall be filed within twenty days after the date of said written order or determination.

106-6-213. Civil penalties. Any person who shall violate any cease and desist order or injunction which is not subject to a stay pending judicial review and which has been issued pursuant to this article shall be subject to a civil penalty of not more than two thousand five hundred dollars per day for each day during which such violation occurs. Penalties shall be determined and collected by a court of competent jurisdiction upon action instituted by the council for the determination and collection of said penalty under this section. All receipts from penalties or fines collected under this section shall be credited to the general fund of the state.

Comment

Civil penalties are considered preferable to criminal since the burden of proof is less and since greater latitude is possible in the delegation of authority to the commission.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

APPENDIX D

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF A FRONT RANGE COMMISSION.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. Chapter 106, Colorado Revised Statutes 1963, is
4 amended BY THE ADDITION OF A NEW ARTICLE to read:

5 ARTICLE 8

6 Front Range Commission

7 106-8-1. Short title. This shall be known and may be cited
8 as the "Front Range Commission Act".

9 106-8-2. Legislative declaration. The general assembly
10 hereby declares that the Colorado front range is experiencing
11 rapid urbanization and unmanaged growth characterized by leap
12 frogging of subdivisions, increasing congestion, concentrations
13 of air and noise pollution, and excess population pressures on
14 the facilities of mature communities. The effect of such
15 unmanaged growth is to place a strain on both the resources of
16 the state and the nation by forcing greater dependency on the
17 motor vehicle and by requiring higher infrastructure costs. It
18 is the purpose of this article to design and encourage the
19 provision of governmental services in a manner that will
20 discourage urban sprawl, protect the capital investments of
21 existing communities, reduce the consumption of resources,

1 minimize pollution, facilitate alternate transportation forms,
2 and lower the overall costs of governmental services.
3 Furthermore, the general assembly determines that the problems of
4 urban sprawl and urban impaction are unique to the front range,
5 necessitating the establishment of a framework of government to
6 deal with these problems.

7 106-8-3. Definitions. (1) As used in this article, unless
8 the context clearly indicates otherwise:

9 (2) "District" means the front range district created by
10 this article.

11 (3) "Commission" means the governing board of the front
12 range district.

13 (4) "Guide" means the front range governmental service
14 guide to be adopted by the commission as provided in this
15 article.

16 (5) "Interested parties" means the governing board of any
17 municipality, county, special district, or petitioners of a
18 proposed special district or any individual or group who files a
19 written application to the commission requesting to be heard at a
20 public hearing conducted by the commission.

21 (6) "County" means a home rule or statutory county and
22 includes a city and county.

23 (7) "Municipality" means a home rule or statutory city or
24 town or a city and county.

25 (8) "Special district" means any water district, sanitation
26 district, fire protection district, or other quasi-municipal
27 corporation organized under the local improvement and service
28 district laws of this state as enumerated in chapter 89, C.R.S.

1 1963, excluding all special service and local improvement
2 districts which are confined exclusively within the boundaries of
3 any existing city, city and county, or incorporated town.

4 (9) "Commissioner district" means the area designated for
5 purposes of nominating and electing commission members.

6 106-8-4. Creation of district - boundaries. (1) (a) There
7 is hereby created a Colorado front range district which includes
8 all of the following land areas described according to references
9 used by the United States bureau of the census in designating
10 land areas for purposes of the 1970 census:

11 (b) Adams county, excluding the census area known as the
12 "east Adams division";

13 (c) Arapahoe county, excluding the areas known as
14 "enumeration district number one", "enumeration district number
15 two", and "enumeration district number three", all of which are
16 parts of the area known as the "east Arapahoe division";

17 (d) Boulder county;

18 (e) The city and county of Denver;

19 (f) Douglas county;

20 (g) El Paso county, excluding the area known as the
21 "Drennan-Yoder division" and excluding the areas known as
22 "enumeration district number one", "enumeration district number
23 two", "enumeration district number thirteen", and "enumeration
24 district number fourteen", all of which are parts of the area
25 known as the "Black Forest-Peyton division";

26 (h) Jefferson county;

27 (i) Larimer county;

28 (j) Teller county; and

1 (k) Weld county, excluding the area known as the "Grover
2 division"; excluding the area known as the "Raymer division";
3 excluding the area known as "enumeration district number 109",
4 which is a part of the area known as the "Keenesburg-Hudson
5 division"; and excluding the area known as "enumeration district
6 number twenty-five", which is a part of the area known as the
7 "Kersey-Gill division".

8 106-8-5. Commission - election of members. (1) The
9 governing body of the front range district shall be a commission
10 in which all powers of the front range district shall be vested.
11 The commission shall consist of seven members all of whom shall
12 reside in and be elected by the qualified electors of respective
13 commissioner districts.

14 (2) Within thirty days after the effective date of this
15 act, the secretary of state shall appoint, and notify of such
16 appointment, the county clerk of each county within or partially
17 within the district to serve as a member of an election committee
18 for the district. The election committee shall establish
19 commissioner districts for the purpose of electing members of the
20 first front range commission. Commissioner districts shall be as
21 compact and nearly equal in population as possible based on the
22 last decennial census.

23 (3) A majority of the clerks on an election committee shall
24 constitute a quorum and shall select a chairman at the first
25 meeting of the committee. The chairman may call additional
26 meetings as necessary to accomplish the purposes of the election
27 committee.

28 (4) The election committee shall specify a date upon which

1 a special election will be held for the purpose of electing the
2 members of the first commission for the district. Such special
3 election shall be held within at least two hundred forty days
4 following the effective date of this act.

5 (5) The election committee shall give public notice of the
6 special election to be held within the district at least one
7 hundred eighty days prior to the date of the election, by causing
8 such notice to be published in at least one newspaper of general
9 circulation in the district. This notice shall set forth the
10 requirements for nomination for membership on the commission and
11 the date of expiration of the term of office. To be eligible for
12 nomination and election, a candidate for office as a commission
13 member shall be a qualified elector of the commissioner district.
14 Notwithstanding any provision in the charter of any municipality
15 or county to the contrary, mayors, councilmen, trustees, and
16 county commissioners may hold elective office as a commissioner
17 in the district and be compensated as provided in this article.

18 (6) Each election committee shall give a second public
19 notice of the election to be held within its region by causing
20 such notice to be published in at least one newspaper of general
21 circulation in the region not less than ten nor more than twenty
22 days before the election. Such notice shall include the names of
23 the candidates nominated for membership on the commission.

24 (7) At the special election, the qualified electors of each
25 commissioner district shall elect one candidate to serve as a
26 member of the commission. The candidate receiving the highest
27 number of votes shall be elected. In the event of a tie vote,
28 the election committee shall determine by lot the person who

1 shall be elected to fill that vacancy.

2 (8) Within seven days following the special election the
3 election committee shall certify the results of the election to
4 the secretary of state. At such time, the election committee
5 shall be dissolved.

6 (9) All necessary expenses for the election conducted in a
7 district pursuant to the provisions of this section shall be paid
8 by the counties within the district in proportion to their
9 respective populations, and the governing bodies of the
10 respective counties shall enact any necessary supplemental
11 appropriations.

12 (10) Independent candidates may be nominated by filing with
13 a county clerk in the district on forms supplied by the secretary
14 of state, a nomination petition signed by at least twenty-five
15 qualified electors of the region. Such petitions shall be filed
16 at least ninety days prior to the date of the election.
17 Nominations for independent candidates in the district shall be
18 made pursuant to the provisions of this section and section
19 49-7-1, C.R.S. 1963. Nothing in this article shall be construed
20 to restrict a political party from making nominations for the
21 commission, by conventions of delegates or by primary election,
22 or by both. Notice of such nomination by a political party shall
23 be filed with the appropriate election committee at least ninety
24 days prior to the date of the election held within the region.

25 (11) At the special election, the terms for commission
26 members from odd-numbered commissioner districts shall continue
27 until their successors are elected at the second general election
28 thereafter and are qualified, and the terms for those elected

1 from even-numbered districts shall continue until their
2 successors are elected at the first general election thereafter
3 and are qualified. Thereafter all terms shall be for four years.

4 (12) The election of members of the commission at general
5 elections shall be conducted in the same manner as for other
6 officers elected at general elections and in accordance with this
7 article.

8 (13) Each member of the commission shall receive a per diem
9 of fifty dollars for each day actually spent in the discharge of
10 official duties, not to exceed one thousand dollars in any one
11 year; and shall be reimbursed for necessary and actual expenses
12 incurred in the performance of his duties under this article. No
13 member of any commission shall receive any compensation as
14 executive director, staff member, consultant, or other agent of
15 the commission, but the compensation herein provided shall be in
16 addition to any compensation received by a commission member as a
17 member of a resource design commission or the Colorado project
18 review board.

19 106-8-6. Duties of the commission. (1) (a) The commission
20 shall design and adopt a front range governmental service guide
21 for the formation, location, and extension of governmental
22 services provided by counties, municipalities, special districts,
23 and the department of highways based upon the following criteria:

24 (b) To discourage urban sprawl;

25 (c) To protect the amenities, identity, and capital
26 investments of existing communities;

27 (d) To reduce the consumption of fossil fuels and other
28 natural resources;

- 1 (e) To prevent the growth of competing taxing
2 jurisdictions;
- 3 (f) To contain further concentration of air, noise, land,
4 and water pollution;
- 5 (g) To facilitate the use of alternate forms of
6 transportation;
- 7 (h) To lower the total cost of governmental services within
8 the front range;
- 9 (i) To reduce the wastes of financial and human resources
10 which result from excessive congestion;
- 11 (j) To direct the provision of governmental services to
12 areas suited for urban development; and
- 13 (k) To protect ecologically sensitive areas from urban
14 development.
- 15 (2) (a) Based upon the front range guide, the commission
16 shall have the following duties:
- 17 (b) The duty to control new incorporations wholly or
18 partially in the district. No municipality shall be incorporated
19 wholly or partially within the boundaries of the district under
20 the provisions of sections 139-1-1 through 139-1-11, C.R.S. 1963,
21 unless a resolution of approval by the commission accompanies the
22 petition for incorporation; nor shall any such municipality
23 initiate the adoption of a home rule charter at the time of its
24 incorporation under section 139-90-9, C.R.S. 1963, unless a
25 resolution of approval by the commission accompanies the petition
26 for incorporation and initiation of home rule required in
27 sections 139-1-2 and 139-90-9, C.R.S. 1963.
- 28 (c) The duty to control annexations by municipalities

1 wholly or partially in the district. The governing body of any
2 municipality located wholly or partially within the boundaries of
3 the district shall, prior to the adoption of any ordinance
4 providing for annexation of territory under sections 139-21-1
5 through 139-21-23, C.R.S. 1963, obtain, as a condition to any
6 annexation, a resolution of approval from the commission.

7 (d) The duty to control creation of special districts
8 wholly or partially in the district. Before any board of county
9 commissioners sets a date for a public hearing on a service plan
10 submitted to it under section 89-18-8, C.R.S. 1963, for the
11 purpose of forming a special district, located wholly or
12 partially within the boundaries of the district, the board of
13 county commissioners shall obtain a resolution of approval from
14 the commission. If the commission does not issue a resolution of
15 approval, the board of county commissioners shall issue a
16 resolution of disapproval of the service plan to the petitioners
17 for formation of the special district according to section
18 89-18-8, C.R.S. 1963, which resolution shall specify that the
19 service plan did not receive a favorable recommendation from the
20 commission.

21 (e) The duty to control extension of services wholly or
22 partially in the district. Any county, municipality, or special
23 district organized pursuant to chapter 89, C.R.S. 1963, located
24 wholly or partially within the boundaries of the district and
25 negotiating any agreement, contract, or otherwise planning to
26 extend services beyond the boundaries of such county,
27 municipality, or special district, shall file an application with
28 the commission for a resolution approving such extension of

1 services.

2 (3) The commission shall not issue a resolution of approval
3 under paragraph (b), (c), (d), or (e) if such incorporation,
4 annexation, service plan for a special district, or extension of
5 services would conflict with the objectives of the front range
6 guide or would fail to meet seven of the ten criteria listed in
7 this section.

8 (4) If in its tentative review of an incorporation,
9 annexation, service plan for a special district, or extension of
10 services the commission determines that it cannot issue a
11 resolution of approval, the commission shall schedule a public
12 hearing or appoint a hearing officer to conduct a hearing.

13 (5) A hearing shall be held within thirty days of the date
14 of determination by the commission that it cannot issue a
15 resolution of approval as provided in this section. The
16 commission shall provide written notice of the date, time, and
17 location of the hearing to the governing body of the
18 municipality, county commissioners, persons submitting the
19 special district plan, or other interested parties. The
20 commission shall publish legal notice of the date, time,
21 location, and purpose of such hearing in a newspaper of general
22 circulation within the county in which such incorporation,
23 annexation, or special district is proposed to be established.

24 (6) The hearing held by the commission or a hearing officer
25 appointed by the commission shall be open to the public and a
26 transcript of proceedings shall be made. Interested parties
27 shall be afforded an opportunity to be heard under such rules of
28 procedure as may be established by the commission, but interested

1 parties must notify the commission three days prior to a public
2 hearing of their intent to testify at such a hearing.

3 (7) Within twenty days after the completion of the hearing,
4 the commission shall advise in writing the interested parties on
5 whether a resolution of approval shall be granted.

6 (8) Judicial review of any resolution or decision of the
7 commission made under the provisions of this section may be
8 instituted in accordance with section 3-16-5, C.R.S. 1963.

9 106-8-7. General powers of commission. (1) (a) The front
10 range commission shall be a body corporate and a political
11 subdivision of the state, and the commission shall have the
12 following general powers:

13 (b) To have and use a corporate seal;

14 (c) To sue and be sued and be a party to suits, actions,
15 and proceedings; the provisions of the "Colorado Governmental
16 Immunity Act", as set forth in article 11 of chapter 130, C.R.S.
17 1963, shall be applicable to the district formed under this
18 article;

19 (d) To enter into contracts and agreements affecting the
20 affairs of the district and to accept all funds resulting
21 therefrom pursuant to the provisions and limitations of article 2
22 of chapter 88, C.R.S. 1963;

23 (e) To contract with private persons, associations, or
24 corporations within or without its boundaries and to accept all
25 funds and obligations resulting therefrom;

26 (f) To acquire, dispose of, and encumber real and personal
27 property, including, without limitation, rights and interests in
28 property, including leases and easements, necessary to accomplish

1 the purposes of the district;

2 (g) To have the management, control, and supervision of all
3 the business affairs and properties of the district;

4 (h) To hire and retain agents, employees, attorneys, and
5 other consultants and to provide for the powers, duties,
6 qualifications, and terms of tenure thereof;

7 (i) To accept on behalf of the district gifts, grants, and
8 conveyances upon such terms and conditions as the commission may
9 approve; and

10 (j) To have and exercise all rights and powers necessary or
11 incidental to or implied from the powers granted in this article.

12 106-8-8. Levy of taxes - limitation - collection. (1)

13 Notwithstanding any other provision of law or this article to the
14 contrary, no taxes shall be levied, directly or indirectly, by
15 the district under the provisions of this article in excess of
16 the limitation provided herein. For the purposes of operation
17 and maintenance of the district, the commission shall have the
18 power to levy a tax, not in excess of one-fifth mill on each
19 dollar of valuation for the assessment year.

20 (2) To provide for the levy and collection of taxes, the
21 commission shall determine, in each year, the amount of money
22 necessary to be raised by taxation, and shall fix a rate of levy,
23 which, when levied upon every dollar of valuation for assessment
24 of taxable property within the district, will raise the amount
25 required by the district annually to supply funds for paying
26 expenses of organization, operating, and maintaining the district
27 and promptly to pay in full, obligations of the district payable
28 from taxes.

1 (3) The commission, not later than the fifteenth day of
2 October of each year, shall certify to the board of county
3 commissioners of each county within the district, or having a
4 portion of its territory within the district, the rate so fixed,
5 in order that, at the time and in the manner required by law for
6 levying taxes, such board of county commissioners shall levy such
7 tax upon the valuation for assessment of all taxable property
8 which is located within the county and the district.

9 (4) All taxes levied under this article, together with
10 interest thereon and penalties for default in payment thereof,
11 and all costs of collecting same, shall constitute, until paid, a
12 perpetual lien on and against the property, and such lien shall
13 be on a parity with the tax lien of other general ad valorem
14 taxes.

15 (5) Property taxes provided for in this article shall be
16 levied, assessed, collected, remitted, and accounted for in the
17 manner provided for other general ad valorem taxes.

18 (6) The commission may accept on behalf of the district any
19 state-collected locally-shared taxes of whatever nature or kind
20 if such taxes are approved and enacted by the general assembly.

21 (7) The commission shall have the power to invest surplus
22 funds in the manner and form it determines to be most
23 advantageous; but said investments must meet the requirements and
24 limitations of article 1 of chapter 83, C.R.S. 1963.

25 (8) The commission shall have the power to accept on behalf
26 of the district all funds tendered it from the state, the federal
27 government, or any political subdivision or agency of either,
28 which funds are specifically intended as incentive to, or

1 assistance in, the operation of the district.

2 (9) The district shall not levy a tax for the calendar year
3 during which it shall have been formed unless, prior to the
4 fifteenth day of October of such year, the assessor and board of
5 county commissioners of each county within the district shall
6 have received from the commission a map and a legal description
7 of such district, and a copy of a budget of the district as
8 provided by section 88-1-17, C.R.S. 1963, and increased property
9 tax levies shall be subject to the provisions of section 88-3-1,
10 C.R.S. 1963.

11 SECTION 2. Effective date. This act shall take effect June
12 1, 1973.

13 SECTION 3. Safety clause. The general assembly hereby
14 finds, determines, and declares that this act is necessary for
15 the immediate preservation of the public peace, health, and
16 safety.