

**MONTANA ASSOCIATION OF REGISTERED LAND SURVEYORS (MARLS)
CONCERNS WITH HB330**

Section 76-1-601, MCA deals with "growth policies". Section 76-1-103, MCA, Subsection (4), defines "growth policy" as follows:

(4) "Growth policy" means a comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or a policy that was adopted pursuant to this chapter on or after October 1, 1999.

As is covered by Section 76-1-605(2) a "growth policy" is not a regulatory document:

2) (a) A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law.

(b) A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.

1. Page 2, Line 7. As noted above, the growth policy is not a regulatory document, it is a guide to growth. There is no requirement that a proposed development comply in every facet with a growth policy.

2. Page 2, Line 8. Expressed public opinion (public interest) was removed from the subdivision review criteria by the legislature in the 1993 session. Public interest criteria properly belongs in the planning and zoning process, not in the subdivision review process.

3. Page 2, Lines 8-9. The Montana legislature has made it explicitly clear that a governing body may not deny approval of a subdivision based solely on the subdivisions impacts on educational services.

4. Page 2, Line 12, Same as #1 above.

5. Page 2, Line 22, Same as #1 above.

6. Page 3, Line 25-26, Same as #1 above.

Due to local governments hesitance to implement and control development objectives through the planning and zoning process, the growth policy is often mis-used as a tool to control development in the subdivision review process.