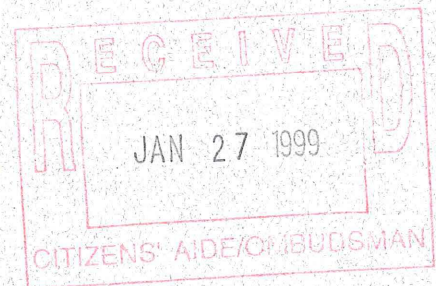


# **FINAL REPORT**

## **COMMISSION ON URBAN PLANNING, GROWTH MANAGEMENT OF CITIES, AND PROTECTION OF FARMLAND**



Presented to the Legislative Council  
and the Iowa General Assembly  
January 1999

Prepared by the Legislative Service Bureau









Legislative  
Service  
Bureau

# FINAL REPORT

## Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland

January 1999

### MEMBERS

Senator Mary Lundby, Co-chairperson  
Senator Eugene Fraise  
Mr. Mark Ackelson, Iowa Natural Heritage Foundation  
Ms. Lu Barron, Iowa State Association of Counties  
Ms. Sue Cosner, American Planning Association  
Ms. Lori Elliott, Associated Builders & Contractors of Iowa  
Ms. Elisabeth Infield Hamlin, Department of Community &  
Regional Planning, College of Design, ISU  
Mr. Jay Howe, Iowa Farmers Union  
Mr. Tim Keller, American Society of Landscape Architects  
Mr. Chad Kleppe, Iowa Commodity Groups

Representative Russell Teig, Co-chairperson  
Representative Ed Fallon  
Ms. Jill Knapp, Conservation Districts of Iowa  
Mr. Martin Lee, Governor's Office  
Mr. Charles Manly, Iowa Audubon Council  
Mr. Gordon Mills, American Institute of Architects  
Ms. Sally Puttmann, Iowa Farm Bureau Federation  
Mr. Tim Reinders, Iowa Historical Preservation Alliance  
Ms. Donna Robinson, Iowa Sportsmen's Federation  
Ms. Beverly Thomas, Iowa Public Transit Association  
Mr. Tim Zisoff, Iowa League of Cities

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### AUTHORIZATION AND APPOINTMENT

The Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland was authorized by the Legislative Council to study issues relating to land use and planning, and particularly policies and trends which affect development, including but not limited to issues involving the status of farmland and the conversion of farmland into residential, commercial, or industrial uses; associated problems facing cities; the effectiveness of local planning and zoning laws; and a review of model legislation and studies in states which have undertaken reform efforts and have effective land use policies.

The Commission consists of 21 voting members with diverse expertise in planning, development, design, zoning, annexation, agriculture, historic preservation, transportation, and conservation. The Commission is chaired by the Honorable Senator Lundby and the Honorable Representative Teig.





## Commission on Urban Planning

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### 1. Overview.

**a. Scope of the Study.** In 1997, the Legislative Council of the Iowa General Assembly, pursuant to House Concurrent Resolution 21, established the Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland. The Legislative Council authorized the study in order to review county land use inventories; survey the status of Iowa farmland and natural areas; determine the extent to which areas have been converted to residential, commercial, or industrial use; report on the agricultural quality of farmland converted to residential, commercial, or industrial use; survey problems facing the state's cities; evaluate the effectiveness of current state, regional, and local planning and zoning laws and assess their impact on the farmland, natural areas, and cities of the state; review model legislation and studies on farmland protection and urban planning; collect information on states that have undertaken reform efforts and have effective programs; propose innovative and cooperative planning and land use approaches that will protect farmland, accommodate and guide growth and development, ensure the planning and construction of adequate supporting services and infrastructure including utilities, storm water management systems, and transportation; provide opportunities for or eliminate barriers to affordable housing; protect the environment; and minimize exposure to natural hazards.

**b. Meetings.** The Commission held 10 meetings in 1997 and 1998, including two meetings consisting of two days.

**c. Public Hearings.** The Commission conducted 10 public hearings around the state during the summer and fall of 1998. In notifying the public of the public hearings, the Commission referred to them as "town meetings."

**d. Subcommissions.** The Commission formed a number of subcommissions. The Finance Subcommittee met once during the 1997 interim. Subcommissions, other than the Private Property Rights Subcommittee, met on a regular basis beginning in January 1998. The Private Property Subcommittee, met in November 1998.

Subcommissions	Membership
Finance	Senator Mary Lundby (Chairperson), Representative Ed Fallon, Ms. Lu Barron, and Mr. Mark Ackelson
Annexation	Ms. Lu Barron (Chairperson), Ms. Sue Cosner, and Mr. Charles Manly
Private Property Rights	Mr. Chad Kleppe (Chairperson), Ms. Sally Puttmann, and Mr. Martin Lee
Land Use Planning and Policy/Urban Revitalization	Mr. Gordon Mills (Chairperson), Ms. Elisabeth Infield Hamin, and Mr. Tim Reinders





Public Park and Recreation/Natural and Historic Areas	Mr. Mark Ackelson (Chairperson), Ms. Beverly Thomas, and Ms. Donna Robinson
Farmland Inventories/Farmland Preservation	Mr. Jay Howe (Chairperson), Mr. Tim Keller, and Ms. Jill Knapp
Infrastructure Costs and Subsidies/Tax Implications of Development	Mr. Tim Zisoff (Chairperson), Mr. Ed Fallon, and Ms. Lori Elliott

**e. Budget and Expenditures.** On November 25, 1997, the Legislative Council authorized the Commission to expend up to \$50,000 for purposes of carrying out this study. However, the amount authorized was conditioned on a dollar-for-dollar match by a contribution by a private source. That money was not expended. On June 23, 1998, the Legislative Council authorized the Commission to expend up to \$50,000 for consultant work and other assistance for the second year of the study. That money was expended without a match by a private source. The money was expended as follows: \$35,000 was paid to Iowa State University in order to conduct a land use inventory for seven counties and \$4,866.13 was paid to court reporting services for preparing transcripts of testimony offered at public hearings conducted around the state.

**f. Reports.** The Commission issued a progress report to the General Assembly in January 1999. The Commission accepted without recommendation reports by six subcommissions which met between January and November 1998. The Commission also accepted a report of land use inventories for seven counties prepared by Iowa State University. The reports are on file in the office of the Legislative Service Bureau.

## **2. Commission Meetings.**

The Commission has held 10 meetings, beginning in September 1997 and ending in December 1998. The Commission met in order to receive testimony and take actions related to the study.

**a. First Meeting - September 4, 1997.** During the first meeting, the Commission considered the following:

*(1) Preliminary Business.* The Commission elected Senator Lundby and Representative Teig as permanent co-chairpersons and adopted rules.

*(2) Commission Discussion.* Members introduced themselves and discussed perspectives regarding land use issues and the direction of the Commission.





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(3) *Subcommission Organized.* The members formed a subcommission to study issues involving financing aspects of the study, including the employment of a consultant.

(4) *Farmland Preservation.* The testimony received by the Commission included the information presented by Mr. Robert Wagner, representing the American Farmland Trust, who expressed support for the Commission and discussed similar efforts and land preservation statutes enacted in other states, including Pennsylvania, Ohio, and Oregon.

**b. Second Meeting - October 6, 1997.** During the second meeting, the Commission considered the following:

(1) *Updates.* Representative Ed Fallon, Commission Member, provided an update of the Finance Subcommission, including the legal structure of an entity charged to conduct research programs, and private and state contributions to facilitate the work of the Commission. Mr. Doug Adkisson of the Legislative Service Bureau provided a brief overview of staff activities, including efforts to obtain county land use inventories, and identify legal obstacles to establishing a nonprofit corporation to perform Commission functions. Ms. Debra Kozel of the Legislative Fiscal Bureau presented information regarding Commission budget items.

(2) *World Food Prize.* Mr. John Ruan, Chairperson and Chief Executive Officer of the Ruan Companies, discussed the importance of the World Food Prize and the need to preserve agricultural land for the production of food, leather, and fiber products.

(3) *Land Use Inventories.* Mr. Paul Anderson, Professor at Iowa State University, and Mr. Cory Brockmann, representing the Natural Resources Conservation Service, United States Department of Agriculture, discussed Iowa's land use inventories and the number of acres of farmland converted to nonagricultural uses.

(4) *Farmland Preservation.* Mr. Stuart Meck, representing the American Planning Association, discussed his organization and its efforts to preserve farmland, including drafting model legislation. Mr. Meck stressed the importance of farmland preservation and noted that many states have embarked upon studies of this issue. He stated that the American Planning Association would like to be involved in the Commission's efforts.

(5) *Annexation.* Professor Jerry Knox, representing Iowa State University, discussed issues related to regional planning and annexation of farmland by cities. Professor Knox described his participation in a Dallas County blue ribbon committee considering these issues. He showed the Commission a number of maps illustrating how central Iowa cities have annexed a large number of acres.

(6) *Legal Issues.* Professor Neil Hamilton, Drake University Law School, discussed Iowa's farm preservation statutes and county zoning, including Iowa





Code section 335.2, which exempts farms and farm uses from county zoning. Professor Hamilton also discussed a number of provisions in state law that he believes exaggerate annexation problems and the conversion of farmland into nonagricultural uses.

**c. Third Meeting - November 3, 1997.** During the third meeting, the Commission considered the following:

*(1) Property Taxation.* Mr. Dick Stradley, representing the Department of Revenue and Finance, provided the Commission with an overview of Iowa property taxation, including a discussion on real estate assessment and real estate classification.

*(2) Farmland Preservation.* Mr. James Gulliford, Director of the Soil Conservation Division of the Department of Agriculture and Land Stewardship, discussed his participation in the implementation of Iowa Code chapter 352, relating to county land use inventories and county land preservation and use plans.

*(3) Annexation.* Mr. Steve McCann, Administrator, City Development Board, and Ms. Christie Scase, Assistant Attorney General, discussed the function of the City Development Board. The City Development Board reviews all annexation petitions within urbanized areas for statutory requirements. Mr. McCann and Ms. Scase provided an overview of procedures for various types of voluntary and involuntary annexations in Iowa.

*(4) Finance Discussion.* Representative Fallon, Commission member, provided an update regarding the possibility of financing the work of the Commission.

*(5) Highway Planning.* Mr. Jim Bernau, a farmer residing near Charles City, discussed negative experiences that he had with the Department of Transportation's project of locating the Avenue of the Saints Highway near his farm. Mr. Dennis Tice, from the Department of Transportation, provided an overview of the Department's long-range transportation plan, and discussed the Department's criteria for determining the location of new roads.

*(6) Takings and Private Property Rights.* Ms. Elisabeth Osenbaugh and Mr. Mike Smith, representing the Iowa Attorney General's Office, provided an overview of private property rights and takings issues including a discussion regarding development rights, eminent domain, conservation easements, and condemnations.

*(7) Perspectives By Cities.* Mr. Dean Schade, representing the Iowa League of Cities, and Mr. Jim Halvorson, Planning Director, City of Cedar Rapids, provided cities' perspectives on urban sprawl and farmland preservation issues. Mr. Schade discussed the question of whether urban growth is undesirable. Mr. Halvorson discussed the role of annexation, property taxes, water services,





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the responsibility of counties, and the impact of transitional land uses in city development.

**d. Fourth Meeting - December 1, 1997.** During the fourth meeting, the Commission considered the following:

*(1) Financial Update.* Co-chairperson Representative Teig notified the Commission that the Legislative Council authorized \$50,000 to the Commission based on a dollar-for-dollar match of any money raised in the private sector.

*(2) Sustainable Agriculture.* Dr. Dennis Kenney, Director, Leopold Center for Sustainable Agriculture, Iowa State University, discussed his perspectives on urban sprawl and farmland preservation as they relate to sustainable agriculture.

*(3) Problems and Costs of Urban Growth.* Mr. Philip Bloch, Intern, Iowa Natural Heritage Foundation, discussed the movement of people away from rural communities to urban centers during the industrial revolution and from urban centers to rural communities at the current time and costs associated with this growth.

*(4) Public Concerns.* Mr. Dean Robertson, a private citizen from Cedar Rapids, discussed the need to change current land use and planning laws in order to preserve land and best serve ecological and environmental conditions. Ms. Lavon Griffieon, a farmer who lives on a farm north of Ankeny, discussed how urban development is closing in on her family's farm.

*(5) Commission Discussion.* The Commission members discussed issues relating to the Commission's work during the 1998 Legislative Session, financing the work of the Commission, and the progress report to the General Assembly.

**e. Fifth Meeting - January 12, 1998.** During the fifth meeting, the Commission considered the following:

*(1) Development Costs.* Mr. Lane Palmer, Department of Economic Development, discussed costs associated with development.

*(2) Planning and Design.* Mr. William Dikis, FAIA, the Government Affairs Chairman for the American Institute of Architects, Iowa Chapter, presented information regarding planning and design considerations.

*(3) Extra-urban Development.* Ms. Laurie Bergren, a member of the Monroe Township Association, discussed issues involving building and subdivision approval within the two-mile jurisdiction which exists beyond a city's limits.

*(4) Planning and Zoning.* Mr. Les Beck, Director, Story County Planning and Zoning, discussed county planning and zoning practices.

*(5) Facilitating Town Meetings.* Mr. Kent Newman, Executive Director, Wallace House Foundation, discussed methods to facilitate dialogue between elected officials and citizens concerning land use issues.

**f. Sixth Meeting - May 4, 1998.** During the sixth meeting, the Commission considered the following:

*(1) Land Use Study.* Representative Fallon, Commission Member, informed the Commission of a newly formed nonprofit organization, 1,000 Friends of Iowa, focusing on land use issues.

*(2) Summary of Subcommittee Work.* Mr. Doug Adkisson, Legislative Service Bureau, provided the Commission with a summary of subcommittee activities which had been reported to the Legislative Service Bureau prior to the meeting, a request for proposals (RFP) issued by the Commission in February 1998, and the three proposals submitted by vendors in response to the RFP.

*(3) Subcommittee Preliminary Reports.* Preliminary reports presented by a number of Commission Members, including Ms. Lu Barron and Ms. Sue Cosner who discussed annexation issues; Mr. Tim Zisoff, who discussed infrastructure costs, subsidies and tax implications of development; Mr. Mark Ackelson, who discussed public parks, recreation, and natural and historic areas; Mr. Mills, who discussed land use planning and policy and urban revitalization; and Mr. Jay Howe, who with Mr. Les Beck, Story County Planning and Zoning Department, discussed farmland inventories and farmland preservation.

*(4) Proposal by Vendors.* A number of vendors presented proposals:

*a) Land Use Inventories.* Dr. Stanley Johnson, representing Iowa State University, discussed a proposal to undertake a model resource inventory for the State of Iowa. The University would work with selected counties in the state to develop a basic data set that warrants collection on a regular basis in all counties.

*b) Public Hearing Facilitation.* Mr. Dann Stevens, representing Timberline Consulting, and Mr. Duane Sand, Wallace House Foundation, each provided information relating to facilitating the public hearing process.

**g. Seventh Meeting - June 1, 1998.** During the seventh meeting, the Commission considered the following:

*(1) Request for Funding.* The Commission approved a motion authorizing the Legislative Service Bureau to organize public hearings, that up to \$15,000 be used to contract with an organization to assist the Bureau in preparing summaries of the public hearings, and that \$35,000 be used to contract with Iowa State University to conduct a land use inventory with up to seven counties.





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(2) *Public Hearings.* The Commission members discussed holding public hearings around the state in the following locations: Fairfield, Fayette, Lamoni, Davenport, Des Moines, Cedar Rapids, Griswold, Mason City, Sioux City, and Spirit Lake.

(3) *Zoning Laws.* Professor Stu Huntington, representing Iowa State University, discussed perspectives regarding the state's zoning laws, including the number of counties which have adopted county zoning ordinances and procedures for county zoning.

(4) *Natural Spaces.* Mr. Larry J. Wilson, Director, Department of Natural Resources, discussed the need to preserve natural spaces in this state, and the increasing encroachment upon natural spaces by urban development.

(5) *Annexation and Condemnation Practices.* Mr. Glen Keppy, a farmer residing outside Davenport, discussed a personal experience involving pressure from development. He discussed the use of annexation and condemnation of property by the City of Davenport to purchase productive farmland in the area for purposes of constructing an industrial park.

**h. Eighth Meeting - October 5, 1998.** During the eighth meeting, the Commission considered the following:

(1) *Representatives of Cities.* Mr. Dean Wheatley and Mr. Jim Halverson, from the City of Cedar Rapids, provided information on various land use and development issues including a comparison of urban and rural subdivisions, annexation, and current land use in areas surrounding Cedar Rapids. Mr. Clayton Lloyd, from the City of Davenport, discussed development issues encountered by the City of Davenport, including issues raised by a recent industrial park development.

(2) *Policy Recommendations.* Professor Robert Freilich, an attorney from Kansas City, Missouri, provided land use recommendations relating to planning goals, growth strategies, comprehensive and tiered-growth planning, joint city and county planning, annexation, and proposed changes in the City Development Board.

(3) *Nuisance Suits.* Professor Neil Hamilton, Director, Agricultural Law Center, Drake University, provided an analysis of a recent Iowa Supreme Court ruling declaring nuisance suit protections under Iowa's agricultural areas law unconstitutional.

(4) *Land Use Study.* Professors Huntington and Paul Anderson, representing Iowa State University, provided an update on the land use study currently being conducted for the Commission by Iowa State University.

**i. Ninth Meeting - Monday, November 9 and 10.** During the ninth meeting, the Commission considered the following:

(1) *Remarks by Commission Members.* Commission members made general remarks concerning the final stages of the work of the Commission. Comments related to continuing the work of the Commission, continuing land use inventories, proposed legislation, balancing private property rights with public goals, considering a fiscal analysis of options, facilitating greater cooperation between cities and counties, promoting planning, retaining Iowa's population, protecting natural resources, discouraging subsidization of urban sprawl, creating tax incentives and disincentives, and working in a bipartisan manner.

(2) *Land Use Report.* Professor Huntington, representing Iowa State University, provided an update of land use inventories, compiled for seven counties, under contract with the Commission.

(3) *Subcommission Reports and Recommendations.* Subcommission chairpersons presented a final report relating to a number of issues, including annexation, land use, urban revitalization, public parks and recreation, natural and historic areas, farmland inventories, farmland preservation, infrastructure costs and subsidies, and tax implications of development.

**j. Tenth Meeting - November 30 and December 1, 1998.** During the tenth meeting, the Commission considered the following:

(1) *Private Property Rights.* Mr. Kleppe, Subcommission Chairperson, Private Property Rights Subcommission, presented a report of the Private Property Rights Subcommission which described a number of methods in order to accomplish land preservation goals, including methods to revise the Tax Code, encourage the transfer of land to younger producers, afford producers protections against frivolous lawsuits, and restraining annexation.

(2) *Report of Oregon Experience.* Representative Fallon, Commission Member, discussed his recent visit to the State of Oregon in order to investigate the effectiveness of urban growth boundaries as a means to manage urban sprawl.

(3) *Department of Transportation.* Mr. Don Ward and Mr. Mark Kerper, representing the Department of Transportation, discussed the process of highway planning and cooperation with communities.

(4) *Final Report of Land Use Study.* Professor Huntington, representing Iowa State University, provided a final report regarding land use inventories compiled for seven counties under contract with the Commission. Professor Huntington discussed the amount of land being converted from nonagricultural uses, the development of land outside city limits, and the feasibility of continuing the process of the inventory of land for the entire state.

(5) *Fiscal Analysis.* Ms. Debra Kozel, Legislative Fiscal Bureau, provided a brief fiscal analysis of county planning efforts.





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(6) *Commission Discussion.* The Commission Members reviewed and endorsed an outline of legislation proposed by Co-chairperson Lundby and Co-chairperson Teig. The purpose of the proposal is to preserve the use of prime agricultural land for agricultural production, and to preserve natural, cultural, and historic areas by managing urban sprawl through the use of state planning and local cooperative planning with state oversight.

### 3. Public Hearings.

The Commission held 10 public hearings, beginning in July 1998, and ending in September 1998. The Commission held public hearings in order to receive public comments regarding the charge of the Commission:

#### Public Hearing Schedule

July	August	September
<b>8<sup>th</sup></b> FAIRFIELD: First National Bank Conference Room 100 East Burlington St.	<b>12<sup>th</sup></b> DAVENPORT: City Hall Council Chambers 2226 West 4 <sup>th</sup> St.	<b>2<sup>nd</sup></b> GRISWOLD: Community Building Main Room 602 2 <sup>nd</sup> St.
<b>13<sup>th</sup></b> FAYETTE: Upper Iowa University East Cafeteria, Garbee Hall 605 Washington St.	<b>19<sup>th</sup></b> DES MOINES: New State Historical Building Auditorium 600 East Locust St.	<b>8<sup>th</sup></b> CEDAR RAPIDS: Kirkwood Com. College Iowa Room, Iowa Hall 6301 Kirkwood Blvd. SW
<b>22<sup>nd</sup></b> LAMONI: Graceland College Choral Room, Shaw Center 700 College Ave.		<b>9<sup>th</sup></b> MASON CITY: Mason City Public Library Mason City Room 225 2 <sup>nd</sup> St. SE
		<b>16<sup>th</sup></b> SIOUX CITY: Western Iowa Tech Com. College Lecture Hall (Room 920), Building A 4647 Stone Ave.
		<b>24<sup>th</sup></b> SPIRIT LAKE: Dickinson Co. Com. Building Main Room 1610 B 18 <sup>th</sup> St.

**a. Fairfield.** Persons attending the public hearing expressed concern regarding a number of issues, including county zoning by the Jefferson County Board of Supervisors, annexation by the City of Fairfield, the study of a lake project outside Fairfield for use as a city water supply, and farm preservation and land use. Commission members discussed the use of land and design theories, and the use of tax increment financing to support building plans. A number of speakers opposed government regulation and the use of county zoning. Other persons expressed concern regarding the development of land at the expense of agricultural



production. Several persons stressed that communication between interested groups should be a priority.

**b. Fayette.** Persons attending the town meeting expressed the need to find a balance between state regulation, the public interest, and individual rights. Commission members considered information regarding land use planning in Oregon; concerns regarding the annexation of land by the City of Oelwein; and concerns regarding the development of farmland. The Commission considered an approach adopted by the City of Waverly to promote orderly growth of that city. Persons supported county zoning. Persons stated that developers wear down local officials by repeatedly petitioning for changes in zoning classifications. A concern was expressed regarding county condemnation proceedings brought to construct a petroleum pipeline over farmland. Persons discussed state ownership of open space areas and the failure of state agencies to pay property taxes on state-owned land.

**c. Lamoni.** Persons attending the public hearing discussed annexation laws in various states, including Minnesota and Missouri; methods to reform Iowa's current system of annexation, including methods to provide better planning and greater participation by counties; and the difference between voluntary and involuntary annexation. Persons discussed the City of Des Moines' annexation of land within Warren County. Persons commented about the need to preserve farmland while maintaining private property rights and encouraging economic development, and the difficulty of adopting zoning ordinances.

**d. Davenport.** Persons attending the public hearing expressed concern over the City of Davenport's use of urban renewal and condemnation laws for purposes of supporting development. There were comments supporting the use of annexation and condemnation for the orderly growth of cities. Persons discussed the use of tax increment financing laws by cities, the lack of necessary reporting requirements, and the positive use of a tax increment financing project in DeWitt. Persons commented about the need for cooperation between cities and counties in planning growth. Concerns were raised that the State should not put itself at a competitive disadvantage in attracting and retaining business. The Commission considered comments suggesting a city should first fill-in vacated portions of the city before it considers annexing farmland.

**e. Des Moines.** Persons attending the meeting expressed both concern and support for the City of Des Moines' plan for annexing land to the east and south of the city. Persons noted the need for better regional planning; the need to increase the authority of the City Development Board; and the need for cities to retain annexation, zoning, and condemnation authority as planning tools. Persons criticized the City of Des Moines' annexation. The Commission considered comments regarding annexation and land use in Dallas County. It was suggested that counties play a greater role in land use planning. Persons both supported and





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opposed urban growth boundaries. Persons expressed concern regarding the practices and policies of the Department of Transportation.

**f. Griswold.** Persons attending the hearing expressed concern over the lack of preservation of the Loess Hills in western Iowa. Persons stated that condemnation, annexation, and tax increment financing are valuable planning tools. It was noted that tax increment financing is a particularly useful tool for Council Bluffs due to its continual competition with Omaha for economic development. Support was expressed for comprehensive planning for cities and counties. Commission members considered concerns regarding the preservation of natural open space areas.

**g. Cedar Rapids.** Persons attending the hearing commented that most development should occur within city limits; sprawl harms cities by blocking city growth, raising environmental concerns; and that sprawl increases long-term expenses to cities when annexation eventually occurs. It was argued that cities should be provided with more authority to control sprawl at their fringe areas. Persons expressed support for House File 2005 debated during the 1998 legislative session which relates to the involuntary annexation process. It was stated that property owners are burdened with significant financial costs in newly annexed areas. Persons expressed support for reforming annexation procedures and ensuring greater public disclosure of all annexations. Persons supported greater comprehensive planning. Persons both supported and opposed measures which would require that planning be binding. Persons also expressed concern that tax increment financing is no longer being used for purposes of renewing property. Persons criticized the use of 28E agreements by cities annexing land.

**h. Mason City.** Persons attending the hearing expressed support for expanding the authority of the City Development Board, expanding areas covered by comprehensive planning, and requiring a statewide land use plan. Persons suggested that annexation should be subject to more scrutiny and that it be made easier for cities to merge. Persons also opposed changing laws relating to annexation and eminent domain authority in order to ensure economic development.

**i. Sioux City.** Persons attending the hearing argued that annexation and eminent domain authority are tools which allow cities to pursue orderly growth and development. It was noted that in Sioux City, industrial growth has occurred inside the city borders while the residential and commercial growth have occurred outside the city borders. It was also noted that governmental policies, such as tax increment financing, highway development, and economic development programs, encourage urban sprawl. Persons suggested that agriculture preservation should be made a requirement of the planning process. It was argued that joint planning between cities and counties should be encouraged. Persons supported agricultural zoning. Persons observed that sprawl problems are often caused by spot zoning in unincorporated areas. Persons commented about the ease and frequency of zoning variances. Persons expressed concern regarding the increasing loss of natural areas

and wildlife populations, particularly in the Loess Hills area. Persons supported mandatory comprehensive planning by both cities and counties. The Commission considered costs identified with comprehensive planning. Persons discussed the importance of economic development projects, particularly value-added agriculture projects. Other persons noted the impact of urban sprawl on the deterioration of inner cities. It was suggested that urban sprawl occurs because of lower taxes and the availability of large tracts of land.

**j. Spirit Lake.** A representative of the Iowa Chapter of the American Planning Association addressed the Commission and provided a list of suggestions for the Commission to consider during the Commission's future deliberations. Among the suggestions were proposals for annexation, urban revitalization, urban renewal, comprehensive planning, and zoning. The need and importance of a land use study was also emphasized. Speakers discussed the recent Iowa Supreme Court decision relating to the constitutionality of nuisance protections under the agricultural areas law. Commission members considered testimony regarding the tactics used by rural water districts in fighting annexations by cities, particularly in the Spirit Lake area. Persons discussed plans for a Highway 60 by-pass around the City of Sheldon. There was criticism of the Department of Transportation's practices in consulting with the public during planning.

#### **4. Commission Action.**

##### **a. Land Use Inventories Required Pursuant to Current Law.**

*(1) Background.* In 1982, the General Assembly enacted 1982 Iowa Acts, chapter 1245 (S.F. 2218), now contained in Iowa Code chapter 352, which creates a mechanism for counties to adopt land use planning policies in order to preserve agricultural uses. The Legislature required that each county establish a Land Preservation and Use Commission in order to compile a county land use inventory of the unincorporated areas of the county and land contained inside the borders of a city which was taxed as agricultural land. Each commission was responsible for proposing a land preservation and use plan for adoption by the county board of supervisors.

*(2) Status.* Upon direction by the Commission, the Legislative Service Bureau contacted each county attorney in order to determine the status of the inventories and plans. Twenty-seven counties responded to the Commission's request. Based on this response, it appears that counties no longer maintain active commissions or inventories. Counties that have adopted county zoning have incorporated their plans into county comprehensive plans. Other counties have allowed plans to lapse.

##### **b. Report from Iowa State University.**

*(1) Background.* Iowa State University contracted with the Commission to conduct a study to determine the extent to which land in Iowa has been





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converted from agricultural use to residential, commercial, industrial, or public uses (including recreational areas, natural areas, and public facilities and infrastructure). Iowa State University conducted interviews with all 99 counties. The counties participating in the project represented a cross-section of Iowa counties, including counties representing a mix of urban and rural areas and of levels of growth pressure and geographic location. The seven counties included Bremer, Cerro Gordo, Dallas, Monroe, Pottawattamie, Scott, and Story. Iowa State University submitted its Final Report on the 1998 Pilot Land Use Inventory to the Commission on November 30, 1998. The study analyzed changes in land use from 1982 to 1998.

(2) *Results.* Iowa State University provided a number of findings, including all of the following:

a) *Survey Results.* Based on its survey, Iowa State University concluded that the most common index used for agricultural land valuation throughout Iowa's counties is the corn suitability rating (CSR) system. It found that most Iowa counties monitor changes in farmland. Forty-four counties have farmland protection programs or strategies in place. The most common is the use of agricultural zoning and conservation easements. Respondents to the statewide survey (zoning administrators and assessors) expressed concern regarding the rate of urban growth in their counties.

b) *Statewide Land Use Changes.* Based on data collected by the Department of Revenue and Finance, Iowa State University determined that parcels that changed from an agricultural class to a nonagricultural class (i.e., residential, commercial, industrial, exempt, or other) totaled 480,567 acres and had a total assessed value of \$314,781,679. Each year since 1986 (except 1993), more land area changed from the agricultural class to the unincorporated exempt class than to any other class (approximately 750 acres per year). Each year since 1986, the assessed value of land that changed from the agricultural class to the unincorporated residential class was higher than any other class, increasing in total assessed value from \$7,934,167 in 1986 to \$14,952,743 in 1997 (a rate of increase of approximately \$585,000 per year).

c) *Seven-County Study.* Of 4,005 parcels of land (totaling 48,564 acres), 2,567 parcels (totaling 36,931 acres) had a land use change. Of the parcels that had a land use change, data for 1,463 acres was converted into a digital format for analysis (57 percent of the parcels and 88 percent of the area). Sixty-four percent of the parcels subject to analysis were converted from an agricultural to residential class. Approximately 67 percent of the parcels were in incorporated areas or within two miles of incorporated areas. Approximately 32 percent of the parcels were located more than two miles from incorporated areas. Iowa State University found that the corn suitability

rating (CSR) for the parcels subject to analysis was below the average CSR for the entire county.

*d) Recommendations.* Iowa State University made a number of recommendations, including all of the following:

- (1) Data for all land within each county participating in the study should be converted into a digital format for analysis. Field surveys and aerial surveys should be used to provide more detailed data regarding land use changes in these counties.
- (2) An analysis of land converted from agricultural to nonagricultural use should be conducted at least every two years.
- (3) Counties should be encouraged to modernize land records in a consistent manner that would make future monitoring more efficient. One method is the creation of a digital parcel map of land in each county. Counties should consider creating geographic information system (GIS) databases.
- (4) Statewide inventories of land use and resources would provide more current and complete data regarding land use, agricultural quality of land, urban growth patterns, and population changes. Counties should be encouraged to adopt a universal system to conduct inventories. A statewide steering committee should be established to evaluate the findings of the inventory.

**c. Subcommittee and Member Recommendations and Responses.** The Commission accepted a number of recommendations by subcommittees and members without approval or disapproval. The Report of Subcommittees and Members and Responses is attached as Appendix A.

**d. Presentation Outline: Proposal for Legislation (Amended).** The Commission amended and endorsed a Presentation Outline: Working Proposal for Legislation (Amended) as presented on behalf of Co-chairperson Lundby by Mr. James Boose, Senate Republican Staff. The proposal is attached as Appendix B.

### **5. Materials on File With the Legislative Service Bureau.**

**a. September 4, 1997, Meeting:**

Adopted commission rules.

**b. October 6, 1997, Meeting:**

(1) Mr. Adkisson, Legislative Service Bureau, (LSB) filed the following:





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a) A copy of a letter submitted to county attorneys regarding land use inventories.

b) A staff progress report.

(2) *Ms. Kozel, Legislative Fiscal Bureau, (LFB) filed a proposed budget for commission activities.*

(3) Mr. Ruan, Ruan Companies, filed a folder which contained the following:

a) The November 1996 edition of The World Food Prize Report.

b) A newspaper article titled, "Food Prize Decades in the Making."

c) A newspaper article titled, "World Starves for Do Gooders."

d) A newspaper article titled, "A Nourishing Meal for Everyone."

e) A brochure titled, "The World Food Prize: Celebrating Ten Years."

f) A brochure titled, "The World Food Prize: Presentation of Laureates 1996."

(4) Dr. Anderson, Iowa State University, filed an outline of his presentation.

(5) Mr. Cory Brockmann, United States Department of Agriculture, filed a folder which contained the following:

a) A brochure titled, "America's Private Land: A Geography of Hope."

b) Copies of overhead projections used during Mr. Brockmann's presentation.

c) Information sheets titled, "USDA Farm Bill 1996 Conservation Provisions: Q & A Farmland Protection Program Questions and Answers."

d) Information sheets titled, "USDA Farm Bill 1996 Conservation Provisions: Fact Sheet Farmland Protection Program."

(6) Mr. William Klein, Mr. Stuart Meck, and Mr. James Schwab, American Planning Association, filed the following:

a) An information packet titled, "Presentation on Growing Smart and Statutory Reform in Iowa."



*b)* A brochure titled, "What Is the American Planning Association?"

(7) Mr. Jerry Knox, Iowa State University, filed the following:

*a)* A packet of information including a copy of Mr. Knox's testimony, a list of available tools and techniques to address urban sprawl, a list of recommendations, a set of definitions for urban sprawl-related terms, and a copy of a report titled, "Dallas County Planning and Vision."

*b)* A report titled, "Dallas County Planning and Vision: Growth Management Tools and Techniques."

*c)* "Suburban Sprawl Costs Us All in the Midwest."

(8) Ms. Barron, Commission Member, requested that all Commission Members receive the following:

*a)* An information sheet titled, "Planning Definitions."

*b)* An article titled, "The Great Wall of Portland."

*c)* The Iowa Land Preservation and Development Policy Report (completed in 1979).

### **c. November 3, 1997, Meeting:**

(1) Mr. Dick Stradley, Department of Revenue and Finance, filed the following

*a)* A document titled, "Iowa Property Tax Overview."

*b)* A document titled, "Property Tax Classification (Comparison of Assessed Values)."

(2) Mr. Adkisson, LSB, (on behalf of Mr. Cory Brockmann) filed a document titled, "National Resources Inventory Briefing, United States Department of Agriculture, Natural Resources Conservation Service."

(3) Mr. McCann, City Development Board, filed a document titled, "Overview of Annexation."

(4) Mr. Dennis Tice, Department of Transportation, filed a document titled, "Iowa in Motion, State Transportation Plan Executive Summary."

(5) Ms. Elisabeth Osenbaugh, Solicitor General, filed a document titled, "Takings L\*A\*W in Plain English."

(6) Mr. Jim Halverson, Cedar Rapids Planning Director, filed a summary of his presentation.





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(7) Mr. Dean Schade, Iowa League of Cities, filed a summary of his presentation.

(8) Mr. Adkisson, LSB, filed the following documents:

a) A document titled, "Community Growth Management, Introduction to Growth Management, Oregon State University Extension Service."

b) A document titled "Community Growth Management, Performance Zoning, Oregon State University Extension Service."

c) A document titled, "Community Growth Management, Influencing the Sequence of Development, Oregon State University Extension Service."

d) A document titled, "Community Growth Management, Six Case Examples, Oregon State University Extension Service."

e) A document titled, "Community Growth Management, Influencing the Rate of Population Growth, Oregon State University Extension Service."

f) Excerpt from the Journal of Urban Planning and Development, Volume 120, Number 4.

g) A document titled, "Historical Overview of State and Regional Planning in Virginia, Office of Policy Analysis and Research, Department of Housing and Community Development."

h) A document titled, "Agricultural Trends," by the Michigan Society of Planning Officials.

i) A copy of Iowa Code section 306.9.

(9) Mr. Adkisson, LSB, filed a document titled, "Memorandum to the Commission: County Inventory Update," Doug Adkisson, Legislative Service Bureau.

(10) Representative Mona Martin filed a letter of invitation to Commission members.

### **d. December 1, 1998, Meeting.**

(1) Dr. Dennis Keeney, Leopold Center for Sustainable Agriculture, filed the following:

a) An outline of his presentation to the Commission.

b) A pamphlet titled, "Leopold Center for Sustainable Agriculture."



c) A pamphlet titled, "Leopold Center for Sustainable Agriculture: Mailing List Profile."

d) A brochure titled, "Leopold Center for Sustainable Agriculture: 1996-1997 Annual Report."

(2) Mr. Philip Bloch, Iowa Natural Heritage Foundation, filed the following documents:

a) An Analysis of Causes, Problems and Solutions Associated with Current Urban Growth.

b) A handout which included two articles titled, "Preserving Pennsylvania's Agricultural Jewel" and "Maryland's 'Smart Growth' Law: A National Model?"

(3) Mr. Dean Robertson, Cedar Rapids, filed a written copy of his presentation to the Commission.

(4) Mr. Adkisson, LSB, filed a proposed schedule of Commission activities for calendar year 1998.

(5) Mr. Adkisson, LSB, filed the following:

a) Farming on the Edge, American Farmland Trust.

b) Report Findings and Recommendations, Ohio Farmland Preservation Task Force.

c) Modernizing State Planning Statutes, American Planning Association.

d) Agriculture Trends, Michigan Society of Planning Officials.

### **e. January 12, 1998, Meeting.**

(1) Mr. Beck, Story County Planning and Zoning, filed a document titled, "County Planning and Zoning."

(2) Mr. Lane Palmer, Department of Economic Development, filed a written copy of his presentation.

(3) Mr. William Dikis, Architect, filed a written copy of his presentation.

(4) Ms. Laurie Bergren, Monroe Township Association, filed a document titled, "Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland."

(5) Mr. Kent Newman, Wallace House Foundation, filed the following:





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a) A document titled, "Wallace House Foundation: Proposal to the Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland."

b) A newsletter titled, "Common Ground: The Future of Iowa."

c) A working paper titled, "Land Use at the Rural-Urban Fringe."

d) The Spring 1997 newsletter by the 1000 Friends of Minnesota titled "Land Patterns."

(6) Mr. Adkisson, LSB, (on behalf of Mr. Dennis Tice) filed a copy of a December 30, 1997, letter to the Commission.

**f. May 4, 1988, Meeting.**

(1) Mr. Adkisson, LSB, filed the following:

a) A letter to the Studies Committee of the Legislative Council requesting \$50,000.

b) Subcommission Summaries, Parts I and II.

c) House File 2005 from the 77<sup>th</sup> General Assembly of the State of Iowa.

d) A request for proposals issued by the Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland in February 1998.

e) A proposal submitted by the American Planning Association.

f) A proposal submitted by the Wallace House Foundation.

g) A proposal submitted by Timberline Consulting.

h) An analysis of the proposals submitted by the three vendors.

(2) The Infrastructure Costs and Subsidies/Tax Implications of Development Subcommission filed a report titled, "The Cost of Community Services in Three Central Iowa Cities."

(3) The Public Park and Recreation/Natural and Historic Areas Subcommission filed a letter dated May 4, 1998.

(4) The Land Use Planning and Policy/Urban Revitalization Subcommission filed a document titled, "Recommendations and Report to the Commission."



(5) The Farmland Inventories/Farmland Preservation Subcommittee filed the following:

a) A document titled, "Subcommission Report."

b) A document titled, "Agricultural Land Protection as Growth Management."

(6) Professor Huntington, Iowa State University, filed a document titled, "A Proposal to Undertake a Model Resource Inventory for the State of Iowa."

(7) Mr. Stevens, Timberline Consulting, filed a document titled, "Consulting Services for Public Hearings in 1998."

**g. June 12, 1998, Meeting.**

(1) Mr. Adkisson, LSB, filed a memorandum, including a tentative public hearing schedule.

(2) Professor Huntington, Iowa State University, filed a white paper relating to county zoning in Iowa.

**h. July 8, 1998, Public Hearing.**

(1) Mr. Adkisson, LSB, prepared the following:

a) A list of speakers.

b) A list of attendees.

(2) Members of the public filed the following:

a) Informational material from Maharishi Global Construction.

b) A handout from Dale Uehling, Mayor of Ottumwa.

c) A letter from attorney Thomas Makeig.

d) A court ruling from a case in Jefferson County.

e) A pamphlet regarding a design, according to Maharishi Sthapatya Veda.

(3) A transcript of testimony.

**i. July 13, 1998, Public Hearing.**

(1) Mr. Adkisson, LSB, prepared the following:

a) A list of speakers.





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*b)* A list of attendees.

(2) Members of the public filed the following:

*a)* A letter from Mr. Andersen.

*b)* A policy agreement between Waverly, Iowa, and Bremer County.

**j. July 22, 1998, Public Hearing.**

(1) Mr. Adkisson, LSB, prepared the following:

*a)* A list of speakers.

*b)* A list of attendees.

(2) Members of the public filed a document titled, "Growth Management Considerations" and a document titled, "To Sprawl or Not to Sprawl," by Dr. Freilich.

(3) A transcript of testimony.

**k. August 12, 1998, Public Hearing.**

(1) Mr. Tim McDermott, LSB, prepared the following:

*a)* A list of speakers.

*b)* A list of attendees.

(2) Members of the public filed the following: a letter from Mr. Eric Anderson, City Manager of Des Moines.

(3) A transcript of testimony.

**l. August 19, 1998, Public Hearing.**

(1) Mr. McDermott, LSB, prepared the following:

*a)* A list of speakers.

*b)* A list of attendees.

(2) Members of the public filed the following:

*a)* A written statement of Ms. Lavon Griffieon.

*b)* A written statement and handout from Mr. Jim Judkins.

*c)* A letter and handout from Des Moines Mayor Preston Daniels and Councilpersons Christine Hensley and Chris Coleman.



*d)* A written statement and handout from Mr. Anderson.

*e)* A written statement from Mr. Dick McPherson.

*f)* A handout from Mr. George Hass.

*g)* A handout from Mr. Dale Brentnall.

*h)* A written statement from Mayor Preston Daniels.

(3) A transcript of testimony.

**m. September 2, 1998, Public Hearing.**

(1) Mr. McDermott, LSB, prepared the following:

*a)* A list of speakers.

*b)* A list of attendees.

(2) Members of the public filed the following:

*a)* A letter from James Baylor.

*b)* A letter from Dave Ciaccio.

*c)* A letter from Julie Schmidt.

(3) A transcript of testimony.

**n. September 8, 1998, Public Hearing.**

(1) Mr. McDermott, LSB, prepared the following:

*a)* A list of speakers.

*b)* A list of attendees.

(2) Members of the public filed the following:

*a)* A handout from Mr. Lee Clancey, Mayor of Cedar Rapids.

*b)* A handout from Ms. Julianne Anderson, Cedar Rapids Chamber of Commerce.

*c)* A handout from Mr. Tom Carsner.

*d)* A handout from Mr. James Schmickley.





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- e)* A handout from Mr. Arthur Fleck.
- f)* A letter from City of Cedar Rapids and City of Marion to certain landowners, provided by Donald Bunney.
- g)* A letter from Mr. Dale Shires to The Des Moines Register and a copy of The Des Moines Register editorial and handout.
- h)* A letter from Mr. Tom and Ms. Melissa Schnoebelen.
- i)* Handouts from Ms. Cindy Golding.
- (3)* A transcript of testimony.

**o. September 9, 1998, Public Hearing.**

*(1)* Mr. McDermott, LSB, prepared the following:

- a)* A list of speakers.
- b)* A list of attendees.

*(2)* Members of the public filed the following:

- a)* A letter from Mr. Anderson, City Manager, Des Moines, Iowa.
- b)* A written statement from Mr. Raymond Phillips, Jr., Norwalk, Iowa.

*(3)* A transcript of testimony.

**p. September 16, 1998, Public Hearing.**

*(1)* Mr. McDermott, LSB, prepared the following:

- a)* A list of speakers.
- b)* A list of attendees.

*(2)* Members of the public filed the following:

*a)* Written testimony by Mr. Kent Vriezelaar, Chair of Government Committee, Siouxland Chamber of Commerce, dated September 16, 1998.

*b)* Written testimony by Brent Nelson, Senior Planner, City of Sioux City.

*c)* A handout submitted by Mr. Tim Orwig, "Get Off the Fence: Development vs. the Environment," article published in Sioux City's Fourth Street Revue, August 1998.



**q. September 24, 1998, Public Hearing.**

(1) Mr. McDermott, LSB, prepared the following:

- a) A list of speakers.
- b) A list of attendees.

(2) Members of the public filed the following:

- a) A statement by the Iowa Chapter, American Planning Association, distributed by Mr. Eric Lundy.
  - b) An analysis of Highway 60 Bypass issues, distributed by Mr. Tom Snyder.
- (3) A transcript of testimony.

**r. October 5, 1998, Meeting.**

- (1) Mr. Clayton Lloyd filed a letter outlining development practices by the City of Davenport.
- (2) Mr. Adkisson, LSB, filed a case recently decided by the Iowa Supreme Court relating to nuisance actions referred to as Bormann v. Board of Supervisors.
- (3) The Sierra Club (Iowa Chapter) filed a response to surveys conducted by the organization.
- (4) Dr. Freilich filed a white paper titled, "City-County Comprehensive and Tiered Growth Planning for Iowa."
- (5) Mr. Howe filed a news article titled, "Midwest Coalition Releases Corridor Blueprint."

**s. November 9 and November 10, 1998, Meetings.**

(1) Mr. Adkisson, LSB, filed the following:

- a) A memorandum titled, "Framework for Major Recommendations Discussed by the Commission."
- b) Iowa Code chapter 368.
- c) Iowa Code chapter 352.
- d) House File 2005 from the 77<sup>th</sup> General Assembly of the State of Iowa.





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e) House Concurrent Resolution 21 from the 77<sup>th</sup> General Assembly of the State of Iowa.

(2) The Public Park and Recreation/Natural and Historic Areas Subcommittee filed a report titled, "Note to File."

(3) The Farmland Inventories/Farmland Preservation Subcommittee filed a report titled, "Farmland Inventories/Farmland Preservation Subcommittee Interim Report."

(4) Mr. Howe filed a handout titled, "Advantages and Disadvantages of Farmland Protection Tools."

(5) The Infrastructure Costs and Subsidies/Tax Implications of Development Subcommittee filed a report titled, "The Cost of Community Services in Three Central Iowa Cities."

(6) The Annexation Subcommittee filed a document titled, "Final Report."

(7) The Land Use and Policy/Urban Revitalization Subcommittee filed a document titled, "Recommendations and Report to the Commission."

(8) Dr. Freilich submitted a draft of legislation.

(9) Professor Huntington, Iowa State University, filed a draft report titled, "Land Resource Inventory."

**t. November 30 and December 1, 1998, Meetings.**

(1) Mr. Adkisson, LSB, filed a document titled, "Report of Recommendations of Subcommittees and Members and Responses."

(2) The Private Property Subcommittee filed a document titled, "Final Report."

(3) Professor Huntington filed a document titled, "Final Report on the 1998 Pilot Land Use Inventory."

(4) Ms. Kozel, Legislative Fiscal Bureau, filed an analysis of county planning costs.

(5) Representative Fallon filed a document titled, "Highlights for November 1998 Visit to Oregon."

(6) Co-chairperson Lundby filed a document titled, "Presentation Outline Legislative Proposal."

(7) Representative Fallon filed a document titled, "Amendment to the Presentation Outline" and "Revised Amendment to the Presentation Outline."

(8) Commission Member Mr. Howe submitted a definition of "sprawl."

(9) Mr. Howe submitted a list of amendments to the Presentation Outline.



**Legislative  
Service Bureau**

## **APPENDIX A**

### **REPORT OF RECOMMENDATIONS OF SUBCOMMISSIONS AND MEMBERS AND RESPONSES**

**Commission on Urban Planning, Growth Management of Cities, and  
Protection of Farmland**

**January 1999**

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## **MEMBERS**

Senator Mary Lundby, Co-chairperson

Senator Eugene Fraise

Mr. Mark Ackelson, Iowa Natural Heritage Foundation

Ms. Lu Barron, Iowa State Association of Counties

Ms. Sue Cosner, American Planning Association

Ms. Lori Elliott, Associated Builders & Contractors of Iowa

Ms. Elisabeth Infield Hamin, Department of Community &  
Regional Planning, College of Design, ISU

Mr. Jay Howe, Iowa Farmers Union

Mr. Tim Keller, American Society of Landscape Architects

Mr. Chad Kleppe, Iowa Commodity Groups

Representative Russell Teig, Co-chairperson

Representative Ed Fallon

Ms. Jill Knapp, Conservation Districts of Iowa

Mr. Martin Lee, Governor's Office

Mr. Charles Manly, Iowa Audubon Council

Mr. Gordon Mills, American Institute of Architects

Ms. Sally Puttmann, Iowa Farm Bureau Federation

Mr. Tim Reinders, Iowa Historical Preservation Alliance

Ms. Donna Robinson, Iowa Sportsmen's Federation

Ms. Beverly Thomas, Iowa Public Transit Association

Mr. Tim Zisoff, Iowa League of Cities

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## **FIRST DIVISION**

### **FRAMEWORK FOR MAJOR RECOMMENDATIONS DISCUSSED BY THE COMMISSION**

#### **I. PLANNING**

- A.** Comprehensive plans should be required (i.e., joint efforts by counties & cities in cooperation with other entities (e.g., RC & D's and regional planning organizations).
- B.** The Department of Transportation and local communities should be required to consult during planning.
- C.** The process of compiling and updating land use inventories should continue.

#### **II. REGULATION**

- A.** County zoning should be required for all counties (on a phased-in basis).
- B.** There should be a mechanism to authorize the creation of buffer zones to protect agricultural uses from extra-urban development.
- C.** Rural subdivisions should be defined and their development restricted.
- D.** Urban growth boundaries should be implemented.
- E.** Annexation:
  - 1.** All annexations should be subject to state review.
  - 2.** A timeline for installing infrastructure and providing services should be required.





## **III. METHODS**

- A. A balance between private property rights and the public interest should be struck.
- B. Incentives or disincentives are preferred over mandates. Disincentives could include withholding economic development assistance under programs such as tax increment financing, and financial assistance from the Revitalize Iowa's Sound Economy Fund and the Community Economic Development Betterment Account. Incentives could include tax credits and planning assistance.
- C. The scope of the City Development Board's authority should be expanded to include all of the following.
  - 1. Planning.
  - 2. Annexation issues.
- D. The support provided to land conservation efforts (natural and cultural resources such as private land trusts or conservation easements) should be increased.
- E. A number of funding sources should be considered (e.g., the General Fund or a real estate transfer tax).
- F. The state should increase its support for environmental remediation efforts of Brownfields sites (See Iowa Code chapter 455H).

## **SECOND DIVISION**

### **SUMMARY OF SUBCOMMISSION RECOMMENDATIONS AND RESPONSES**

#### **PART ONE PLANNING AND ZONING**

##### **SUBPART A *SUBCOMMISSIONS' REPORTS***

### **I. SUBCOMMISSION ON ANNEXATION**

- A. All cities and counties should be required to have formally adopted land use plans and zoning ordinances. Cities without adopted land use plans should be prohibited from annexing new territory.
- B. Joint land use planning and additional extraterritorial review or approval should be provided to address significant edge development problems.

### **II. SUBCOMMISSION ON PUBLIC PARKS AND RECREATION, NATURAL AND HISTORIC AREAS**

- A. There should be coordinated planning by local and regional entities. The planning should require the identification, protection, and development of important natural, cultural, and conservation and recreation lands.
- B. Developers should be required to do all of the following:



1. Minimize the impact of development on land subject to conservation practices and demonstrate how development may be carried out in a manner that does not permanently alter important conservation areas.
2. Provide buffers to protect public conservation and recreation lands in order to ensure the integrity of natural and cultural resources and compatible uses.
- C. All counties and cities should be required to have coordinated comprehensive local plans and zoning regulations which should be updated at least every 10 years. The plans should be approved before annexations are approved by the city and the City Development Board (or its successor).
- D. Cities and counties should adopt land preservation and development ordinances in order to carry out coordinated comprehensive plans. A city, in lieu of developing its own ordinance, may agree to be included in the county ordinance (and administer the portion of the ordinance that applies within the city limits).

### **III. SUBCOMMISSION ON LAND USE PLANNING AND POLICY/URBAN REVITALIZATION**

- A. Goals should be established in order to manage "Efficient Growth" policies based on public participation (i.e., public hearings, community visioning, focus groups, or public opinion polls).
- B. A statewide land use plan should be established that will establish a framework for regional, county, and city planning initiatives.
- C. Local and regional land use policies should be required.
  1. Existing regional bodies should provide advice to local planning agencies.
    - a. The regional bodies would act to coordinate local plans within the region and assure that local plans achieve the goals established at the state level.
    - b. Local governments should determine which regional body should provide them with assistance.
  2. Actual land use planning should remain at the local level.
- D. The state should examine the role of its agencies. State agencies such as the Department of Transportation, the Department of Economic Development, and the Department of Natural Resources should coordinate their planning with regional and local plans.
- E. Local governments must manage densities, use, and design:
  1. By doing all of the following:
    - a. Creating urban growth boundaries.
    - b. Providing minimum density regulations together with more common maximum density requirements in order to best utilize the infrastructure in a cost-effective manner.





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2. By creating mixed uses with the purpose of enhancing community life, reducing reliance on automobiles, and creating more interesting and visually appealing streets and neighborhoods.
  3. By revising zoning codes to encourage appropriate mixes of commercial, residential, and light industrial uses and increase allowable densities.
  4. By encouraging new planning and design techniques, to do all of the following:
    - a. Match a traditional Iowa small town style.
    - b. Design roads to accomplish planning goals (e.g., traffic calming and pedestrian scaling).
- F. Establish comprehensive planning and zoning.
1. Planning and zoning should be required for all incorporated areas and counties. A city or county should base planning and zoning on a comprehensive plan developed in accordance with criteria established by the state.
  2. Amend Code provisions that authorize zoning (e.g., chapter 335) to be in conformance with modern land use planning principles (Iowa's current legislation is based on model legislation enacted in the early 1920s).

### **IV. SUBCOMMISSION ON FARMLAND INVENTORIES/FARMLAND PRESERVATION**

- A. The state should establish a Growth Strategies Commission:
1. To be composed of representatives of major agencies (the Department of Agriculture and Land Stewardship, the Department of Economic Development, the Department of Natural Resources, the Department of Transportation, and the Office of Citizens' Aide/Ombudsman).
  2. To be responsible for defining and guiding the state role in developing goals, objectives, strategies, and policies.
- B. There should be a policy requiring local governments to create and effectuate city-county comprehensive and "tiered growth" plans. A plan would ensure orderly urban growth ("smart growth") and the preservation of agricultural land, open spaces, and natural resources, using the proposal submitted by Dr. Freilich during his October 5<sup>th</sup> presentation before the Commission as a blueprint:
1. Each county that includes or adjoins a city of 25,000 or more people must prepare a city-county comprehensive and tiered growth plan.
  2. The plan should look forward 10 years. The plan should be reviewed at five-year intervals.
  3. The plan is subject to approval by the affected local governments and the state.
  4. Each comprehensive and tiered growth plan must address:
    - a. Statement of goals, policies, and implementation procedures.
    - b. Future land use.
    - c. Economic development strategies.



- d. An official map of thoroughfares and major streets.
- e. Housing.
- f. Circulation and transportation.
- g. Public facilities and services.
- h. Parks, recreation, and open spaces.
- i. Environment, including rivers, land, flood plains, wetlands, slopes, habitats, brownfields sites, toxic or hazardous sites, and other environmentally sensitive lands.

## **SUBPART B**

### ***MEMBER RESPONSES***

#### **V. COMMENTS**

The following comments were made by Commission members:

- A. It is essential that cities and counties coordinate their comprehensive planning activities.
- B. It is uncertain who would be responsible for creating a statewide land use plan.
- C. Joint planning between cities and counties is essential to address the urban sprawl problems near the borders of cities.
- D. County zoning is needed and is an important part of the comprehensive planning process.
- E. Zoning variances lessen the impact of zoning as an enforcement tool.
- F. County zoning could be used to address issues relating to siting animal confinement feeding operations.
- G. Comprehensive plans should encourage urban infill prior to development outside the city limits (e.g., the city of Burlington's comprehensive plan).
- H. Statewide land use plan needs to be a set of goals and does not need to be a detailed document.
- I. Cities may not be exercising adequate control in the extraterritorial area surrounding cities.
- J. Zoning is often changed which means that plans are not always followed. It was also noted that fast growth often necessitates changes in zoning.

#### **VI. RESERVATIONS AND OBJECTIONS**

- A. Mr. Kleppe expressed reservations regarding county zoning.
- B. Representative Fallon felt that coordinated regional planning should be required and that the City Development Board should review all comprehensive plans. It was noted in response, that the Subcommittee on Annexation:
  - 1. Did not believe that coordinated regional planning would be required in every case.





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2. Did not believe that the City Development Board must review all comprehensive plans.

### **PART TWO URBAN GROWTH BOUNDARIES**

#### **SUBPART A *SUBCOMMISSIONS' REPORTS***

##### **I. SUBCOMMISSION ON LAND USE PLANNING AND POLICY/URBAN REVITALIZATION**

- A. Establish urban growth boundaries and urban service areas. Urban growth boundaries should at least be required for areas that experience rapid growth.
  1. The following would apply to development:
    - a. Developers proposing projects within the urban growth boundary would have relatively easy approval that meets clear criteria.
    - b. Outside the boundary new development would be largely prevented.
  2. Local governments should be responsible for determining their own urban growth boundaries.
    - a. Urban growth boundaries should not expand for 10-20 years.
    - b. Urban growth boundaries (especially in metropolitan areas) especially require certain features:
      - (1) Must be developed on a regional basis.
      - (2) Require coordination with entities governing growth occurring outside the boundary.
    - c. Sprawling, low-density development should not occur on the periphery of the urban growth boundary.
    - d. Governments must use strong policy tools designed to protect farmland, particularly on lands adjacent to urban growth boundaries.
- B. For less rapidly growing or economically depressed areas, urban service boundaries may be sufficient. These indicate where a local government will provide public service without strictly limiting the location of new development.

##### **II. SUBCOMMISSION ON FARMLAND INVENTORIES/FARMLAND PRESERVATION**

- A. The Iowa Code should be amended to establish a "smart growth" policy as envisioned by Dr. Freilich during his October 5, 1998, presentation before the Commission.
- B. Dr. Freilich's proposal for "tiered growth" should be supported. According to Dr. Freilich, this is a system of planned development that creates boundaries dedicated for development. According to the proposal:
  1. Tiered growth would apply to each county that includes or adjoins a city of 25,000 or more people.



2. The tiers include the following:

- a. Urbanized areas.
- b. Planned urbanizing.
- c. Future urbanizing.
- d. Agricultural, rural, and environmentally sensitive areas.

### III. SUBCOMMISSION ON PRIVATE PROPERTY RIGHTS

If urban growth boundaries are established, it is important that existing incorporated land first be developed prior to development lands that are more appropriately used for agricultural production.

#### SUBPART B *MEMBER RESPONSES*

### IV. COMMENTS

The following comments were made by Commission members:

- A. The establishment of urban growth boundaries provides certainty when developing land, which is something that developers desire.
- B. Reasonable requirements must be established in order for the boundaries of urban growth boundaries to be altered.
- C. In considering Dr. Freilich's proposal there should be consideration of the fact that persons commute to work from adjacent counties.
- D. The threshold used for applying tiered growth development was subject to some disagreement, with members arguing that the threshold should be reduced or maintained at the proposed level.
- E. Urban growth boundaries would add discipline to the planning and zoning process and require long range planning that planning and zoning does not always offer because plans are changed so frequently.

### V. RESERVATIONS AND OBJECTIONS

- A. Co-chairperson Lundby expressed concern regarding the use of urban growth boundaries.
- B. Ms. Cosner suggested that the time may not be ripe to establish urban growth boundaries in Iowa. She noted that such a step could be appropriate after the state has developed a strong comprehensive planning process.

#### PART THREE ANNEXATION

#### SUBPART A *SUBCOMMISSIONS' REPORTS*

### I. SUBCOMMISSION ON ANNEXATION





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- A. All statutes related to annexation should be consolidated into one chapter. The chapter should be written within a regional planning context.
- B. House File 2005 as considered during the last legislative session should be rejected.
- C. The following should apply to the authority of the City Development Board:
  - 1. All city boundary changes should be approved by the Board, including non-urbanized voluntary annexations and voluntary severances.
  - 2. The Board's authority to approve or deny all annexations should be clarified to take into account any statewide policy on farmland preservation, growth management, sprawl, and any local land use plans and growth boundary agreements. This would also allow for easier tracking of all annexation activity in the state.
- D. The following should apply to cities:
  - 1. Cities should be required to conduct a public information meeting for all affected and other interested persons in involuntary or voluntary annexation. The meeting should occur:
    - a. Prior to the formal public hearing currently required under law.
    - b. At a special city council meeting at which the proposed annexation is the only topic.
  - 2. One of the criteria that should be considered in all annexations is an analysis of the amount (and character) of developable and redevelopable land available within the current city limits.
  - 3. A minimum level of service should be provided by cities to newly annexed areas and cities should be required to communicate a time frame for providing such services.
    - a. When assertions are made to the City Development Board by a city that services will be provided, the city should be bound to provide the service.
    - b. If the services are not provided within the agreed time frame, those property owners who were annexed should have the right to appeal to the Board for relief or some other remedy.
    - c. A complaint process directed to the Board regarding delivery of service should also be considered.

### **II. SUBCOMMISSION ON LAND USE PLANNING AND POLICY/URBAN REVITALIZATION**

Annexation policies should be reexamined. Current annexation regulations need to be reexamined in order to discourage growth based on a "land grab mentality" and a desire to increase a local tax base.

### **III. SUBCOMMISSION ON FARMLAND INVENTORIES/FARMLAND PRESERVATION**

State law regulating annexation should provide the following:



- A. When, what kind, and how services will be delivered in an area proposed to be annexed.
- B. Annexation must be reasonable and necessary for the development of a city.

#### **IV. SUBCOMMISSION ON PRIVATE PROPERTY RIGHTS**

Consider several issues regarding annexation:

- A. Provide an environment more adaptable to mediation, in order to provide an opportunity for land owners and government officials to communicate regarding land-use options. The Iowa Mediation Service and the Office of Attorney General could assist in mediating land disputes between individuals and governments.
- B. Annexation should be questioned when any of the following applies:
  - 1. The annexation doubles the size of a city.
  - 2. The purpose of the annexation is to increase the city's population so that the city is eligible for state grants.
  - 3. The annexation is used order to control the type of practices occurring within a proposed annexed territory.
  - 4. The annexation is used to increase the two-mile boundaries cities use as a means of pushing new agricultural production facilities further away.

### **SUBPART B MEMBER RESPONSES**

#### **V. OBJECTIONS AND RESERVATIONS**

Representative Fallon expressed a concern about the involuntary annexation portion of the report delivered by the Subcommittee on Annexation.

### **PART FOUR INITIATIVES AND FUNDING**

#### **SUBPART A SUBCOMMISSIONS' REPORTS**

##### **I. SUBCOMMISSION ON ANNEXATION**

The recommendations submitted by the subcommission imply that increased staffing is needed for administration by the City Development Board. The General Assembly should appropriate moneys to the Department of Economic Development for enhanced staffing to the Board.

##### **II. SUBCOMMISSION ON PUBLIC PARKS AND RECREATION/NATURAL AND HISTORIC AREAS**





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- A. Additional funding should be provided to protect Iowa's natural and cultural resource infrastructure. The Resource Enhancement and Protection Program (REAP) should be fully funded (\$20 million per year).
- B. Additional incentives should be established in order to encourage private land conservation.
  - 1. Persons should be allowed to claim a state income tax credit for real property donated to the state or qualified organizations for conservation purposes. The amount of the tax credit should equal 25% of the fair market value of the donated property interest up to \$100,000 for individuals and \$250,000 for corporations (with carryover).
  - 2. Land should be subject to reduced property taxes when the landowner establishes conservation practices to protect water sources such as lakes, wetlands, rivers, and streams.
    - a. A landowner maintaining a permanent native vegetation groundcover within 66 feet of a water source would be eligible to pay reduced property taxes.
    - b. A landowner holding property with a priority watershed identified by the state would be eligible to receive a voucher that could be used to pay property taxes or pay expenses related to installing conservation practices.
  - 3. Local governments should be reimbursed by the state for the cost of supporting property tax reductions.

### **III. SUBCOMMISSION ON LAND USE PLANNING AND POLICY/URBAN REVITALIZATION**

- A. The state should encourage the redevelopment and infill of existing urban areas.
- B. The following incentives should be established:
  - 1. To stimulate redevelopment, including a state investment tax credit, which is a credit against liability of personal state income tax for rehabilitation of property (from 10% to 20% of rehabilitation costs).
  - 2. To spur new construction in existing neighborhoods.
  - 3. To provide open space within incorporated areas.
  - 4. To create an effective growth management program (including providing assistance to local governments required to carry out planning).
- C. The state must provide financial support to create an effective growth management program (including by supporting local governments in creating new plans).

### **IV. SUBCOMMISSION ON FARMLAND INVENTORIES/FARMLAND PRESERVATION**

- A. State agencies and local governments should have a number of methods in order to protect farmland, such as the purchase of development rights to further farmland preservation efforts, including differential assessment of



farmland, agricultural districts, right-to-farm laws, agricultural zoning, urban growth boundaries, purchase of development rights, transfer of development rights, private land trusts, and conservation easements.

- B. The state should encourage counties to adopt countywide zoning. The state should provide technical assistance and appropriate tax and monetary incentives to assist counties in adopting planning and zoning ordinances.
- C. There should be established a permanent land use and natural resources inventory system, which assesses and categorizes land quality and its uses county by county and includes demographic information.
  - 1. Technical assistance should be provided to counties in order to digitize the land use information base.
  - 2. County land use monitoring data, enhanced by aerial imagery, should be supplied to the Department of Revenue and Finance as part of the county assessor's annual reconciliation report.
  - 3. The assessment of farmland quality should be based on consistent fact-based documented properties of farmland. This could be done by using Iowa's county soil surveys to provide a factual basis for assessing agricultural quality of farmland:
    - a. Crop yield.
    - b. Land capability class.
    - c. Corn suitability rating.
    - d. Classification of United States Department of Agriculture prime farmland.
  - 4. The agricultural quality of farmland should use multiple categories:
    - a. A wider range of conditions of farmland needs to be recognized. Ranges should be tailored to assessment methods already in use and be consistent across the state.
    - b. The inventory and assessment process should be designed to allow comparisons:
      - (1) Between results from the 1982-1983 inventory county reports.
      - (2) Between present and future reports.
  - 5. The inventory and assessment process should be institutionalized so that it can be updated on a regular basis (e.g., every five years).
  - 6. The entity responsible for the inventory and assessment should conduct a survey of county officials to help determine implementation strategies.

### V. SUBCOMMISSION ON PRIVATE PROPERTY RIGHTS

#### A. In general all of the following apply:

- 1. Land preservation depends upon what is the most value that can be derived from the land. As long as farming remains the most profitable use of the land, the land will remain productive for agricultural use. If land gains a greater value by another use, the land will be utilized in that manner.





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2. Farmland value can be maintained by placing the decision-making responsibilities in the hands of individuals who are more prone to make the land productive through agricultural uses.
- B. In accomplishing land preservation goals all of the following should be considered:
  1. The establishment of a tax structure that encourages the transfer of land to the most productive generation, rather than allowing the land to accumulate in the possession of a class less apt to continue a livelihood in agriculture.
  2. The use of land preservation incentives which might provide the impetus for a certain class of landowners to leave existing farmland in agricultural production, including tax credits and planning assistance.
- C. It is important to remain diligent in the pursuit of policies that afford producers protections from frivolous lawsuits and outlandish accusations:
  1. Consider the effect on agriculture from the Iowa Supreme Court decision in Bormann v. Board of Supervisors, Kossuth County (holding that legislatively created nuisance suit protections was an unconstitutional infringement of property rights under the United States and Iowa Constitutions).
  2. Institute measures which temper the proliferation of attitudes that endanger Iowa's ability to feed the world, including land use planning alternatives that take into consideration those individuals whose rights may be jeopardized and whose property may be impinged.

### **SUBPART B MEMBER RESPONSES**

#### **VI. COMMENTS**

The following comments were made by Commission members:

- A. The types of incentives proposed by the Subcommittee on Public Parks and Recreation/Natural and Historic Areas in order to encourage private land conservation should be extended to:
  1. Parks in urban areas.
  2. Brownfields sites (i.e., abandoned industrial property).
- B. A strengthened City Development Board could impose discipline upon city planning and zoning systems which tend to change frequently.

#### **VI. RESERVATIONS AND OBJECTIONS**

- A. Co-chairperson Teig, Representative Fallon, and Ms. Hamin noted that transfer of development rights programs are difficult to implement because of the costs involved and administrative challenges.
- B. Ms. Puttmann expressed reservations regarding the establishment of another layer of bureaucracy in state government.



## THIRD DIVISION SUMMARY OF MEMBERS RECOMMENDATIONS AND RESPONSES

### I. CITY DEVELOPMENT BOARD

- A. Co-chairperson Lundby suggested that the name of the City Development Board should be changed and its authority and duties should be expanded.
- B. Mr. Howe, Mr. Mills, and Ms. Hamin stated that if the authority of the City Development Board is expanded, the following should apply:
  - 1. The Board's name should be changed to reflect its expanded authority. The suggested name is the Urban Development and Land Use Management Board.
  - 2. There should be required a periodic analysis of data compiled through the land use inventories.
  - 3. There should be reliance upon a collaborative process of citizen input and participation in order to arrive at overall goals, objectives, strategies, and policies.

### II. PLANNING

Mr. Howe, Mr. Mills, and Ms. Hamin commented that the Commission's recommendations should include a statement providing that: "A state-level role in developing overall goals, objectives, strategies, and policies is necessary in order to ensure orderly urban growth and preservation of agricultural land, open spaces, and natural resources."

### III. EXTRA-TERRITORIAL AUTHORITY BY CITIES

Members commented regarding the two-mile jurisdiction by cities in counties which have not adopted county zoning:

- A. Mr. Ackelson stated that the extra-territorial radius for larger cities should be expanded farther out than the current two mile limit.
- B. Co-chairperson Teig stated that expanding the two mile radius could adversely effect other areas of the Iowa Code including the zoning provisions.

### IV. RURAL SUBDIVISIONS

A number of Commission members expressed concern regarding rural subdivisions:

- A. Mr. Reinders noted that the manner in which rural subdivisions are developed can determine whether the subdivision complies with sound land use policies. Currently, rural subdivisions are causing many problems.
- B. Mr. Howe commented that residents of rural subdivisions should be required to pay for their own infrastructure needs.





## **Commission on Urban Planning**

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- C. Ms. Hamin stated that growth should be encouraged near existing small towns.
- D. Ms. Robinson commented that the state should encourage the establishment of buffer areas between areas dedicated for certain uses (e.g., a shooting range) and residential property. She stated that tax incentives could be used to encourage the development of buffers.
- E. Representative Fallon stated that the Commission should develop a policy regarding rural subdivisions.
- F. Co-chairperson Teig made a number of comments.
  - 1. He observed that the size and location of a subdivision is important. According to Co-chairperson Teig, rural subdivisions may be properly located in areas that do not negatively impact upon farmland preservation goals.
  - 2. He noted that the extension of rural water service is sometimes mentioned as a cause associated with rural subdivision development.
- G. Co-chairperson Lundby made a number of comments.
  - 1. She opined that the government should not prohibit persons from living where they choose.
  - 2. She noted that rural subdivisions should be subject to the state's planning goals.
  - 3. She urged that Commission members should keep private property rights in mind when considering this issue.

### **V. OTHER RECOMMENDATIONS**

- A. Representative Fallon recommended all of the following:
  - 1. There should be an expedited process for approving permits for development within the boundaries of areas planned for development.
  - 2. Iowa's zoning statutes should be reviewed in order to determine if they should be modernized.
  - 3. Local governments should have a stronger opportunity to participate in decisions regarding local development carried out by state agencies, including the construction of highways by the Department of Transportation.
  - 4. The state should provide tax incentives to persons who develop property in a manner that meets land use planning objectives as identified by the Commission. Specifically, land value taxation should be examined as a potential tool for cities in encouraging redevelopment.
- B. Several members of the Commission supported Representative Fallon's recommendations. Several members noted concerns, including the following:
  - 1. Several members noted that they were uncertain what zoning statutes required amendment. Several members opined that the Commission could examine this issue at a later time.
  - 2. Co-chairperson Lundby noted that she and Co-chairperson Teig would explore tax incentives and funding issues.



### **V. CONCERNS DISCUSSED WITHOUT RECOMMENDATION**

- A.** Commission members commented about the Department of Transportation's policies and practices regarding planning without making specific recommendations. Areas of concern included issues regarding:
  - 1. The adequacy of the Department in soliciting and considering opinions by the public and local government officials.
  - 2. The impact of road building upon urban growth and its effect upon the viability of small communities.
  - 3. The relationship between road construction and issues of importance such as economic development and agricultural drainage.
  - 4. The use of a highway design referred to as a "Super Two" is an effective way to use less land for building roads.
- B.** The Commission also discussed issues regarding environmental impact statements, rural water, the effectiveness of the currently designed septic systems, and the potential problems created by large septic fields.

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Legislative  
Service Bureau

## APPENDIX B

### WORKING PROPOSAL FOR LEGISLATION (AMENDED)

Commission on Urban Planning, Growth Management of Cities, and  
Protection of Farmland

January 1999

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## MEMBERS

Senator Mary Lundby, Co-chairperson

Senator Eugene Fraise

Mr. Mark Ackelson, Iowa Natural Heritage Foundation

Ms. Lu Barron, Iowa State Association of Counties

Ms. Sue Cosner, American Planning Association

Ms. Lori Elliott, Associated Builders & Contractors of Iowa

Ms. Elisabeth Infield Hamlin, Department of Community &

Regional Planning, College of Design, ISU

Mr. Jay Howe, Iowa Farmers Union

Mr. Tim Keller, American Society of Landscape Architects

Mr. Chad Kleppe, Iowa Commodity Groups

Representative Russell Teig, Co-chairperson

Representative Ed Fallon

Ms. Jill Knapp, Conservation Districts of Iowa

Mr. Martin Lee, Governor's Office

Mr. Charles Manly, Iowa Audubon Council

Mr. Gordon Mills, American Institute of Architects

Ms. Sally Puttmann, Iowa Farm Bureau Federation

Tim Reinders, Iowa Historical Preservation Alliance

Ms. Donna Robinson, Iowa Sportsmen's Federation

Ms. Beverly Thomas, Iowa Public Transit Association

Mr. Tim Zisoff, Iowa League of Cities

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## I. INTRODUCTION

On December 1, 1998, the Members of the Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland considered a proposal presented by Co-chairperson Senator Lundby. Members of the Commission amended and endorsed the proposal. The proposal is a brief outline illustrating how changes in Iowa law could be structured. The proposal reflects a general direction. Unless otherwise provided in this proposal or inconsistent with its provisions, the provisions of state law including the provisions in Iowa Code chapter 368 remain in effect. The outline provides a skeletal summary of the proposal's contents. Amendments adopted by the Commission are shown as ~~stricken~~ or underscored language.

## II. PURPOSE

The purpose of this proposal is to outline legislation intended to preserve the use of prime agricultural land for agricultural production, and to preserve natural, cultural, and historical areas. The proposal is intended to strike a balance between the need to carry out these legitimate public interests and the need to preserve private property rights. This proposal is intended to encourage economic development in this state by encouraging development in areas where development has been planned by local governments with state oversight. This proposal is intended to control urban sprawl, and thereby provide for the protection and preservation of the private and public interest in the land, water, and related resources of this state for the public health, safety, and general welfare, and for the benefit of present and future generations.

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### III. KEY DEFINITIONS

A. "Annexation" means the addition of territory to a city.

B. "Board" means the Urban Planning, Growth Management ~~of Cities~~, and Farmland and Natural Area Protection ~~of Farmland~~ Board.

C. "Commission" means the Urban Planning, Growth Management, and Farmland and Natural Area Protection Commission.

D. "Council" means the State Strategic Development Council.

~~G-E.~~ "Development" means the construction or structural alteration, conversion, or enlargement of a structure or use of land, including the construction of buildings, structures, and impermeable structures.

~~D-F.~~ "Extra-urban development" means development of land for a use, which creates urban densities and uses within an area which is not designated for that type of use according to a strategic development plan adopted by a local government and approved by the Board as provided in this proposal. However, extra-urban development does not include development which is part of any of the following:

1. A farm operation, including any related structure which is constructed or installed, or any use or practice which is implemented involving a farm operation, including a residence constructed for occupation by a person engaged in a farm operation.
2. The construction, installation, improvement, or maintenance of infrastructure.
3. The preservation of natural and historic or cultural areas, the development of recreational areas, or the protection of natural and historic resources and fragile ecosystems of this state including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and recreational areas.
4. Development occurring on land which has been platted prior to the date that this proposal becomes effective.

~~E-G.~~ "Farm operation" means a condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the raising, harvesting, drying, or storage of crops; the harvesting of trees; care or feeding of livestock; the handling or transportation of crops or livestock; the treatment or disposal of wastes resulting from livestock; the marketing of products at roadside stands or farm markets; the creation of noise, odor, dust, or fumes; the operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers,



conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

**F.H.** "Infrastructure" means property used in connection with any of the following:

1. A utility system, including telephone or other communication lines, city utility as defined in section 390.1, public utility as defined in section 476.1, or pipeline providing gas, water, or wastewater service.
2. Thoroughfares, such as roads and streets as provided in section 306.1, or recreational trails.

**G.I.** "Local government" means a city or county government.

**H.J.** "Public benefits and services" means those benefits and services provided by a local government to residents of the jurisdiction governed by the local government, including police protection; fire suppression; and municipal functions such as solid waste collection; water, storm sewer, sanitary sewer connections; and electric and natural gas connections.

**I.K.** "Public facility" means any building constructed by a local government, if the building is used by the local government for the purpose of providing public services or housing local government employees, including but not limited to a school, museum, library, concert hall, meeting room, or government office.

**J.L.** "Urbanized area" means an unincorporated area of land adjacent to the boundaries of a city. The unincorporated area shall include any area over which the city exercises jurisdiction under section 414.23. For cities other than cities located more than 30 miles from the state's borders, the land shall be within two miles of the boundaries of a city. For cities located 30 miles or less from the state's borders, the land shall be within three miles from the boundaries of the city. The distance from a city to a state's borders is measured from the center of the city.

**M.** "Urban sprawl" means low density development that occurs on the fringes of cities, is poorly planned, consumes land suitable for farming or natural areas, creates a dependency upon automobiles, and is designed without regard to its surroundings.

## **IV. STATE ADMINISTRATION OF THE PROPOSAL**

**A.** Iowa State University shall, to the extent that moneys are available, provide for a land use inventory as provided in this proposal, and assist entities created under this proposal as required.



## Commission on Urban Planning

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B. The following new state entities are created within the Department of Economic Development. The Department shall provide staff necessary to carry out the functions of these entities as provided in the proposal.

1. Urban Planning, Growth Management of Cities, and Farmland and Natural Area Protection of Farmland Commission.

- a. The Commission has the same membership as the current Commission established pursuant to HCR 21 as adopted in 1997 by the Seventy-seventh General Assembly.
- b. The Commission sunsets on October 1, 2003.

2. State Strategic Development Planning Council.

a. The Council has the following members:

- i. The Governor or the Governor's designee, who shall serve as the chairperson of the Council.
- ii. The Director of the Department of Corrections or a designee.
- iii. The Director of the Department of General Services or a designee.
- iv. The Director of the Department of Economic Development or a designee.
- v. The Director of the Department of Natural Resources or a designee.
- vi. The Director of the Department of Transportation or a designee.
- vii. The Secretary of Agriculture or a designee.
- viii. The Attorney General or a designee.

ix. The State Historic Preservation Officer appointed by the Director of the Department of Cultural Affairs.

~~ix-x.~~ A designee appointed by the President of Iowa State University who State Board of Regents as provided for in Iowa Code Chapter 262. shall rotate with a designee appointed by the President of the University of Iowa. The member shall be appointed from the University of Iowa, Iowa State University, and the University of Northern Iowa on a rotating basis. Each appointee shall serve one term prior to replacement. A designee member appointed under this proposal shall be an expert in issues relating to land use planning.

~~x-xi.~~ Four members of the General Assembly. The initial members shall be the same members who serve on the Urban Planning, Growth Management of Cities, and Protection of Farmland Commission.

- b. The Council is the state's principal agency overseeing planning by major state agencies involved in large-scale development projects. The





purpose of the Council is to ensure that development by these agencies is coordinated, including through the adoption of a state strategic development plan as provided in this proposal.

### 3. Urban Planning, Growth Management—of Cities, and Farmland and Natural Area Protection of Farmland Board.

a. The Board ~~has~~shall have the same ~~members~~membership as the current City Development Board. In addition two new members shall be appointed representing smaller local governments. The Board is appointed by the Governor subject to Senate confirmation. The members include:

i. One member appointed from a city with a population of more than 45,000.

ii. One member appointed from a city with a population of more than 20,000 but not more than 45,000~~or less.~~

iii. One member appointed from a city with a population of 20,000 or less.

~~iii.~~iv. One member appointed from a county with a population of more than 50,000.

~~iv.~~v. One member appointed from a county with a population of more than 25,000 but not more than 50,000~~or less~~

vi. One member appointed from a county with a population of 25,000 or less.

~~v.~~vii. One member appointed to represent the general public.

b. The Board is the state's principal agency overseeing planning by local governments.

i. The Board approves two types of documents required to be submitted by local governments as provided in this proposal:

(1) Strategic development plans, which are comprehensive land use plans used by local governments to plan for development. The plans govern development within a city and county. A special joint plan governs unincorporated areas within a county that is planned for future annexation by a city.

(2) Annexation applications, including plans of annexation that are approved by a city for immediate annexation of unincorporated areas.

ii. The Board may adopt rules and impose fees to help cover the costs of administration.

## V. LAND USE INVENTORIES

Iowa State University shall prepare, maintain, and update land use inventories for the state as required in this proposal:





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**A.** The purpose of the land use inventories is to determine the extent to which land in this state has been converted from uses involving agriculture or natural areas to residential, commercial, industrial, or public uses (including recreational areas and public facilities and infrastructure).

**B.** Iowa State University shall do all of the following:

1. Establish land use inventories and serve as the repository of the land use inventories.
2. Regularly update the land use inventories.
3. Assist the state entities created in this proposal to carry out the purposes of the proposal, including by allowing computer access to data compiled by Iowa State University. Iowa State University must provide a method for use by counties institutionalizing the inventory and assessment process in a manner that facilitates periodic updating and review by Iowa State University.
4. Design an inventory and assessment process to allow comparisons between results from the inventory conducted pursuant to Iowa Code chapter 352 and future inventories, and comparisons between land resources and uses in different counties.

**C.** Local governments must assist Iowa State University in establishing and updating land use inventories in their local areas as provided in this proposal in the most efficient and accurate method practicable.

## **VI. OVERSIGHT**

The Urban Planning, Growth Management of Cities, and Protection of Farmland Commission is required to meet each year in order to monitor the administration of this proposal, and the extent to which the purposes of the proposal are being satisfied. In accomplishing its mission, the Commission may continue to carry out the provisions of HCR 21 as adopted by the 1997 Session of the Seventy-seventh General Assembly. The Commission must report each year to the General Assembly, including with proposals for legislative consideration.

## **VII. STATE STRATEGIC DEVELOPMENT PLANNING**

**A.** The State Strategic Development Council must consult when one of the member agencies is engaged in a major development project, including but not limited to the construction or expansion of a freeway-expressway system as provided in section 306.1, a dam or reservoir, or a correctional institution as provided in chapter 904. A development project that requires a state agency to exercise its eminent domain authority as provided in chapter 6A shall be considered a major project.



**B.** The Council shall establish, maintain, and revise a state strategic development plan that provides that development by member state agencies in a manner that is consistent with the purpose of this proposal.

~~G.1.~~ The plan shall establish requirements that to every degree practical preserves the most productive agricultural land; protects soil from wind and water erosion; protects and enhances natural and recreational areas and wildlife habitats, encourages higher density and efficient urban development patterns; fosters alternative transportation systems; encourages mixed use development; and preserves, protects, and maintains areas of special natural, significant historic, or cultural significance resources.

2. The initial plan shall be approved by the Council by July 1, 2001.

~~D.C.~~ A member agency must consult with the Council during the planning stages of major development project. The member agency shall not begin construction of a major development project prior to consulting with the Council.

~~E.D.~~ In reviewing a major development project, the Council shall to every extent practical ensure that the missions, policies, and goals of affected member agencies are not negatively impacted. The major development project shall be consistent with the state strategic development plan as required by this proposal.

E. The Council shall report to the committee of the General Assembly which is primarily responsible for legislative oversight of state agencies, as required by the committee. The Council shall notify the Committee of the planning stages of a major development project initiated by a member agency. The Council shall file a copy of its state strategic development plan and any amendments to or revisions of the plan with the Committee.

## VIII. LOCAL LAND USE PLANNING

**A.** Each local government must adopt a strategic development plan that must be approved and filed with the Board as provided in this proposal.

**1.** The strategic development plan shall integrate the planning functions of the local government, including the planning of infrastructure and the provision of public benefits and services. The plan shall include all criteria required by the Board pursuant to rules adopted by the Board.

**a.** The plan shall do all of the following:

**i.** Identify all land within the jurisdiction of the local government that is served by adequate infrastructure and receives an adequate level of public benefits and services.





ii. Establish goals to construct adequate infrastructure or deliver an adequate level of public benefits and services within areas under the jurisdiction of the local government that is subject to development, including undeveloped areas and vacant sites in urbanized areas.

**2.** Local governments shall establish a joint strategic development plan governing any area planned for extra-urban development.

a. A county is not qualified to participate in joint planning if the county does not adopt countywide zoning as provided in chapter 335. A city and an unqualified county shall not be parties to a joint strategic development plan. The city may adopt a zoning ordinance pursuant to chapter 414 to govern the city's urbanized area in an unqualified county.

b. A city and another city shall adopt a joint strategic development plan governing an unincorporated area located within their common urbanized areas. To the extent that the unincorporated area is located within two or more qualified counties or adjoins two or more cities, each of the qualified counties and cities must adopt the joint strategic development plan. The joint strategic development plan may be part of the strategic development plan required for cities or counties, or may be a separate plan. The joint strategic development plan may part of a plan joined by multiple local governments.

c. The joint strategic development plan shall include all criteria required by the Board pursuant to rules adopted by the Board which carries out the purposes of this proposal, including but not limited to all of the following:

- i. A map of the territory.
- ii. Population density.
- iii. A description of topography.
- iv. The agricultural productivity of the land, including its corn suitability rating.
- v. A description of any natural or historic areas of special state or local interest.
- vi. A description of existing public services, including but not limited to water supply, sewage disposal, and fire and police protection.
- vii. Services provided by any existing special service districts.
- viii. Arrangements for the maintenance, improvement, and traffic control of any shared roads.

**B.** The purpose of the strategic development plan is to carry out the purposes of this proposal, including by doing all of the following:





1. Protect nonreplaceable agriculturally and environmentally sensitive land.
2. Prevent the occurrence of sprawl, including the economic, environmental, and social costs that accompany it, including by encouraging infill and redevelopment of existing urban sites.
3. Allow local governments to plan for urban development in an orderly and cooperative manner.
4. Identify and protect critical areas of local or statewide concern.
5. Ensure that adequate infrastructure and public benefits and services are available concurrently with development.
6. Encourage the widest possible involvement by citizens of each local government affected by extra-urban development.

~~D.C.~~ ~~The strategic development plan shall provide for the location of all public facilities to be located in the area subject to the plan.~~ The strategic development plan ~~may~~ shall do all of the following:

1. Provide for the location of all public facilities to be located in the area subject to the plan

~~1-2.~~ Establish a policy for defraying costs incurred by the local government to the extent determined appropriate by the local government. The policy may provide for financing the construction of infrastructure and the delivery of services to areas under the jurisdiction of the local government which is subject to development, including the imposition of any impact fees to defray the costs of providing off-site or adjacent infrastructure or public benefits and services.

3. A joint strategic development plan shall do all of the following:

~~1-a.~~ Require that infrastructure for extra-urban development occurring within the unincorporated area subject to the joint plan be made city-ready, including providing that buildings and infrastructure conform to city requirements (e.g., that buildings meet city building codes and that water and sewer pipes be compatible with connecting pipes located within the city).

b. Identify urban growth areas around each city, planned growth areas in the unincorporated part of a county, and rural areas in those areas not identified as urban growth areas or planned growth areas, as provided in rules adopted by the Board consistent with the purposes of this proposal. In identifying the areas, the joint strategic development plan must describe the level of development appropriate within the boundaries of each area in order to accommodate urban expansion in a manner that reduces its impact on agricultural land and natural, historic, or recreational areas.



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D. A local government may adopt an ordinance regulating development within its jurisdiction in order to carry out the purposes of this proposal that is consistent with the local government's strategic development plan. The local government shall cooperate with another affected local government in adopting ordinances regulating development within a jurisdiction subject to a joint strategic development plan. The regulations may provide for the establishment of urban growth boundaries, urban service areas, phased development areas, differential property tax rates otherwise consistent with state law, conservation easements, the acquisition of development rights (e.g., the purchase or transfer of development rights), and development standards.

E. The following shall govern procedures required to file a strategic development plan:

1. Planning commissions, councils of governments, or similar organizations or associations representing the interests of local governments may assist the local government in preparing and filing a plan. However, a joint strategic development plan shall be prepared by one of the following:

a. The area's Council of Governments as established in Code section 28H.1.

b. A Coordinating Committee established by the local governments. The Coordinating Committee shall be composed of members as established by a joint resolution adopted by each affected local government.

2. The Board shall adopt a uniform form for the convenience of cities that do not plan to develop land beyond their boundaries.

~~2.3.~~ A strategic development plan may be part of a comprehensive plan adopted pursuant to section 335.5 or section 414.3. A local government shall not be required to adopt an ordinance in conformance with this plan. However, a local government shall comply with a comprehensive plan adopted pursuant to section 335.5 or section 414.3 to the extent required in those sections.

~~3.4.~~ A local government shall file a strategic development plan with the Board as follows:

a. Except as provided in paragraph "b" the following shall apply:

i. The plan shall be filed by June 30, 2002, for both of the following:

(1) Counties having a population of 150,000 or more.

(2) Cities having a population of 75,000 or more.

ii. The plan shall be filed by June 30, 2003, for both of the following:



(1) Counties having a population of 50,000 or more but less 150,000.

(2) Cities having a population of 25,000 or more but less than 75,000.

iii. The plan shall be filed by June 30, 2004 for both of the following:

(1) Counties having a population of less than 50,000.

(2) Cities having a population of less than 25,000.

b. If a city is required to file a joint strategic plan governing land within a county, the county shall file a strategic development plan and a joint strategic development plan by the date required for the city to file its plans.

4.5. a. A city shall be excused from adopting a joint strategic development plan as provided in this proposal, if the city council adopts a resolution declaring that it elects not to adopt a joint plan.

i. The city shall file the resolution in lieu of the joint plan as required in this proposal.

ii. If a city is excused under this provision, any unincorporated area adjoining the city shall be governed by the strategic development plan filed with the Board by the county where the area is located or the other local governments that adjoin or govern the unincorporated area.

5.6. A local government may revise the plan at any time by filing a revised plan with the Board. The plan must be updated at least once each seven years. However, the plan shall be updated earlier whenever any of the following occurs:

a. The local government revises a comprehensive plan required pursuant to 335.5 or section 414.3.

b. A city annexes land.

6.7. The Board shall not file a plan unless all of the following occur:

a. The local government approves the plan by resolution and all affected local governments adopt the joint urban growth strategic policy by resolution.

b. The Board approves the plan. The Board shall approve the plan if it determines that the plan meets the purposes of this proposal and requirements of the plan as provided in this proposal.

i. The Board may file parts of a plan adopted by a local government or a joint plan adopted by multiple local governments, which is approved as provided in this proposal.

ii. Upon petition by a local government that is a party to a joint plan that has not been adopted, the Board may conduct a hearing





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as a contested case proceeding under chapter 17A and may order the parties to adopt terms and conditions of a joint plan. Each affected local government is a party to the hearing. The Board's decision shall be regarded as a final agency action as provided under chapter 17A.

7-8. The Board may conduct a public hearing regarding a plan submitted for approval. A city may object to a plan submitted by a county, based on planned extra-urban development. The Board shall consider the objection and may deny approval of the plan based on the objection.

F. Upon filing the plan by the Board all of the following shall apply:

1. A local government shall comply with the strategic development plan when constructing public facilities. A local government shall not construct a public facility that is in a location other than provided in the strategic development plan as filed with the Board.

2. No state agency, regional authority, or local government shall develop land in a manner that is inconsistent with the plan.

3. No person charged by a local government to carry out development functions, including a board, commission, council, or committee or city employee or appointed official, shall engage in planning unless the planning is consistent with the local government's strategic development plan or the governing body of the local government (i.e., the city council or county board of supervisors) adopts a resolution authorizing the person to carry out the planning.

4. A local government shall not construct infrastructure or increase public benefits or services within an unincorporated area required to be governed by a strategic development plan, unless the plan is filed with the Board.

5. Each state agency or local government awarding financial assistance to persons for use in developing land shall consider whether the development is consistent with the purposes of this proposal, including but not limited to moneys awarded from the Community Economic Betterment Account established pursuant to section 15.320 or the Revitalize Iowa's Sound Economy Fund established pursuant to section 315.2, or from tax increment financing created pursuant to section 403.19 or tax exemptions within revitalization areas as provided in chapter 404. The state agency or local government shall give priority to projects that conform with the state strategic development plan and the strategic development plan governing the area where the development is proposed to occur. If the state agency or local government awards moneys based on a point system, no criteria shall be worth more than criteria requiring that projects conform with these plans. However, a



state agency may place greater priority upon a project, if the following apply:

- a. The project receives assistance under the Quality Jobs Enterprise Zone program pursuant to section 15A.1; the New Jobs and Income Program pursuant to chapter 15, part 13; or the Iowa Agricultural Industry Finance Act as provided in chapter 15E.
- b. The project presents a unique and extraordinary opportunity for economic development.
- c. The project could not have been reasonably planned for in advance.

~~5.a. Except as provided in paragraph "b" an extra-urban development located within a county's jurisdiction that is not governed by a joint plan shall not be constructed using moneys contributed by the state in the form of grants, loans, or forgivable loans, including but not limited to assistance provided from the Community Economic Betterment Account established pursuant to section 15.320, from the Revitalize Iowa's Sound Economy Fund pursuant to section 315.2, or from tax increment financing pursuant to section 403.19.~~

~~b. This provision does not apply to assistance provided under the Quality Jobs Enterprise Zone pursuant to section 15A.1, the New Jobs and Income Program pursuant to chapter 15, part 13, or under the Iowa Agricultural Industry Finance Act as provided in chapter 15E.~~

## IX. ANNEXATION

~~A. Unless otherwise provided in this proposal, or inconsistent with its provisions, the provisions of chapter 368 shall govern annexations.~~

~~B.A.~~ A city shall not adjust its boundaries by voluntary or involuntary annexation, unless the annexation is approved by the Board as provided in this proposal.

1. The city must file an application with the Board in compliance with the requirements of section 268.7 or 368.17, according to procedures required by the Board.

2. The annexation application must include all criteria required by the Board pursuant to rules adopted by the Board, which carries out the purposes of this proposal, including but not limited to a plan of annexation consistent with any joint strategic development plan governing the area.

a. The plan of annexation shall provide a schedule for extending public benefits and services to the territory subject to annexation by the annexing city within three years following the annexation.

b. If a joint plan does not govern the area subject to annexation (i.e., it is outside the limits governed by a joint plan or the county where the annexation is proposed is unqualified to be a party to a joint plan), the





plan of annexation shall include criteria required by the Board pursuant to rules adopted by the Board which carries out the purposes of this proposal and the plan of annexation as provided in this proposal. The plan of annexation shall at least include the same information required in a joint strategic development plan.

**G.B.** The Board shall review the application as provided in chapter 368.

1. The Committee established to review an involuntary annexation application is abolished.
2. The Board shall approve any application that it determines carries out the purposes and requirements of this proposal, including the joint plan governing the area to be annexed and the plan of annexation.
3. The Board shall base its decision to approve an application upon all relevant information before the board, including but not limited to the following:
  - a. Statements in the application, including the plan of annexation, and evidence supporting those statements that demonstrate how the application satisfies the purposes of this proposal, any joint strategic development plan governing the territory proposed to be annexed, and the plan of annexation.
  - b. The compatibility of the application, including the plan of annexation, with the purposes of this proposal, any strategic development plan adopted by a county governing the territory proposed to be annexed, and the purposes of the strategic development plan and the plan of annexation.
  - c. Recommendations of the regional planning authority for the affected area.
  - d. Evidence of all of the following:
    - i. Commercial and industrial development within the territory proposed to be annexed.
    - ii. The potential growth in population in the territory proposed to be annexed.
    - iii. The cost and adequacy of providing existing public benefits and services and constructing public facilities within the territory proposed to be annexed. The board shall also consider the potential effect of extending public benefits and services and constructing proposed public facilities as required in the plan of annexation. The board shall consider alternative proposals.
    - iv. The potential effect of the proposal on adjacent areas, and on other local governments directly affected, including but not limited





to the potential impact of the proposed annexation on future revenues of affected local governments.

v. The extent of available and suitable developable land within the corporate limits of the city.

e. An objection by a county regardless of whether it is qualified to be a party in a joint plan (i.e., that has adopted countywide zoning as provided in chapter 335), if the objection applies to territory not governed by a joint strategic development plan. The board shall consider the objection and may deny approval of the application based on the objection if the board determines that the application is premature.

4. The board shall deny the annexation automatically if the entity determines any of the following apply:

a. The territory subject to annexation does not adjoin the city applying for the annexation.

b. It is unreasonable or impracticable for the city applying for annexation to extend public benefits and services to the territory subject to annexation within three years.

c. The motive for annexation is solely to increase revenues to the city applying for annexation.

d. The application for annexation is not compatible with the purpose of this proposal or the joint strategic development plan governing the area.

~~D.C.~~ If a city fails to complete extension of its public benefits and services as required in the plan of annexation filed with the Board, the city may apply for an extension not to exceed two additional years in order to complete the extension. The Board may grant the extension, if the Board determines that the city has acted in good faith to complete the extensions and that unforeseen events contributed to the delay. The Board may grant an extension for one more additional year if the Board determines that exigent circumstances warrant the extension. However, in no case may the Board approve an extension for more than six years following the annexation.

~~E.D.~~ The Board shall reconsider approving an application for annexation upon its own initiative or upon receipt of a petition brought by a property owner of territory annexed pursuant to the application.

1. In order to reconsider the approval, one of the following must occur:

a. The city fails to extend public services or benefits to the annexed territory within the period required by this proposal.

b. The city misrepresented a material fact in its application for annexation that caused the Board to approve the application.



2. If the Board determines that the application should not have been approved, the Board may do any of the following:

a. Order that all or some property within the annexed territory be taxed according to a reduced rate. The reduced rate shall not be less than the rate applicable if the territory had not been annexed.

i. The Board may order that the city provide a rebate to residents equaling the difference between the property taxes paid to the city by owners of property within the annexed territory and the amount in taxes owed under the reduced rate.

ii. The property shall be taxed at the reduced rate until at least public benefits and services are extended to property within the annexed property.

b. If the Board finds that the application for annexation was brought in bad faith or with reckless disregard for the purposes of this proposal or the applicable joint strategic development plan, the Board may order that all or part of the annexed territory be severed from the city as provided in this proposal.

~~F.E.~~ The Board shall establish an expedited process for severing all or part of territory annexed by a city, in cases where the Board orders severance under this proposal or the city applies for severance under chapter 368. The expedited process shall apply if public benefits and services have not been extended to the territory by the city.

~~G.F.~~ No local government shall execute an agreement with another local government under chapter 28E that provides for annexation, including but not limited to furnishing public benefits or services, extending infrastructure, or constructing public facilities. Any such agreement that is in effect on the effective date of this Act is void.

## **X. EMINENT DOMAIN**

This proposal governs the acquisition of an interest in real estate by the state or local government through a proceeding brought under chapter 6A or 6B for purposes of extending infrastructure, which is a utility system.

**A.** The scope of the interest shall be limited to the express creation of an appurtenant easement to the extent necessary in order to extend the utility system over the property of the owner.

**B.** The dominant estate shall not undergo a change in use. The person holding the dominant estate may maintain the utility system, but shall not expand the size or capacity of the utility system.



C. The owner of the land subject to the proceeding creating the easement shall hold a servient estate, and may use the property in any manner that does not unreasonably interfere with the easement.

D. The easement shall expire when the utility system is no longer used for the purpose intended.

### **~~XI. MORATORIUM~~**

~~On and after November 30, 1998 a city shall not annex land, unless the annexation conforms to the provisions of this proposal.~~

### **XI. EFFECTIVE DATE**

This proposal takes effect upon enactment of legislation necessary in order to effectuate its provisions.

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