

State Government  
Tieden. Chair  
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Slater

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**NEED MAR**

SENATE FILE 2218

BY COMMITTEE ON NATURAL RESOURCES

(FORMERLY SSB 2214)

*Approved (p. 548)*

Passed Senate, Date 3-24-82 (p. 887) Passed House, Date \_\_\_\_\_

Vote: Ayes 31 Nays 19 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the uses of land in this state by requiring  
2 inventories by county organizations, authorizing agricultural  
3 use ordinances and agricultural areas, and providing for the  
4 restriction of certain proceedings and assessments.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter 93A, Code 1981, is amended by striking  
2 the chapter and inserting in lieu thereof sections 2 through  
3 26 of this Act.

4 Sec. 2. NEW SECTION. PURPOSE. It is the intent of the  
5 general assembly to provide for the development of local land  
6 use policy recommendations, which may provide for the orderly  
7 use and development of land and related natural resources  
8 in Iowa for residential, commercial, industrial and  
9 recreational purposes, preserve private property rights, and  
10 preserve the use of agricultural land for agricultural  
11 production, through a process that emphasizes the participa-  
12 tion of citizens and local governments.

13 The general assembly recognizes the importance of preserving  
14 the state's finite supply of agricultural land. Conversion  
15 of farmland to urban development, and other nonfarm uses,  
16 reduces future food production capabilities and may ultimately  
17 undermine agriculture as a major economic activity in Iowa.

18 It is the intent of the general assembly to provide local  
19 citizens and local governments the means by which agricultural  
20 land may be protected from nonagricultural development  
21 pressures. This may be accomplished by the establishment  
22 of agricultural districts or agricultural areas in which  
23 substantial agricultural activities are encouraged, so that  
24 land inside these districts and areas is conserved for the  
25 production of food, fiber, and livestock, thus assuring the  
26 preservation of agriculture as a major factor in the economy  
27 of this state.

28 Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter  
29 unless the context otherwise requires:

30 1. "Agricultural area" means an area meeting the qualifica-  
31 tions of section 9 of this Act and designated under section  
32 15 of this Act.

33 2. "Agricultural district" means a district established  
34 under section 8 of this Act.

35 3. "County board" means the county board of supervisors.

1 4. "County commission" means the county land use commis-  
2 sion.

3 5. "County committee" means the county agricultural area  
4 committee.

5 6. "Farm" means the land, buildings, and machinery used  
6 in the commercial production of farm products.

7 7. "Farm operation" means a condition or activity which  
8 occurs on a farm in connection with the production of farm  
9 products and includes but is not limited to the marketing  
10 of products at roadside stands or farm markets, the creation  
11 of noise, odor, dust, fumes, the operation of machinery and  
12 irrigation pumps, ground and aerial seeding and spraying,  
13 the application of chemical fertilizers, conditioners,  
14 insecticides, pesticides, and herbicides, and the employment  
15 and use of labor.

16 8. "Farm products" means those plants and animals and  
17 their products which are useful to people and includes but  
18 is not limited to forages and sod crops, grains and feed  
19 crops, dairy and dairy products, poultry and poultry products,  
20 livestock, fruits, vegetables, flowers, seeds, grasses, trees,  
21 fish, honey, and other similar products, or any other plant,  
22 animal, or plant or animal product which supplies people with  
23 food, feed, fiber, or fur.

24 9. "Nuisance" means a public or private nuisance as defined  
25 either by statute, administrative rule, ordinance, or the  
26 common law.

27 10. "Nuisance action or proceeding" means an action,  
28 claim, or proceeding, whether brought at law in equity or  
29 as an administrative proceeding, which is based on nuisance.

30 11. "State council" means the state land use coordinating  
31 council.

32 12. "Farmland" means those parcels of land suitable for  
33 agricultural production which will continue to be economically  
34 feasible for that use if given the protections afforded by  
35 this chapter to land within an agricultural area or exclusive

1 agricultural district.

2 Sec. 4. NEW SECTION. COUNTY COMMISSIONS ESTABLISHED.

3 1. In each county a county land use commission is created  
4 composed of the following members:

5 a. Three members appointed by and from the district soil  
6 conservation commissioners.

7 b. Three members appointed by and from the county board.

8 c. Three members appointed by and from a convention of  
9 the mayors and councilpersons of the cities of the county.  
10 If a participating city contains fifty percent or more of  
11 the total population of the participating cities, that city  
12 may appoint two of the members appointed under this paragraph.

13 However, if a city contains more than one-half of the  
14 population of a county which has a population exceeding fifty  
15 thousand persons, that city shall not participate in the  
16 convention of mayors and councilpersons and the members  
17 appointed under paragraph c shall be three members appointed  
18 by and from the mayor and councilpersons of that city and  
19 three members appointed by and from the convention of mayors  
20 and councilpersons and the members appointed under paragraph  
21 b shall be three residents of the county engaged in actual  
22 farming operations appointed by the county board.

23 2. The county commission shall meet and organize by the  
24 election of a chairperson and vice chairperson from among  
25 its members. A majority of the members of the county  
26 commission constitutes a quorum and the concurrence of a  
27 quorum is required to determine any matter relating to its  
28 official duties. Each member of the county commission is  
29 entitled to receive reimbursement for travel and other  
30 necessary expenses incurred in the performance of the member's  
31 official duties. The reimbursement shall be made by the unit  
32 of government of which the county commissioner is a member  
33 or which appointed the member.

34 3. The state agricultural extension service shall assist  
35 county commissions with technical, informational, and clerical

1 assistance.

2 4. A vacancy in the county commission shall be filled  
3 in the same manner as the appointment of the member whose  
4 position is vacant.

5 Sec. 5. NEW SECTION. STATE COUNCIL ESTABLISHED.

6 1. A state land use coordinating council is created.  
7 The state council is composed of the administrative head,  
8 unless otherwise indicated, or that person's designee from  
9 the following state agencies:

- 10 a. Department of agriculture.
- 11 b. Department of soil conservation.
- 12 c. State conservation commission.
- 13 d. Iowa natural resources council.
- 14 e. Iowa development commission.
- 15 f. Department of environmental quality.
- 16 g. Geological survey.
- 17 h. State agricultural extension service.
- 18 i. Chairperson of the city development board.

19 2. The representative of the department of soil  
20 conservation serves as the chairperson of the state council.  
21 The state council shall elect a vice chairperson from among  
22 its members. A majority of the members of the state council  
23 constitutes a quorum and is required to determine any matters  
24 relating to the state council's official duties.

25 3. The state council shall assist the county commissions  
26 in obtaining information for use in compiling the county in-  
27 ventories.

28 4. The department of soil conservation shall provide  
29 clerical assistance to the state council.

30 Sec. 6. NEW SECTION. SCHEDULE AND DUTIES.

31 1. By January 1, 1983, the county commissions shall  
32 organize and the state council shall establish advisory  
33 guidelines for the development of county inventories. The  
34 guidelines shall inform the county commissions of the subjects  
35 which should be included in the inventories and of what in-

1 formation on those subjects is available from state agencies.

2 2. By January 1, 1984, a county commission shall compile  
3 a county inventory and submit it to the county board for its  
4 approval. Prior to submitting the inventory a county com-  
5 mission shall hold at least two public hearings on the inven-  
6 tory. The public hearings shall be scheduled sufficiently  
7 in advance of the submission date so that the inventory can  
8 be revised or supplemented if the county commission chooses  
9 to do so after the hearing.

10 3. By January 1, 1984, a county commission shall make  
11 recommendations concerning land use in the county to its  
12 county board. The county board within a reasonable time shall  
13 consider those recommendations and other submissions, reports,  
14 and recommendations as it deems appropriate.

15 4. By July 1, 1984, the county board shall transmit the  
16 county inventory and recommendation to the state council.

17 5. The state council may request additional information  
18 from a county commission after receipt of its inventory.

19 6. By January 1, 1985, the state council shall evaluate  
20 the inventories and recommendations and submit its findings  
21 and recommendations to the counties. The findings and recom-  
22 mendations shall provide for those purposes specified in sec-  
23 tion 2 of this Act and a copy shall be retained by the county  
24 clerk for public inspection.

25 7. By January 1, 1985, the state council shall submit  
26 its findings and recommendations to the general assembly.

27 Sec. 7. NEW SECTION. COUNTY INVENTORIES.

28 1. The county inventories compiled under section 6 of  
29 this Act shall contain at least information on the following:

30 a. The lands available and used for agricultural purposes  
31 by soil suitability classifications.

32 b. The lands used as woodlands.

33 c. The lands used for recreation.

34 d. The lands used as historical sites.

35 e. The lands available within cities for development.

1 f. The lands used for commercial, industrial, and  
2 residential purposes.

3 g. The lands used for or held in reserve for the orderly  
4 extraction of natural resources including but not limited  
5 to coal, collodial clay, gypsum, limestone, sand, and gravel.

6 h. The lands used for farming operations within the limits  
7 of a city.

8 i. The lands which have been converted from one type of  
9 use to another since 1960, including but not limited to the  
10 uses listed in this subsection.

11 2. The information required by subsection 1 shall be pro-  
12 vided both in narrative and map form according to guidelines  
13 established by the state council. The council shall require  
14 a cartographic display contrasting each county's land use  
15 in 1960 with the land use in existence as of the date of the  
16 inventory.

17 Sec. 8. NEW SECTION. AGRICULTURAL DISTRICTS.

18 1. A county may establish agricultural districts by  
19 adopting ordinances under chapter 358A. The ordinances must  
20 be consistent with the county land use recommendations that  
21 have been adopted by the county board under section 6 of this  
22 Act.

23 2. To qualify as an agricultural district under this  
24 chapter, the ordinances must limit the use of the land in  
25 agricultural districts to farm operations and meet the  
26 following minimum standards:

27 a. The only residences allowed as permitted uses are those  
28 constructed for occupation by a person, or a family having  
29 at least one member, whose primary occupation consists of  
30 farm operations on the parcel or is a parent or child of the  
31 operator of the farm. Preexisting residences located in  
32 agricultural districts which do not conform to this paragraph  
33 may be continued in residential use.

34 b. For the purposes of farm consolidation and if per-  
35 mitted by local regulation, farm residences or structures

1 which existed prior to the adoption of the ordinance may be  
2 separated from a larger farm parcel.

3 c. A structure or improvement shall not be built on the  
4 land unless consistent with farm operations.

5 Sec. 9. NEW SECTION. CREATION OF AGRICULTURAL AREAS.

6 An owner of farmland may submit a proposal to the county board  
7 for the creation of an agricultural area within the county.

8 An agricultural area, at its creation, shall include at least  
9 five hundred acres of farmland, however, a smaller area may

10 be created if the farmland is adjacent to an agricultural  
11 district. The proposal shall include a description of the  
12 proposed area, including its boundaries. The territory shall

13 be as compact and as nearly adjacent as feasible. An area  
14 created under this chapter is initially established for a  
15 period of ten years. Land shall not be included in an  
16 agricultural area without the consent of the owner.

17 Agricultural areas shall not exist within the corporate limits  
18 of a city. Agricultural areas may be created in a county  
19 which has adopted zoning ordinances.

20 Sec. 10. NEW SECTION. COUNTY AGRICULTURAL AREAS COMMITTEE.

21 Upon receipt of a petition for the creation of an agricultural  
22 area within the county, the county board shall establish a  
23 county agricultural areas committee if such a committee has  
24 not already been established for the county. The county  
25 committee shall consist of four active farmers, three of whom  
26 are actively engaged in both crop and livestock farming, and  
27 a member of the county board. The committee shall select  
28 one of its members to serve as chairperson of the committee.

29 Members of the committee are appointed by and serve at the  
30 pleasure of the county board. The members shall serve without  
31 compensation, but the board may authorize reimbursement of  
32 each member's actual and necessary expenses incurred in the  
33 performance of official duties. The committee shall advise  
34 the board in relation to the proposed establishment,  
35 modification, and termination of agricultural areas. The

1 committee shall advise the county board relating to the  
2 desirability of such action, the nature of farming and farm  
3 resources within the proposed area, and the relation of farming  
4 in the area to farming in the county.

5 Sec. 11. NEW SECTION. DUTIES OF COUNTY BOARD.

6 1. Upon the receipt of a proposal for an agricultural  
7 area, the county board shall provide notice of the proposal  
8 by publishing a notice in a newspaper having general  
9 circulation within the proposed area or, if no such newspaper  
10 has a general circulation within the proposed area then in  
11 a newspaper having general circulation within the county and  
12 by posting the notice in five conspicuous places within the  
13 proposed area. A copy of the notice shall be sent to the  
14 county or regional planning commission, if any, for review  
15 or comment within thirty days. The comment shall be made  
16 to the county board. The notice required to be published  
17 or posted under this section shall contain the following  
18 information:

19 a. A statement that a proposal for an agricultural area  
20 has been filed with the board pursuant to this chapter.

21 b. A statement that the proposal will be on file open  
22 to public inspection at the county auditor's office.

23 c. A statement that a landowner owning lands adjacent  
24 to or partially encompassed by the proposed area may propose  
25 a modification of the area to include or exclude those lands,  
26 within thirty days of the date of publication of notice.

27 The proposal shall be made on forms prescribed by the county  
28 board.

29 d. A statement that any proposed modification must be  
30 filed with the county auditor within thirty days after the  
31 publication of the notice.

32 e. A statement that at the termination of the thirty-day  
33 period, the proposal and proposed modifications will be sub-  
34 mitted to the county committee which will hold a public hearing  
35 on the proposal, proposed modifications, and recommendations

1 of the county committee.

2 f. A statement of the time, date, and place of the county  
3 committee's public hearing.

4 2. The county board shall receive any proposals for  
5 modifications of the proposal within thirty days after the  
6 publication of the notice.

7 3. The county board shall, upon the termination of the  
8 thirty-day period, refer the proposal and proposed  
9 modifications to the county committee, which shall, within  
10 forty-five days, report to the board its recommendations  
11 concerning the proposal and proposed modifications.

12 Sec. 12. NEW SECTION. PUBLIC HEARING REQUIRED. The  
13 county committee shall hold a public hearing on a proposal  
14 for the creation of an agricultural area. The hearing shall  
15 be held at a place within the proposed area or a place readily  
16 accessible to the proposed area. The public hearing shall  
17 concern the original proposal, any modifications proposed  
18 during the thirty-day review period, and the recommendations  
19 proposed by the county committee and any planning commissions.

20 Sec. 13. NEW SECTION. FACTORS FOR CONSIDERATION IN FORMA-  
21 TION OF AGRICULTURAL AREAS. The following factors shall be  
22 considered by county boards, county committees, or planning  
23 commissions, with respect to the formation of an agricultural  
24 area:

25 1. The existence of active farming within the proposed  
26 area.

27 2. The presence of farmlands within the proposed area  
28 that are not now in active farming.

29 3. The nature and extent of land uses other than active  
30 farming within the proposed area.

31 4. County developmental patterns and needs.

32 5. Any other matter which is relevant.

33 Sec. 14. NEW SECTION. NOTICE TO, AND OBJECTIONS BY,  
34 CITIES. If the proposed agricultural area includes real  
35 estate within a two-mile radius from the corporate limits

1 of a city, the county board shall notify the city council  
2 of the affected city of this proposed area. The council may  
3 object to the proposal by proposing a modification as provided  
4 in section 11 of this Act.

5 Sec. 15. NEW SECTION. ADOPTION BY COUNTY BOARD. After  
6 receiving the reports of the county committee and other  
7 comments, and after the public hearing, the county board shall  
8 adopt the proposal or any modification of the proposal it  
9 deems appropriate, unless to do so would be inconsistent  
10 with the purposes of this chapter. The proposal as adopted  
11 should include, to the extent feasible, adjacent farmlands  
12 and exclude, to the extent feasible, nonfarmland. The county  
13 board shall act to adopt or reject the proposal, or a  
14 modification of it not later than forty-five days from the  
15 date the proposal was returned by the county committee.

16 An agricultural area shall be subject to the same use  
17 restrictions provided in section 8, subsection 2, of this  
18 Act for agricultural districts.

19 Sec. 16. NEW SECTION. REQUIREMENT THAT DESCRIPTION OF  
20 AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR AND COUNTY  
21 RECORDER. Upon the creation of an agricultural area, its  
22 description shall be filed by the county board with the county  
23 auditor and placed on record in the office of the county  
24 recorder.

25 Sec. 17. NEW SECTION. PETITION FOR WITHDRAWAL. After  
26 three years from the date of the creation of an agricultural  
27 area, a person may submit a petition to the county board  
28 requesting the withdrawal of land from the agricultural area  
29 located within that county. The petition must contain:

30 1. A statement indicating the proposed alternative use  
31 of the land.

32 2. An explanation of the necessity for changing the cur-  
33 rent use.

34 3. An explanation why land outside the agricultural area  
35 is not suitable for the proposed use.

1     Sec. 18. NEW SECTION.   PROCEDURES FOR CONSIDERATION OF  
2     PETITION FOR WITHDRAWAL.

3     1.   Within five days after the receipt of a petition for  
4     withdrawal of land from an agricultural area, the county board  
5     shall provide notice of the petition by publishing and posting  
6     a notice as provided in section 11 of this Act. Copies of  
7     the notice shall also be given to owners of land in or  
8     immediately adjacent to the agricultural area. The notice  
9     shall contain the following information:

10    a.   A statement that a petition for withdrawal of land  
11    from an agricultural area has been filed with the county board  
12    pursuant to this chapter.

13    b.   A statement that the petition will be on file open  
14    to public inspection at the county auditor's office.

15    c.   A brief, narrative description of the location of the  
16    affected land.

17    d.   A statement of the proposed nonagricultural use of  
18    the land.

19    e.   A statement that the petition will be referred to the  
20    county committee and to the regional and county planning com-  
21    missions, if any, for review and comment.

22    f.   A statement that a public hearing will be held within  
23    sixty days on the petition and on the recommendations of the  
24    county committee and of the regional and county planning com-  
25    missions, if any, at a time and place stated in the notice.

26    2.   Within five days after the receipt of a petition for  
27    withdrawal of land from an agricultural area, the county board  
28    shall refer the petition to the county committee, which shall,  
29    within thirty days of its receipt of the petition, report  
30    to the county board its recommendations.

31    3.   Within five days after the receipt of a petition for  
32    withdrawal of land from an agricultural area, the county board  
33    shall refer the petition to the regional and county planning  
34    commissions, if any, which shall, within thirty days of their  
35    receipt of the petition, report to the county board their

1 recommendations concerning the potential effect of the  
2 withdrawal of land from an agricultural area upon the  
3 development patterns and needs of the county and upon the  
4 county's planning objectives.

5     Sec. 19. NEW SECTION. PROCEDURES FOR PUBLIC HEARINGS  
6 ON PETITIONS FOR WITHDRAWAL. The county committee shall hold  
7 a public hearing within sixty days of the receipt of a petition  
8 for withdrawal of land from an agricultural area. The hearing  
9 shall be held at a location readily accessible to the public  
10 and proximate to the affected land and shall be preceded by  
11 at least ten days notice published in a newspaper of general  
12 circulation in the county. The public hearing shall concern  
13 the petition and the recommendations of the county committee  
14 and of the regional and county planning commissions, if any.  
15 The county committee may supplement or modify its recommenda-  
16 tions after the hearing.

17     Sec. 20. NEW SECTION. WITHDRAWAL OF LAND FROM AN AGRI-  
18 CULTURAL AREA.

19     1. Within ninety days after the receipt of a petition  
20 for withdrawal of land from an agricultural area, the county  
21 board shall accept or reject the petition in a written  
22 decision. The county board's decision shall take into account  
23 the review and comment of the county committee and the regional  
24 and county planning commissions, if any, and the public  
25 hearings held concerning the petition.

26     2. The county board shall consider the factors included  
27 in section 13 of this Act in making its decision. Analysis  
28 of the factors must be included in the county board's written  
29 decision.

30     3. A person affected by a decision of the county board  
31 on a petition for withdrawal of land from an agricultural  
32 area may obtain judicial review by filing a petition for  
33 review within thirty-five days after the decision with the  
34 district court of the county.

35     Sec. 21. NEW SECTION. REVIEW OF AGRICULTURAL AREAS BY

1 COUNTY BOARD. The county board shall review any agricultural  
2 area created under this chapter ten years after the date of  
3 its creation and every ten years thereafter. In conducting  
4 a review, the county board shall ask for the recommendations  
5 of the county committee, and shall, at least one hundred  
6 twenty days prior to that anniversary date, require the county  
7 committee to hold a public hearing at a place within the area  
8 or other readily accessible place upon notice being given  
9 in a newspaper having general circulation within the area  
10 or if there is no such newspaper, then in a newspaper having  
11 general circulation within the county, and individual notice  
12 in writing to the persons owning land within the area, and  
13 to any county or regional planning commission. The county  
14 board after receiving the reports of the county committee  
15 and after the public hearing, may terminate the area at the  
16 end of a ten-year period by filing a notice of termination  
17 with the county auditor, or the county board may modify the  
18 area in the same manner as provided in section 11 of this  
19 Act. If the county board does not act, the area shall continue  
20 as originally constituted.

21 Sec. 22. NEW SECTION. PETITION FOR DISSOLUTION. Ten  
22 years after the date of creation of an agricultural area,  
23 owners of land within the area may petition the county board  
24 at any time to dissolve the area. The petition must be  
25 submitted in writing to the county board. If the petition  
26 contains signatures of at least two-thirds of the landowners,  
27 the area shall be dissolved.

28 Sec. 23. NEW SECTION. LIMITATION ON POWER OF CERTAIN  
29 PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT ASSESSMENTS OR SPECIAL  
30 ASSESSMENTS. A political subdivision or benefited district  
31 providing public services such as sewer, water, or lights  
32 or for nonfarm drainage shall not impose benefit assessments  
33 or special assessments on land used for primarily agricultural  
34 production within an agricultural area or in an agricultural  
35 district on the basis of frontage, acreage, or value, unless

1 the benefit assessments or special assessments were imposed  
2 prior to the formation of the agricultural area or agricultural  
3 district, or unless the service is provided to the landowner  
4 on the same basis as others having the service.

5 Sec. 24. NEW SECTION. INCENTIVES FOR AGRICULTURAL LAND  
6 PRESERVATION.

7 1. NUISANCE RESTRICTION. A farm operation located in  
8 an agricultural area or an agricultural district shall not  
9 be found to be a nuisance regardless of the established date  
10 of operation or expansion of the agricultural activities of  
11 the farm operation. This subsection does not apply if the  
12 nuisance results from an activity which is in violation of  
13 an applicable statute, rule, or ordinance. For a feedlot  
14 as defined in chapter 172D, the applicability of rules and  
15 ordinances subject to that chapter shall be as provided in  
16 that chapter. This section does not apply to actions or  
17 proceedings arising from injury or damage to persons or  
18 property caused by the farm operation before the creation  
19 of the agricultural area or agricultural district. This  
20 subsection does not affect or defeat the right of a person  
21 to recover damages for an injury or damage sustained by the  
22 person because of the pollution or change in condition of  
23 the waters of a stream, the overflowing of the person's land,  
24 or the excessive soil erosion onto another person's land.

25 2. WATER PRIORITY. In the application for a permit to  
26 divert, store, or withdraw water and in the allocation of  
27 available water resources under a water permit system, the  
28 Iowa natural resources council shall give priority to the  
29 use of water resources by farm operations, exclusive of  
30 irrigation, located in an agricultural area or an agricultural  
31 district.

32 3. CONDEMNATION LIMITATION. The power of eminent domain  
33 shall not be exercised by the state, its political  
34 subdivisions, a school corporation, a public authority, a  
35 public district or any other public body upon farmland in

1 an agricultural area or an agricultural district without the  
2 consent of the county board.

3 4. ANNEXATION. A city shall not annex land that is in  
4 an agricultural district or an agricultural area.

5 Sec. 25. NEW SECTION. LOCAL GOVERNMENT AUTHORITY. A  
6 city, county, or other unit of local government shall not  
7 exercise any of its powers to enact local laws, ordinances,  
8 or any other rules and regulations within an agricultural  
9 district or agricultural area in a manner which would  
10 unreasonably restrict or regulate farm structures or farm  
11 operations within the district or area in contravention of  
12 the purposes and policies of this chapter unless such  
13 governmental action bears an immediate and compelling  
14 relationship to the public health or safety.

15 Sec. 26. NEW SECTION. STATE REGULATIONS. A rule adopted  
16 by a state agency after the effective date of this Act which  
17 would restrict or regulate farm structures or farm operations  
18 shall not become effective as applied to farm structures or  
19 farm operations within an agricultural district or agricultural  
20 area unless prior to the adoption of the rule the agency finds  
21 both of the following:

22 1. That the activity to be regulated within the district  
23 or area has a substantial deleterious effect outside of the  
24 district or area.

25 2. That the need for the application of the rule within  
26 the district or area outweighs the policies of this chapter,  
27 which include the encouragement of exclusively agricultural  
28 activities within the district or area at a level of intensity  
29 that would not be tolerated outside the district or area.

30 In addition to the right of an interested person granted  
31 in chapter 17A to request the agency to issue a concise  
32 statement of the principal reasons for and against the rule  
33 it adopted, a resident or owner of land in an agricultural  
34 district or area may request the agency to include in that  
35 concise statement the findings required for application within

1 an agricultural district or area and the principal reasons  
2 used by the agency in making the findings.

3 Sec. 27. Section 358A.2, Code 1981 Supplement, is amended  
4 to read as follows:

5 358A.2 FARMS EXEMPT. No ordinance adopted under this  
6 chapter applies to land, farm houses, farm barns, farm  
7 outbuildings or other buildings or structures which are  
8 primarily adapted, by reason of nature and area, for use for  
9 agricultural purposes, while so used. However, the ordinances  
10 may apply to any structure, building, dam, obstruction, deposit  
11 or excavation in or on the flood plains of any river or stream.  
12 Ordinances may also apply in agricultural districts and  
13 agricultural areas to the extent required to implement sections  
14 8 and 15 of this Act.

15 Sec. 28. Section 358A.5, unnumbered paragraph 1, Code  
16 1981 Supplement, is amended to read as follows:

17 ~~Such~~ The regulations shall be made in accordance with a  
18 comprehensive plan and designed to preserve the availability  
19 and productivity of agricultural land; to discourage urban  
20 sprawl and encourage efficient urban development patterns;  
21 to lessen congestion in the street or highway; to secure  
22 safety from fire, flood, panic, and other dangers; to protect  
23 health and the general welfare; to provide adequate light  
24 and air; to prevent the overcrowding of land; to avoid undue  
25 concentration of population; to promote the conservation of  
26 energy resources; to promote reasonable access to solar energy;  
27 and to facilitate the adequate provision of transportation,  
28 water, sewerage, schools, parks and other public requirements.  
29 However, provisions of this section relating to the objectives  
30 of energy conservation and access to solar energy shall not  
31 be construed as voiding any zoning regulation existing on  
32 July 1, 1981, or to require zoning in a county that did not  
33 have zoning prior to July 1, 1981.

34 Sec. 29. Section 414.3, unnumbered paragraph 1, Code 1981,  
35 as amended by Acts of the Sixty-ninth General Assembly, 1981

1 Session, chapter 125, section 2, is amended to read as follows:

2 ~~Such~~ The regulations shall be made in accordance with a  
3 comprehensive plan and designed to preserve the availability  
4 and productivity of agricultural land; to discourage urban  
5 sprawl and encourage efficient urban development patterns;  
6 to lessen congestion in the street; to secure safety from  
7 fire, flood, panic, and other dangers; to promote health and  
8 the general welfare; to provide adequate light and air; to  
9 prevent the overcrowding of land; to avoid undue concentra-  
10 tion of population; to promote the conservation of energy  
11 resources; to promote reasonable access to solar energy; and  
12 to facilitate the adequate provision of transportation, water,  
13 sewerage, schools, parks, and other public requirements.  
14 However, provisions of this section relating to the objectives  
15 of energy conservation and access to solar energy ~~shall~~ do  
16 ~~not be construed as voiding~~ void any zoning regulation existing  
17 ~~on the effective date of this Act~~ July 1, 1981, or ~~to~~ require  
18 zoning in a city that did not have zoning prior to ~~the~~  
19 ~~effective date of this Act~~ July 1, 1981.

20 Sec. 30. This Act does not invalidate any part of a zoning  
21 ordinance which is in effect on the effective date of this  
22 Act, or require the adoption of a zoning ordinance by any  
23 subdivision of the state. To the extent that a provision  
24 in a zoning ordinance in effect on the effective date of this  
25 Act would, in an individual instance, discourage the  
26 availability or productivity of agricultural land, encourage  
27 urban sprawl, or discourage efficient urban development  
28 patterns, the board of adjustment may, where consistent with  
29 the public interest, grant variances to achieve the purposes  
30 of this Act.

31 EXPLANATION

32 This bill establishes a procedure for the development of  
33 a recommendation to the general assembly for a state land  
34 use policy. The bill establishes a commission in each county  
35 composed of representatives from the board of supervisors,

1 the mayors and councilpersons, and the soil conservation com-  
2 missioners.

3 The county commission is required to compile a land use  
4 inventory for the county containing certain elements listed  
5 in section 7. After holding a public hearing on the inventory,  
6 the county commission transmits it to the board of supervisors  
7 which forwards it, after approval, to the state land use  
8 coordinating council. The state council is composed of repre-  
9 sentatives from state agencies dealing primarily with natural  
10 resources. After evaluating the county inventories the state  
11 council makes a recommendation to the general assembly.

12 Section 8 authorizes counties to establish agricultural  
13 districts through zoning ordinances. If the ordinances meet  
14 the minimum standards provided in the section, the district  
15 will qualify for the protections and benefits provided later  
16 in the bill.

17 Sections 9 through 22 provide the procedure by which  
18 counties can establish, review, modify and terminate agricul-  
19 tural areas upon the petition of landowners. Agricultural  
20 areas committees are established to advise the county board  
21 of supervisors in these matters.

22 Sections 23 through 26 provide certain benefits and protec-  
23 tions for agricultural districts and agricultural areas.  
24 Limitations are placed upon special assessments, availability  
25 of nuisance actions, condemnation and the applicability of  
26 state and local regulation. Annexation is prohibited and  
27 a water use priority is provided for agricultural districts  
28 and agricultural areas.

29 Sections 27 through 30 amend the zoning statutes to allow  
30 application to farm structures to the extent necessary to  
31 establish agricultural districts or areas and to provide the  
32 preservation of agricultural land as a zoning purpose.

33 The bill takes effect July 1 following enactment.

34

35

SENATE FILE 2218  
FISCAL NOTE

REQUESTED BY SENATOR SCHWENGELS

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 2218 pursuant to Joint Rule 16.

SF 2218 is an Act relating to the uses of land in this state by requiring inventories by county organizations, authorizing agricultural use ordinance and agricultural areas, and providing for the restriction of certain proceedings and assessments.

The fiscal impact of SF 2218 will occur at both the local and state level. Costs will be incurred at both levels in compiling and evaluating the required county inventories. The local and state costs will briefly be examined in this fiscal note, further analysis of associated cost is available from the fiscal bureau.

State Costs

\$75,000 to \$100,000

for the state agricultural extension service to assist county commissions with technical, informational, and clerical assistance.

\$92,000

for the department of soil conservation to provide clerical assistance to the state council.

Possible State & Local Costs

Up to \$98,366.40

in costs to district soil conservation commissions, county boards, and cities. This funding would be needed to provide reimbursement for expenses incurred in the performance of duties of the nine members appointed in each county to serve as the county land use commission.

SENATE 13  
MARCH 11, 1982

SENATE FILE 2218  
FISCAL NOTE - PAGE 2

The second area of possible state and local costs is in the compiling of county inventories. Many variables go into the cost of compiling the inventories, these include:

1. The advisory guidelines for county inventories established by the state council will determine how much effort by each county will be required.
2. The amount of information required on inventories which is already available and compiled from state agencies.
3. The various kind of work and expertise which individual counties have related to inventories.
4. The extent to which the state agricultural extension service with technical, informational, and clerical assistance will cover the costs of the inventories.

The cost of compiling the inventories could only be calculated on an individual county basis.

SOURCE: DEPT. OF SOIL CONSERVATION  
STATE AGRICULTURAL EXTENSION SERVICE  
OFFICE FOR PLANNING AND PROGRAMMING

FILED:  
MARCH 10, 1982

BY GERRY RANKIN, FISCAL DIRECTOR

SENATE FILE 2218  
FISCAL NOTE

REQUESTED BY SENATOR MURRAY

In compliance with a written request there is hereby submitted a Fiscal Note for Amendment S-5325 amended by S-5347 to Senate File 2218 pursuant to Joint Rule 16.

Amendment S-5325 as amended by S-5347 to Senate File 2218 strikes everything after the enacting clause and inserts new language. These amendments relate to the uses of land in the state by requiring inventories and plans by county organizations, providing for the use of information already compiled, and providing for a state land preservation council to help and establish guidelines for the county organizations.

The fiscal impact of this amendment will occur at both the state and local level. Cost will be incurred at both levels in compiling and evaluating the required county inventories and plans.

State Costs: \$100,000 to \$150,000 for state agricultural extension service to assist county commissions with technical, informational, and clerical assistance. This would be the cost to the agricultural extension service over the period required to generate the inventories and guidelines.

\$ 92,000 for the department of soil conservation to provide clerical assistance to the state council. This would be an annual cost over the life of the state council.

Possible State & Local Costs:

Up to \$100,000 in costs for agricultural extension services, district soil conservation commissioners, county boards, and cities. This funding would be needed to provide reimbursement for expenses incurred in the performance of duties of the five-members appointed in each county to serve as the county land preservation commission.

The second area of possible state and local costs is in compiling the county inventories and the county plan. Many variables go into the cost of compiling the inventories and plans, these include:

1. The advisory guidelines for the county inventories and plans established by the state council will determine how much effort by each county will be required.
2. The extent to which the state agricultural extension service responsibility for technical, informational and clerical assistance will cover the costs of the inventories and plans.
3. The amount of information required on inventories which is already available and compiled from state agencies.
4. The various kinds of work and expertise which individual counties have related to inventories.

The cost of compiling the inventories could be calculated on an individual county basis.

SOURCES: DEPARTMENT OF AGRICULTURE, STATE AGRICULTURAL EXTENSION SERVICE, OFFICE FOR PLANNING AND PROGRAMMING

FILED:  
MARCH 24, 1982

BY GERRY RANKIN, FISCAL DIRECTOR

SENATE FILE 2218

S-5221

1 Amend Senate File 2218 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:

4 "Section 1. NEW SECTION. DEFINITIONS. As used  
5 in this Act unless the context requires otherwise:

6 1. "Board" means the county board of supervisors.

7 2. "Committee" means a committee which the board  
8 has created under section 3 of this Act.

9 3. "Environmental statement" means an analytical  
10 rather than an encyclopedic document which describes  
11 the proposed action in detail, analyzes its significant  
12 environmental impact, discusses appropriate  
13 alternatives to the proposed action and their  
14 alternatives and explores methods by which adverse  
15 environmental impacts of an action could be mitigated.  
16 The environmental statement shall also analyze those  
17 economic, employment, and sociological effects that  
18 cannot be avoided if the action is implemented.

19 Sec. 2. NEW SECTION. STATEMENT REQUIRED.

20 1. Prior to changing a use of land in a county,  
21 the person proposing the change must submit an  
22 environmental statement regarding the change to the  
23 board and receive approval for the change. This  
24 section applies to proposed changes in the use of  
25 land within cities as well as outside of cities in  
26 the county.

27 2. A change in the use of land requiring the  
28 filing and approval of an environmental statement  
29 is a change which causes the use of land to be changed  
30 from one of the following categories to another:

31 a. Agricultural.

32 b. Residential.

33 c. Commercial.

34 d. Industrial.

35 e. Other.

36 3. The board by resolution may define the activi-  
37 ties included in each category or may add additional  
38 categories or subcategories requiring the filing and  
39 approval of the environmental statement.

40 4. The board by resolution shall establish the  
41 requirements for the content of the environmental  
42 statement consistent with the definition provided  
43 in section 1 of this Act.

44 5. The cessation of an activity on a parcel of  
45 land does not in itself constitute a change in the  
46 use of the land and the land shall remain in the same  
47 category of use until a change is affirmatively  
48 proposed.

49 Sec. 3. NEW SECTION. APPROVAL OF STATEMENT.

50 1. The board by resolution shall establish

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PAGE 2

1 procedures for the submission and approval of  
2 environmental statements.

3 2. The board may delegate the approval of  
4 environmental statements to a committee composed of  
5 one supervisor, one person engaged in farming and  
6 one other citizen of the county all appointed by the  
7 board, a soil conservation district commissioner  
8 appointed by the commissioners of the county, and  
9 a mayor appointed by the mayors of the cities in the  
10 county.

11 *Sec 4* Sec. 4. NEW SECTION. ENFORCEMENT. If a change  
12 in use of a parcel of land is initiated in violation  
13 of section 2 of this Act, the board may direct the  
14 county attorney to seek an order of the district court  
15 for the county enjoining the activity."

16 2. Amend the title, by striking lines 1 through 4,  
17 and inserting in lieu thereof the words "An Act to  
18 require the filing of a statement prior to change  
19 in land use and its approval by the county government."

S-5221 FILED  
MARCH 10, 1982

BY BERL E. PRIEBE

*Letter 3/15 (p 741)*

SENATE FILE 2218

S-5185

1 Amend Senate File 2218 as follows:  
2 1. Page 6, by striking line 25 through Page 7,  
3 line 4, and inserting in lieu thereof the following:  
4 "agricultural districts to farm operations."

S-5185 FILED  
MARCH 3, 1982

BY JAMES V. GALLAGHER

*Placed out of order 3/24 (p. 885)*

SENATE FILE 2218

REQUESTED BY SENATOR HULTMAN FISCAL NOTE

In compliance with a written request there is hereby submitted a Fiscal Note for Amendment S-5227 to Senate File 2218 pursuant to Joint Rule 16.

Amendment S-5227 to S.F. 2218 strikes everything after the enacting clause and inserts new language. This amendment relates to the uses of land in this state by requiring inventories and land preservation plans by county organizations, and providing for a state land preservation council to help and establish guidelines for the county organizations.

The final impact of this amendment will occur at both the state and local level. Cost will be incurred at both levels in compiling and evaluating the required county inventories and plans.

State Costs

\$100,000 to \$150,000 for the state agricultural extension service to assist county commissions with technical, informational, and clerical assistance.

\$ 92,000 for the department of soil conservation to provide clerical assistance to the state.

Possible State&Local Costs

Up to \$100,000 in costs for agricultural extension services, district soil conservation commissioners, county boards, and cities. This funding would be needed to provide reimbursement for expenses incurred in the performance of duties of the five officers appointed in each county to serve as the county land preservation commission.

The second area of possible state and local costs is in compiling the county inventories and the county plan. Many variables go into the cost of compiling the inventories and plans, these include:

1. The advisory guidelines for the county inventories and plans established by the state council will determine how much effort by each county will be required.
2. The extent to which the state agricultural extension service responsibility for technical, informational and clerical assistance will cover the costs of the inventories and plans.
3. The amount of information required on inventories which is already available and compiled from state agencies.
4. The various kind of work and expertise which individual counties have related to inventories.

The cost of compiling the inventories could be calculated on an individual county basis.

SOURCES: DEPT OF AGRICULTURE, STATE AGRICULTURAL  
EXTENSION SERVICE, OFFICE FOR PLANNING  
AND PROGRAMMING

RECEIVED BY THE SECRETARY OF THE SENATE, MARCH 22, 1982

FILED:  
MARCH 23, 1982

BY GERRY RANKIN, FISCAL DIRECTOR

S-5227

1 Amend Senate File 2218 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:

4 "Section 1. Chapter 93A, Code 1981, is amended  
5 by striking the chapter and inserting in lieu thereof  
6 sections 2 through 8 of this Act.

7 Sec. 2. NEW SECTION. PURPOSE. It is the intent  
8 of the general assembly to provide for the development  
9 of land preservation policy recommendations for the  
10 consideration of the general assembly through a process  
11 that emphasizes the participation and recommendations  
12 of citizens and local governments. The general  
13 assembly intends to provide for the development of  
14 recommendations which will provide for the orderly  
15 use and development of land and related natural  
16 resources in Iowa, preserve private property rights,  
17 preserve the use of agricultural land for agricultural  
18 production, preserve and guide the development of  
19 critical areas, key facilities, and large-scale  
20 development, and provide for the future housing,  
21 commercial, industrial, and recreational needs of  
22 the state.

23 Sec. 3. NEW SECTION. DEFINITIONS. As used in  
24 this chapter unless the context otherwise requires:

25 1. "County commission" means the county land  
26 preservation commission.

27 2. "State council" means the state land  
28 preservation council.

29 3. "Critical area" means any fragile or historic  
30 lands or sites, natural hazard lands, or renewable  
31 resource lands where substantial evidence indicates  
32 that the uncontrolled or incompatible development  
33 could result in damage to the environment, life, or  
34 property or the long-term public interest.

35 4. "Fragile or historic lands" means areas where  
36 uncontrolled or incompatible development could result  
37 in irreversible damage to important historic, cultural,  
38 scientific, or aesthetic values or natural systems  
39 which are of more than local significance including  
40 shorelands of rivers, lakes, and streams, rare or  
41 valuable ecosystems and geological formations,  
42 significant wildlife habitats, and unique scenic or  
43 historic sites.

44 5. "Natural hazard lands" means areas where  
45 uncontrolled or incompatible development could  
46 unreasonably endanger life and property including  
47 flood plains and areas frequently subject to weather  
48 disasters, and areas of unstable geological formations.

49 6. "Renewable resource lands" means areas where  
50 uncontrolled or incompatible development which results

1 in the loss or reduction of continued long-range  
2 productivity could endanger future water, food, and  
3 fiber requirements of more than local concern including  
4 watershed lands, aquifers and aquifer recharge areas,  
5 and forest lands.

6 7. "Key facility" means a public facility which  
7 is expected to result in development and urbanization  
8 exceeding local impact, including but not limited  
9 to major airports, major highway interchanges including  
10 interchanges with frontage roads, access streets and  
11 other limited access highways, major recreational  
12 land and facilities, and major facilities for the  
13 development, generation, or transmission of energy.

14 8. "Large-scale development" means any private  
15 development which is likely to generate issues of  
16 more than local significance because of its magnitude  
17 or because of its location with respect to its  
18 surroundings.

19 Sec. 4. NEW SECTION. STATE COUNCIL ESTABLISHED.

20 1. A state land preservation council is created.  
21 The state council is composed of the following:

22 a. The administrative heads of the department  
23 of agriculture, department of soil conservation, and  
24 Iowa development commission or that person's designee  
25 from the respective agency.

26 b. Two persons appointed by the governor, one  
27 from a city of under ten thousand population and one  
28 from a city of ten thousand or more population.

29 c. Six soil conservation district commissioners,  
30 one elected from each congressional district. The  
31 commissioners of each district shall elect one  
32 commissioner to attend a congressional district  
33 convention. The convention shall elect one of the  
34 commissioners serving as a delegate to the convention  
35 to serve on the state council.

36 2. The term of office for a member of the state  
37 council under paragraphs b and c of subsection 1 is  
38 three years.

39 3. The chairperson and vice chairperson of the  
40 temporary state land preservation policy commission  
41 or their designees shall be members of the state  
42 council for the first three years of its existence.

43 4. Members of the state council who are not state  
44 employees shall receive compensation of forty dollars  
45 per diem and each member of the state council is  
46 entitled to reimbursement from the state for travel  
47 and other necessary expenses incurred in the  
48 performance of the member's official duties.

49 Sec. 5. NEW SECTION. COUNTY COMMISSIONS ES-  
50 TABLISHED.

1 1. In each county a county land preservation  
2 commission is created composed of the following  
3 members:  
4 a. One member appointed by and from the county  
5 agricultural extension council.  
6 b. Two members appointed by the district soil  
7 conservation commissioners, one of whom must be a  
8 member of the district soil conservation commission  
9 and one must be a person who is not a commissioner,  
10 but is actively operating a farm in the county.  
11 c. One member appointed by the board of supervisors  
12 from the residents of the county who may be a member  
13 of the board.  
14 d. One member appointed by and from a convention  
15 of the mayors and councilpersons of the cities of  
16 the county. If a participating city contains fifty  
17 percent or more of the total population of the  
18 participating cities, that city may appoint the member  
19 appointed under this paragraph.  
20 However, if a city contains more than fifty percent  
21 of the population of a county which has a population  
22 exceeding fifty thousand persons, that city shall  
23 not participate in the convention of mayors and  
24 councilpersons and the members appointed under this  
25 paragraph shall be one member appointed by and from  
26 the mayor and councilpersons of that city and one  
27 member appointed by and from the convention of mayors  
28 and councilpersons and the member appointed under  
29 paragraph c of this subsection shall be a resident  
30 of the county engaged in actual farming operations  
31 appointed by the board of supervisors.  
32 2. The county commission shall meet and organize  
33 by the election of a chairperson and vice chairperson  
34 from among its members. A majority of the members  
35 of the county commission constitutes a quorum and  
36 the concurrence of a quorum is required to determine  
37 any matter relating to its official duties.  
38 3. The state agricultural extension service shall  
39 assist county commissions with technical,  
40 informational, and clerical assistance.  
41 4. A vacancy in the county commission shall be  
42 filled in the same manner as the appointment of the  
43 member whose position is vacant.  
44 5. The term of office for the county commission  
45 is three years. The terms shall commence on the  
46 effective date of this Act.  
47 Sec. 6. NEW SECTION. COUNTY INVENTORIES.  
48 1. The state council shall meet and organize by  
49 the election of a chairperson and vice chairperson  
50 from among its members. A majority of the members

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Page 4

1 of the state council constitutes a quorum and the  
2 concurrence of a quorum is required to determine any  
3 matter relating to its official duties.

4 2. The Iowa development commission shall provide  
5 clerical staff to the state council.

6 3. The state council shall establish advisory  
7 guidelines for the development of county inventories.  
8 The guidelines shall inform the county commissions  
9 of the information to be included in the inventories  
10 and what part of that information is available from  
11 state agencies. The county inventories shall contain  
12 at least the following:

13 a. The amount of land available and used for  
14 agricultural purposes by soil suitability  
15 classifications.

16 b. The amount of woodlands.

17 c. The amount of land used for recreation.

18 d. The amount of historical sites.

19 e. The amount of land available within cities  
20 for development.

21 f. The amount of land which has been converted  
22 from one type of use to another since 1960, including,  
23 but not limited to, those uses stated in paragraphs  
24 a through e.

25 g. The amount of land or building lots presently  
26 platted within city limits that are not occupied by  
27 buildings or inhabited structures.

28 4. The county commissions shall compile county  
29 inventories and submit them to the state council.  
30 The state council may request additional information  
31 from a county commission after submission of the  
32 inventory.

33 5. The state council shall compile the inventories  
34 submitted by the county commissions into a statewide  
35 inventory.

36 Sec. 7. NEW SECTION. COUNTY PLANS.

525237 1. The state council shall develop comprehensive  
52538 guidelines for the development of county land  
39 preservation plans based on the report of the temporary  
40 state land preservation policy commission and other  
41 information deemed appropriate by the state council.  
42 The guidelines shall establish minimum requirements  
43 for the plans and identify subjects to be addressed  
44 in the plans.

45 2. The state council shall assist the county  
46 commissions in obtaining information for use in  
47 compiling the county inventories and in preparing  
48 the county land preservation plan.

49 3. At least once each year the state council shall  
50 review the land preservation policy guidelines and

- 1 may amend the guidelines as it deems appropriate.
- 2 4. Each county commission shall submit to the  
3 state council a comprehensive land preservation plan  
4 in accordance with the guidelines established by the  
5 state council.
- 6 5. Within sixty days of receipt, the state council  
7 shall either approve the plan or reject the plan as  
8 incomplete or not meeting the guidelines. The plan  
9 shall be returned to the county commission and, if  
10 rejected, shall be amended and resubmitted within  
11 sixty days to the state council. The procedure of  
12 this subsection shall be followed until the plan is  
13 approved by the state council.
- 14 6. After the plan is approved by the state council  
15 the county commission shall cause the question of  
16 approval of the plan to be placed on the ballot of  
17 the next available countywide election.
- 18 7. If the plan is approved by a majority of the  
19 voters of the county, it becomes the land preservation  
20 policy of the county and shall be administered and  
21 enforced by the county commission.
- 22 8. The county commission shall review the county  
23 plan periodically for the purpose of amending it as  
24 the county commission deems appropriate subject to  
25 approval by the voters of the county.
- 26 Sec. 8. NEW SECTION. ADMINISTRATIVE PROCEDURES.  
27 To allow for timely promulgation of guidelines by  
28 the state council in accordance with the schedule  
29 provided by section 9 of this Act, the state council  
30 may adopt guidelines under section 17A.4, subsection  
31 2 and section 17A.5, subsection 2, paragraph b.
- 32 Sec. 9. NEW SECTION. SCHEDULE. The general  
33 assembly intends that the state council and county  
34 commissions meet the following schedule:
- 35 1. The soil conservation commissioners are elected  
36 to the state council on or about July 15, 1982.
- 37 2. State council organizes on or about August  
38 15, 1982.
- 39 3. State council adopts inventory guidelines by  
40 November 15, 1982.
- 41 4. County commissions submit inventories to the  
42 council by March 15, 1983.
- 43 5. State council adopts plan guidelines by May  
44 15, 1983.
- 45 6. County commissions submit plans to the state  
46 council by September 1, 1983.
- 47 7. State council returns approved plans to the  
48 county commissions by November 1, 1983.
- 49 Sec. 10. Section 358A.8, Code 1981, is amended  
50 by adding the following new unnumbered paragraph:

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PAGE 6

1 NEW UNNUMBERED PARAGRAPH. In lieu of appointing  
2 a zoning commission as provided in this section, the  
3 county board of supervisors may designate the county  
4 land preservation commission established by section  
5 5 of this Act to exercise the powers and duties of  
6 the county zoning commission.

7 Sec. 11. For the initial terms of the soil  
8 conservation district commissioners elected to the  
9 state council, the commissioners from the first and  
10 fourth congressional districts shall have terms of  
11 one year, those from the second and fifth congres-  
12 sional districts shall have terms of two years, and  
13 those from the third and sixth congressional districts  
14 shall have terms of three years. For the initial  
15 terms of the members of the county commissions  
16 appointed under section 5, subsection 1, of this Act,  
17 the member appointed under paragraph a shall have  
18 a term of one year, the members appointed under  
19 paragraph b shall have terms of two and three years  
20 determined by lot, and the members appointed under  
21 paragraphs c and d shall have terms of three years."

22 2. Title, by striking lines 1 through 4 and  
23 inserting in lieu thereof the following: "An Act  
24 to provide for a state council and county commissions  
25 to study the preservation of land and the adoption  
26 of a land preservation plan at the county level."

S-5227 FILED

MARCH 10, 1982

BY ARNE WALDSTEIN

JULIA B. GENTLEMAN

ELVIE DREESZEN

ARTHUR L. GRATIAS

NORMAN G. RODGERS

*Lost 3/15 (p 139)*

*motion to reconsider prevailed (p 742)*

*Placed out of order 3/24 (p 885)*

S-5236

1 Amend Senate File 2218 as follows:

2 1. By striking page 6, line 17 through page 7,  
3 line 4 and inserting in lieu thereof the following:

4 "Sec. 8. NEW SECTION. AGRICULTURAL DISTRICTS.

5 A county may establish agricultural districts by  
6 adopting ordinances under chapter 358A. The ordinances  
7 must be consistent with those county land use  
8 recommendations that have been adopted by the county  
9 board under section 6 of this Act. Except as provided  
10 below, agricultural districting ordinances shall limit  
11 the use of the land in agricultural districts to farm  
12 operations.

13 1. The following shall be permitted in an  
14 agricultural district:

15 a. Residences constructed for occupation by a  
16 person, or by a family having at least one member  
17 who earns a substantial part of his or her livelihood  
18 from farm operations on the parcel, or by a parent  
19 or child of that farm operator. Nonconforming pre-  
20 existing residences may be continued in residential  
21 use.

22 b. Property of a telephone company, city utility  
23 as defined in section 390.1, or public utility as  
24 defined in section 476.1.

25 c. Public or private elementary or secondary  
26 schools.

27 d. Churches.

28 e. Sanitary disposal projects authorized pursuant  
29 to chapter 455B of the Code.

30 2. The county board of supervisors may permit  
31 a use not listed in subsection 1 in an agricultural  
32 district only if it finds that use meets all of the  
33 following conditions:

34 a. The use is not inconsistent with the purposes  
35 set forth in section 2 of this Act.

36 b. The use does not interfere seriously with farm  
37 operations within the districts.

38 c. The use does not materially alter the stability  
39 of the overall land use pattern in the area."

40 2. Page 10, line 17, by striking the words "  
41 subsection 2,".

S-5236 FILED  
MARCH 11, 1982

*Placed out of order 5/24 (p 885)*

BY DICK RAMSEY  
BILL HUTCHINS  
LUCAS DE KOSTER  
LOWELL JUNKINS

SENATE FILE 2218

S-5231

1 Amend Senate File 2218 as follows:

- 2 1. Page 14, by striking lines 11 through 16 and  
3 inserting in lieu thereof the following: "the farm  
4 operation. This subsection does not apply if the  
5 nuisance results from the negligent operation of the  
6 farm. This section does not apply to actions or".

S-5231 FILED

MARCH 11, 1982

*Placed out of order 3/24 (p. 885)*

BY BASS VAN GILST

FORREST SCHWENGELS

SENATE FILE 2218

S-5232

1 Amend Senate File 2218 as follows:

- 2 1. Page 3, line 5, by striking the words "and  
3 from".  
4 2. Page 3, line 7, by striking the words "and  
5 from".  
6 3. Page 3, line 8, by striking the words "and  
7 from".  
8 4. Page 3, line 18, by striking the words "and  
9 from".  
10 5. Page 3, line 19, by striking the words "and  
11 from".

S-5232 FILED

MARCH 11, 1982

*Placed out of order 3/24*

BY JOHN W. JENSEN

## SENATE FILE 2218

S-5237

1 Amend Senate File 2218 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:  
4 "Section 1. NEW SECTION. LEGISLATIVE POLICY.  
5 It is a policy of this state to preserve the  
6 availability and productivity of agricultural land,  
7 to discourage urban sprawl and encourage efficient  
8 urban development patterns, to designate and preserve  
9 critical areas and designate and control key facilities  
10 and large scale developments, to promote efficient  
11 use and conservation of energy, to preserve private  
12 property rights, and to establish the state policy  
13 for the guidance and direction of state agencies in  
14 the use of land.

15 Sec. 2. NEW SECTION. DEFINITIONS. As used in  
16 sections 1 through 9 of this Act unless the context  
17 otherwise requires:

18 1. "Department" means the department of soil  
19 conservation.

20 2. "State commission" means the state land  
21 preservation commission.

22 3. "County commission" means a county land  
23 preservation commission.

24 4. "State critical area" means an area where  
25 substantial evidence indicates that uncontrolled or  
26 incompatible development could result in damage to  
27 the environment, life, or property, or an area where  
28 the long-term public interest is of more than local  
29 significance. Such areas shall include but not  
30 necessarily be limited to:

31 a. "Fragile or historic lands" where uncontrolled  
32 or incompatible development could result in  
33 irreversible damage to important historic, cultural,  
34 scientific, or aesthetic values or natural systems  
35 which are of more than local significance including  
36 open spaces, wilderness areas, greenbelts, shorelands  
37 of rivers, lakes, and streams, rare or valuable  
38 ecosystems and geological formations, significant  
39 wildlife habitats, and unique scenic or historic  
40 sites.

41 b. "Natural hazard lands" where uncontrolled or  
42 incompatible development could unreasonably endanger  
43 life and property including flood plains and areas  
44 frequently subject to weather disasters, and areas  
45 of unstable geological formations.

46 c. "Renewable resource lands" where uncontrolled  
47 or incompatible development which results in the loss  
48 or reduction of continued long-range productivity  
49 could endanger future water, food, and fiber  
50 requirements of more than local concern including

1 watershed lands, aquifers and aquifer recharge areas,  
2 and forest lands.

3 5. "Key facility" means a public facility which  
4 is expected to result in development and urbanization  
5 exceeding local impact, including but not limited  
6 to major airports, major highway interchanges including  
7 interchanges with frontage roads, access streets and  
8 other limited access highways, major recreational  
9 land and facilities, and major facilities for the  
10 development, generation, or transmission of energy.

11 6. "Large-scale development" means any private  
12 development likely to generate issues of more than  
13 local significance because of its magnitude or because  
14 of its location with respect to its surroundings.

15 7. "Local critical area" means any fragile or  
16 historic lands or sites, natural hazard lands,  
17 renewable resource lands of local significance, or  
18 open spaces of local significance, designated by a  
19 city or county, where evidence indicates that  
20 development could result in damage to the environment,  
21 life, or property, or adversely affect the public  
22 interest or well-being, and which is not designated  
23 as a state critical area. Such areas shall include  
24 but not be limited to wetlands, wilderness areas,  
25 wildlife areas, greenbelts or other open spaces,  
26 historical sites, and flood plains.

27 8. "Special district" means a benefited water  
28 district, a rural water district, a benefited fire  
29 district, a benefited street lighting district, school  
30 district, sanitary district, or a solid waste disposal  
31 project established pursuant to part 1, division IV  
32 of chapter 455B.

33 9. "Land use" means all activities, occupations,  
34 practices, and utilization of space, including ground  
35 space, water, subsurface, and air space.

36 10. "Land use planning" means the art, science,  
37 and process of arranging ground space, and its  
38 accompanying activity patterns, structures, systems,  
39 and functions so as to adapt it most economically,  
40 functionally, and gracefully to the diverse present  
41 and anticipated future activities and occupations  
42 of civilized man.

43 11. "Land use policy" means a definite course  
44 of action selected after evaluation of alternative  
45 courses in order to effectuate wise and prudent  
46 decisions for the use of land.

47 12. "Land use guideline" means a statement of  
48 the criteria, standards, specifications, and procedures  
49 to be used in developing land use policy.

50 13. "Land use goal or objective" means a broad

1 statement of ideals, aims, and desired results of  
2 land use planning and policy projected as far as  
3 possible into the future.

4 14. "Comprehensive plan" means a document or  
5 documents in map, text, tabular, chart, or similar  
6 form which illustrates land use goals or objectives  
7 and which is used as a tool in present and future  
8 land use decision-making.

9 15. "Urban sprawl" means the irregular and  
10 uncontrolled development of urban land uses without  
11 regard to land use planning as defined in this section.

12 16. "Agricultural land" means land which is  
13 suitable as determined by soil surveys and other land  
14 capability information, for farming purposes.  
15 Agricultural land includes land which is not used  
16 for farming purposes but which is suitable for, and  
17 can be economically converted to, farming purposes.

18 Sec. 3. NEW SECTION. COUNTY COMMISSION  
19 ESTABLISHED.

20 1. There is created a county land preservation  
21 policy commission composed of the following members:

22 a. Three members appointed by and from the district  
23 soil conservation commissioners.

24 b. Three members appointed by and from the county  
25 board of supervisors.

26 c. Three members appointed by and from a convention  
27 of the mayors and councilpersons of the cities of  
28 the county. If a participating city contains fifty  
29 percent or more of the total population of the  
30 participating cities, that city may appoint two of  
31 the members appointed under this paragraph.

32 However, if a city contains more than one-half  
33 of the population of a county which has a population  
34 exceeding fifty thousand persons, that city shall  
35 not participate in the convention of mayors and  
36 councilpersons and the members appointed under this  
37 paragraph shall be three members appointed by and  
38 from the mayor and councilpersons of that city and  
39 three members appointed by and from the convention  
40 of mayors and councilpersons and the members appointed  
41 under paragraph b of this subsection shall be three  
42 county supervisors or township trustees of the county  
43 engaged in actual farming operations appointed by  
44 the board of supervisors and who shall be chosen first  
45 from those supervisors who are engaged in actual  
46 farming operations.

47 2. The convention of the mayors and councilpersons  
48 shall be organized by the board of supervisors. The  
49 members of the county commission shall serve terms  
50 of three years. A vacancy shall be filled in the

1 same manner as the original appointment.

2 3. The county commission shall annually meet to  
3 organize and elect a chairperson and vice chairperson  
4 from among its members. A majority of the members  
5 of the county commission shall constitute a quorum  
6 and the concurrence of a quorum shall be required  
7 to determine any matter relating to its official  
8 duties. Each member of the county commission shall  
9 be entitled to receive reimbursement for travel and  
10 other necessary expenses incurred in the performance  
11 of the member's official duties. The reimbursement  
12 shall be made from state funds appropriated for this  
13 purpose.

14 4. The state agricultural extension service shall  
15 assist county commissions with technical,  
16 informational, and clerical assistance.

17 Sec. 4. NEW SECTION. STATE COMMISSION ESTABLISHED.

18 1. The state commission shall consist of six  
19 members elected from conventions and three members  
20 appointed by the governor. Prior to the convention  
21 the members of the county commission shall appoint  
22 one-third of its membership to attend the convention.  
23 One member shall be appointed by the county  
24 commissioners appointed by county supervisors, one  
25 by those appointed by district soil conservation  
26 commissioners, and one for each three members appointed  
27 by mayors and councilpersons shall be appointed by  
28 and from those members. The county commissioners  
29 appointed to the convention from the second, third,  
30 and sixth congressional districts shall meet in one  
31 convention and those from the first, fourth, and fifth  
32 congressional districts shall meet in one convention.  
33 At each convention the members appointed by county  
34 supervisors, by district soil conservation  
35 commissioners, and by mayors and councilpersons shall  
36 each meet separately and elect one county commissioner  
37 appointed as they were to the state commission. After  
38 the convention the governor shall appoint three county  
39 commissioners to the state commission, one from those  
40 appointed by the board of supervisors, one from those  
41 appointed by district soil conservation commissioners,  
42 and one from those appointed by the mayors and  
43 councilpersons. The department shall provide  
44 assistance in making the arrangements for the  
45 conventions. Each member of each county commission  
46 present shall have one vote at the convention.

47 2. The state commission shall convene and organize  
48 by the election from its members of a chairperson  
49 and a vice chairperson. A majority of the members  
50 of the state commission shall constitute a quorum

1 and the concurrence of a quorum shall be required  
2 to determine any matter relating to its official  
3 duties. Each member of the state commission is  
4 entitled to receive a forty dollar per diem and shall  
5 be reimbursed for actual and necessary expenses.

6 3. The members of the state commission shall be  
7 elected to a term of three years. If a vacancy occurs  
8 on the state commission, the department shall call  
9 a congressional district convention only of those  
10 county commissioners who would elect a member to fill  
11 that vacancy.

12 4. The department may employ professional technical  
13 and clerical assistance to carry out the state  
14 commission's duties. The state commission shall be  
15 administratively attached to the department which  
16 shall provide support services to the state com-  
17 mission.

18 5. Each state agency and agency of a political  
19 subdivision of the state shall cooperate, within time,  
20 personnel, and budgetary limitations, in providing  
21 information, data, surveys, and studies as requested  
22 by the state commission.

23 6. The secretary of agriculture, the director  
24 of the state agricultural extension service, the  
25 director of the state conservation commission, the  
26 director of the Iowa natural resources council, the  
27 executive director of the department of environmental  
28 quality, the director of the office for planning and  
29 programming, the state geologist, the director of  
30 the Iowa development commission, the director of the  
31 department of transportation, the chairman of the  
32 city development board, the chairman of the Iowa state  
33 commerce commission, the director of the department  
34 of soil conservation, and the director of the energy  
35 policy council, or their respective designees, shall  
36 be ex officio nonvoting members of the state  
37 commission.

38 7. The state commission may apply for, receive,  
39 and expend any private or public funds for the purposes  
40 of carrying out sections 1 through 9 of this Act.

41 Sec. 5. NEW SECTION. DUTIES OF THE STATE  
42 COMMISSION. In addition to other duties provided  
43 by law, the state commission shall:

44 1. Prepare and recommend to the general assembly  
45 by January 1, 1983, a state land use policy and  
46 guidelines for the guidance and direction of state  
47 agencies, county land preservation policy commissions,  
48 cities, counties, and special districts on matters  
49 relating to land use.

50 2. Propose other legislation deemed necessary

- 1 to implement expressed land use policy objectives.
- 2 3. Recommend criteria to the general assembly
- 3 by January 1, 1983, for:
- 4 a. The designation of state critical areas.
- 5 b. The designation of large-scale developments
- 6 and key facilities.
- 7 c. The appraisal of the policies of state agencies
- 8 to determine the impact of state agency actions on
- 9 land use policies.
- 10 4. Establish:
- 11 a. Procedures for the review and approval of
- 12 county land use guidelines.
- 13 b. Procedures for the review of comprehensive
- 14 plans of cities, counties, and special districts.
- 15 c. Procedures for the review and approval of state
- 16 agency plans and plan modifications that impact on
- 17 land use.
- 18 d. Procedures for the hearing and determination
- 19 of a petition by one state agency against another
- 20 state agency concerning activities that conflict with
- 21 overall state land use policy.
- 22 5. Provide technical and professional assistance
- 23 to cities, counties, county commissions, or special
- 24 districts upon their request, to resolve conflicts
- 25 with the plans of adjacent jurisdictions or regarding
- 26 projects involving more than one county.
- 27 6. Mediate land use conflicts within a county
- 28 upon the request of all the parties concerned.
- 29 7. Identify and evaluate on a continuing basis
- 30 the land use policy issues in this state.
- 31 8. Evaluate the impact of current laws, ordinances,
- 32 policies, regulations, and taxes in this state upon
- 33 land use decisions.
- 34 9. Provide for the periodic monitoring of land
- 35 use data to determine changes in land usage, the
- 36 comparison of such changes to state and local land
- 37 use guidelines, plans, programs, and projections,
- 38 and the reporting of the findings to the affected
- 39 local governments, state agencies, and the federal
- 40 government, upon request.
- 41 10. Provide information and educational programs
- 42 through existing educational institutions.
- 43 11. Recommend to the general assembly a definition
- 44 of "agricultural purposes" as used in section 358A.2.
- 45 Sec. 6. NEW SECTION. DUTIES OF THE COUNTY
- 46 COMMISSION. In addition to other duties provided
- 47 by law, a county commission shall:
- 48 1. Develop and review at least every three years
- 49 a land use policy based upon the state policy and
- 50 guidelines for the county and its cities.

1 2. Review, evaluate, and coordinate at least every  
2 three years all comprehensive plans, ordinances, or  
3 regulations for land use, existing or proposed by  
4 the county, special districts, and cities within the  
5 county for consistency with county and state land  
6 use policy.

7 3. Adopt guidelines based on state guidelines  
8 for the preparation or revision of comprehensive plans  
9 for:

10 a. Protection of agricultural land.

11 b. Solid waste disposal and recycling, sewage  
12 collection and treatment, and water supply and  
13 distribution.

14 c. Siting and development of industrial,  
15 commercial, agricultural, educational, cultural,  
16 residential, and recreational facilities and areas.

17 d. Designation, development, or use of local  
18 critical areas.

19 e. Coordinated countywide transportation system  
20 which includes elements of a statewide transportation  
21 plan.

22 4. Determine the regulations to apply to an area  
23 subject to extraterritorial zoning when the city and  
24 the county are unable to agree.

25 Sec. 7. NEW SECTION. TEMPORARY EMERGENCY POWER  
26 OF THE COUNTY COMMISSION. When prior to the adoption  
27 of comprehensive plans, ordinances, and regulations  
28 as required by sections 1 through 9 of this Act, the  
29 county commission determines that there is in progress  
30 or proposed an activity that threatens the ability  
31 to preserve local critical areas, to preserve  
32 agricultural land, and to promote efficient urban  
33 development patterns, the county commission shall  
34 immediately take action by giving notice to the board  
35 of supervisors or the city council of each city  
36 involved of the pertinent facts and dangers with  
37 respect to the threatening activity. If the county  
38 board of supervisors or the city council does not  
39 remedy the situation within sixty days, the county  
40 commission may, upon one week's written notice to  
41 the affected city council or board of supervisors,  
42 and the person involved in the activity, hold a public  
43 hearing on the matter. If, after the hearing, the  
44 county commission determines that the activity does  
45 constitute a danger, the county commission may issue  
46 a written cease and desist order to the person in  
47 control of the activity. If the activity is continued,  
48 the county attorney, at the request of the county  
49 commission, shall initiate civil proceedings in the  
50 name of the county to enjoin that person from the

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1 activity. A legal action taken under this section  
2 shall be given priority over all other matters pending  
3 in the district court. The court may uphold, modify,  
4 or overrule the order of the county commission.

5 Sec. 8. NEW SECTION. PRESERVATION OF AGRICULTURAL  
6 LAND. Upon the adoption of the state land use policy  
7 and guidelines and the adoption of the county land  
8 use guidelines by the county commission, the county  
9 and each city in the county shall:

10 1. Review soil surveys and land capability  
11 information and identify the more productive and  
12 suitable agricultural land in their jurisdiction.

13 2. Review the projected need for land for  
14 nonagricultural uses in their jurisdiction.

15 3. Adopt ordinances pursuant to chapter 358A or  
16 414 respectively which will direct the growth of  
17 nonagricultural land uses to the less productive and  
18 suitable agricultural land within their jurisdiction,  
19 encourage the development of nonagricultural uses  
20 within the boundaries of cities rather than in the  
21 unincorporated areas of the county, encourage that  
22 urban development be contiguous to existing urban  
23 uses where necessary services can be provided or  
24 extended, and provide an orderly transition from rural  
25 to urban uses.

26 Ordinances adopted pursuant to this section may  
27 establish zones for exclusive agricultural and  
28 associated uses or minimum acreages for residential  
29 dwellings or other means to effect the objectives  
30 of this section.

31 Sec. 9. NEW SECTION. CRITICAL AREAS, KEY  
32 FACILITIES AND LARGE-SCALE DEVELOPMENTS.

33 1. The state commission shall prepare and recommend  
34 to the general assembly criteria for the designation  
35 of critical areas by the state commission and  
36 guidelines for the preservation and protection of  
37 state and local critical areas including nominating  
38 procedures, planning requirements, and preservation,  
39 protection, and restoration techniques.

40 2. The state commission shall prepare and recommend  
41 to the general assembly criteria for the designation  
42 of key facilities and large-scale developments and  
43 a procedure for their regulation. The procedure  
44 recommended shall include a determination of the need  
45 for the project and environmental impact statement  
46 regarding the effects upon agricultural and natural  
47 land and shall emphasize consultation with local  
48 agencies.

49 Sec. 10. Chapter 327G, Code 1981, is amended by  
50 adding the following new section:

1 NEW SECTION. If a railroad company abandons or  
2 discontinues service over a right-of-way which is  
3 not subject to a reversionary interest, the department  
4 of transportation may petition the federal interstate  
5 commerce commission, pursuant to the Railroad  
6 Revitalization and Regulatory Reform Act of 1976,  
7 for a determination that the right-of-way is suitable  
8 for other public purposes provided that other public  
9 purposes shall be limited to railroad transportation  
10 purposes. The department may purchase the right-of-  
11 way or acquire it by eminent domain to preserve its  
12 suitability for railroad transportation purposes.

13 Sec. 11. Section 358A.1, Code 1981, is amended  
14 by striking the section and inserting in lieu thereof  
15 the following:

16 358A.1 COUNTY PLANNING AND ZONING COMMISSION.

17 Each county shall establish a planning and zoning  
18 commission by January 1, 1982. The county planning  
19 and zoning commission shall prepare a comprehensive  
20 plan satisfying the guidelines established by the  
21 state land preservation commission. Each county,  
22 after consulting with the county land preservation  
23 commission, shall adopt such a comprehensive plan  
24 by January 1, 1986. Each county shall adopt zoning  
25 ordinances by January 1, 1987. Zoning, subdivision,  
26 or other regulations adopted pursuant to this chapter  
27 or chapter 409 and any amendments or revisions shall  
28 be designed to implement the comprehensive plan and  
29 shall be consistent with the comprehensive plan.

30 Sec. 12. Section 358A.3, Code 1981, is amended  
31 to read as follows:

32 358A.3 POWERS. ~~Subject to the provisions of~~  
33 ~~sections 358A.1 and section 358A.2,~~ the board of  
34 supervisors of any county ~~is hereby empowered to~~ may  
35 regulate and restrict the height, number of structures,  
36 and size of buildings and other structures, the  
37 percentage of lot that may be occupied, the size of  
38 yards, courts and other open spaces, the density of  
39 population, and the location and use of buildings,  
40 structures, and land for trade, industry, residence  
41 or other purposes, and ~~to~~ may regulate, restrict and  
42 prohibit the use for residential purposes of tents,  
43 trailers and portable or potentially portable  
44 structures; provided that such powers shall be  
45 exercised only with reference to land and structures  
46 located within the county but lying outside of the  
47 corporate limits of any a city or the jurisdiction  
48 exercised by a city under section 414.23. The board  
49 of supervisors of any county may prescribe and charge  
50 a reasonable building permit fee, and upon receipt

1 of an application containing all required information,  
2 in due form and properly executed, showing that the  
3 proposed structure will comply with all applicable  
4 regulations of the political subdivision in which  
5 it is to be located and upon payment of the required  
6 permit fee, the board of supervisors shall, within  
7 seven days, issue a permit to the applicant.

8 Sec. 13. Section 358A.7, Code 1981, is amended  
9 to read as follows:

10 358A.7 CHANGES AND AMENDMENTS. ~~Such~~ The  
11 regulations, restrictions, and boundaries ~~may, from~~  
12 ~~time-to-time,~~ be amended, supplemented, changed,  
13 modified, or repealed. In case, however, of a protest  
14 against ~~such~~ a change signed by the owners of twenty  
15 percent or more either of the area included in ~~such~~  
16 the proposed change, or of the area immediately  
17 adjacent thereto and within five hundred feet of the  
18 boundaries thereof, ~~such~~ the amendment shall not  
19 become effective except by the favorable vote of at  
20 least sixty percent of all of the members of the board  
21 of supervisors. The provisions of section 358A.6  
22 relative to public hearings and official notice shall  
23 apply equally to all changes or amendments. If the  
24 amendment conflicts with the comprehensive plan, the  
25 board of supervisors shall amend the plan prior to  
26 amending the regulations, restrictions, or boundaries.

27 Sec. 14. Section 358A.8, Code 1981, is amended  
28 to read as follows:

29 358A.8 COMMISSION APPOINTED. In order to avail  
30 itself of the powers conferred by this chapter, the  
31 board of supervisors shall appoint a commission, a  
32 majority of whose members shall reside within the  
33 county but outside the corporate limits of any city,  
34 to be known as the county planning and zoning  
35 commission, to recommend the boundaries of the various  
36 original districts, and appropriate regulations and  
37 restrictions to be enforced therein. A majority of  
38 the commission shall be persons representing the  
39 public at large and shall not be involved in the  
40 business of purchasing or selling real estate. ~~Such~~  
41 The commission shall, with due diligence, prepare  
42 a preliminary report and hold public hearings thereon  
43 before submitting its final report; and the board  
44 of supervisors shall not hold its public hearings  
45 or take action until it has received the final report  
46 of ~~such~~ the commission. After the adoption of ~~such~~  
47 regulations, restrictions, and boundaries of districts,  
48 the zoning commission may, from time-to-time, recommend  
49 to the board of supervisors amendments, supplements,  
50 changes or modifications. At least every three years

1 the commission shall review the regulations,  
2 restrictions, and boundaries of districts. The zoning  
3 commission, with the approval of the board of  
4 supervisors, may contract with professional  
5 consultants, regional planning commissions, the Iowa  
6 development commission, or the federal government,  
7 for local planning assistance.

8 A board of supervisors may designate the county  
9 land preservation commission to perform the duties  
10 of the planning and zoning commission in lieu of  
11 appointing a county planning and zoning commission.  
12 If a designation is made, the county land preservation  
13 commission has all the powers and duties of a county  
14 planning and zoning commission under this chapter.

15 Sec. 15. Section 358A.25, Code 1981, is amended  
16 to read as follows:

17 358A.25 PLUMBING CODE ENFORCED. Subject to the  
18 ~~provisions of sections 358A.1 and section 358A.2,~~  
19 the board of supervisors of any county ~~is further~~  
20 ~~authorized to~~ may adopt regulations to provide that  
21 every dwelling, ~~whether new or hereafter erected~~  
22 within the county but outside the corporate limits  
23 of any city which ~~shall develop~~ develops a private  
24 water supply or ~~install~~ installs a pressure water  
25 system or ~~install~~ sanitary house drains, shall comply  
26 with the recommendations of the state department of  
27 health on minimum requirements as set out in the state  
28 plumbing code in regard to ~~such~~ that development or  
29 installation. Any such regulation may be enforced  
30 in the same manner as any other regulation adopted  
31 under this chapter.

32 Sec. 16. Section 368.11, unnumbered paragraph  
33 3, Code 1981, is amended to read as follows:

34 The petition must include substantially the  
35 following information as applicable:

- 36 1. A general statement of the proposal.
- 37 2. A map of the territory, city or cities involved.
- 38 3. Assessed valuation of platted and unplatted  
39 land.
- 40 4. Names of property owners.
- 41 5. Population density.
- 42 6. Description of topography.
- 43 7. Plans for disposal of assets and assumption  
44 of liabilities.
- 45 8. Description of existing municipal services,  
46 including but not limited to water supply, sewage  
47 disposal, and fire and police protection.
- 48 9. Plans for agreements with any existing special  
49 service districts.
- 50 10. In a case of annexation or incorporation,

1 the petition must state that none of the territory  
2 is within a city, the amount and classification of  
3 any agricultural land proposed to be annexed, the  
4 need for the annexation of the area, and an evaluation  
5 of alternative areas for annexation.

6 II. In a case of incorporation or consolidation,  
7 the petition must state the name of the proposed city.

8 12. Plans shall include a formal agreement between  
9 affected municipal corporations and counties for the  
10 maintenance, improvement and traffic control of any  
11 shared roads involved in an incorporation or boundary  
12 adjustment.

13 Sec. 17. Section 414.1, Code 1981, is amended  
14 to read as follows:

15 414.1 BUILDING RESTRICTIONS--POWERS GRANTED.

16 1. For the purpose of promoting the health, safety,  
17 morals, or the general welfare of the community or  
18 for the purpose of preserving historically significant  
19 areas of the community, ~~any city is hereby empowered~~  
20 to each city, except as provided in subsection 3,  
21 shall establish a planning and zoning commission and  
22 regulate and restrict the height, number of stories,  
23 and size of buildings and other structures, the  
24 percentage of lot that may be occupied, the size of  
25 yards, courts, and other open spaces, the density  
26 of population, and the location and use of buildings,  
27 structures, and land for trade, industry, residence,  
28 or other purposes.

29 2. Each city shall establish a city planning and  
30 zoning commission by January 1, 1982, which shall  
31 prepare a comprehensive plan satisfying the guidelines  
32 established by the state land preservation commission.  
33 Each city shall adopt such a comprehensive plan by  
34 January 1, 1986. Each city, after consultation with  
35 the county land preservation commission, shall adopt  
36 zoning ordinances by January 1, 1987. Zoning,  
37 subdivision, or other regulations adopted pursuant  
38 to this chapter or chapter 409 and any amendments  
39 or revisions shall be designed to implement the  
40 comprehensive plan and shall be consistent with the  
41 comprehensive plan. If notice is given to the county  
42 before January 1, 1984, a city may elect to be included  
43 in the comprehensive plan of the county and adopt  
44 the applicable part of that plan for its use.

45 3. A city may elect not to have a planning and  
46 zoning commission, prepare a comprehensive plan, and  
47 adopt ordinances under this chapter. If the election  
48 is made by the city, the limitation of section 358A.3  
49 shall not apply and the county shall have zoning  
50 jurisdiction as provided in chapter 358A within the

1 limits of the city. Property owners affected by the  
2 county zoning regulations in the city have the same  
3 rights of hearing, protest, and appeal as those within  
4 the unincorporated area of the county. A city which  
5 has made this election may reverse that decision by  
6 establishing a planning and zoning commission and  
7 adopting ordinances under this chapter after giving  
8 notice to the county board of supervisors. Upon the  
9 ordinances becoming effective, the county shall cease  
10 to have jurisdiction in the city. After notice has  
11 been given to the board of supervisors and until the  
12 ordinances become effective the county shall not  
13 change the ordinances effective in that city without  
14 the city's approval.

15 Sec. 18. Section 414.5, Code 1981, is amended  
16 to read as follows:

17 414.5 CHANGES--HEARING--NOTICE. Such The  
18 regulations, restrictions, and boundaries may,--from  
19 time-to-time, be amended, supplemented, changed,  
20 modified, or repealed. In case, however, of a protest  
21 against such a change signed by the owners of twenty  
22 percent or more either of the area of the lots included  
23 in such the proposed change, or of those immediately  
24 adjacent in the rear thereof extending the depth of  
25 one lot or not to exceed two hundred feet therefrom,  
26 or of those directly opposite thereto, extending the  
27 depth of one lot or not to exceed two hundred feet  
28 from the street frontage of such the opposite lots,  
29 such an amendment shall not become effective except  
30 by the favorable vote of at least three-fourths of  
31 all the members of the council. The provisions of  
32 section 414.4 relative to public hearings and official  
33 notice shall apply equally to all changes or  
34 amendments. If the amendment conflicts with the  
35 comprehensive plan, the council shall amend the plan  
36 before amending the regulations, restrictions, or  
37 boundaries.

38 Sec. 19. Section 414.6, Code 1981, is amended  
39 to read as follows:

40 414.6 PLANNING AND ZONING COMMISSION. In order  
41 to avail itself of the powers conferred by this  
42 chapter, the council shall appoint a commission, to  
43 be known as the planning and zoning commission, to  
44 recommend the boundaries of the various original  
45 districts, and appropriate regulations and restrictions  
46 to be enforced therein. Where a city plan commission  
47 already exists, it may be appointed as the zoning  
48 commission. A majority of the commission shall be  
49 persons representing the public at large and shall  
50 not be involved in the business of purchasing or

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1 ~~selling real estate. Such~~ The commission shall, ~~with~~  
2 ~~due-diligence,~~ prepare a preliminary report and hold  
3 public hearings thereon before submitting its final  
4 report; and ~~such~~ the council shall not hold its public  
5 hearings or take action until it has received the  
6 final report of ~~such~~ the commission. After the  
7 adoption of ~~such~~ regulations, restrictions, and  
8 boundaries of districts, the zoning commission may,  
9 ~~from-time-to-time,~~ recommend to the council amendments,  
10 supplements, changes, or modifications. At least  
11 every three years the commission shall review the  
12 regulations, restrictions, and boundaries of districts.

13 Sec. 20. Section 414.23, Code 1981, is amended  
14 by striking the section and inserting in lieu thereof  
15 the following:

16 414.23 EXTENDING BEYOND CITY LIMITS. The powers  
17 granted by this chapter may be extended by ordinance  
18 by any city to the unincorporated area two miles  
19 beyond the limits of the city. The ordinance shall  
20 describe in general terms the area to be included.  
21 The exemption from regulation granted by section  
22 358A.2 to property used for agricultural purposes  
23 applies to the unincorporated area. If the limits  
24 of the city are at any place less than four miles  
25 distant from the limits of any other city which extends  
26 its zoning jurisdiction under this section, the powers  
27 granted in this section shall extend to a line  
28 equidistant between the limits of the cities.

29 Ordinances or amendments adopted by a city under  
30 this chapter shall not become effective for the  
31 unincorporated area until approved by the county board  
32 of supervisors. If the city and the county board  
33 of supervisors are unable to agree on the zoning  
34 regulations for the unincorporated area within sixty  
35 days after presentation to the county board of  
36 supervisors, the parties shall submit the matter  
37 to the county land preservation commission which shall  
38 determine the regulation for the area.

39 Property owners affected by such zoning regulations  
40 have the same rights of hearing, protest, and appeal  
41 as those within the municipality exercising this  
42 power.

43 Sec. 21. Chapter 472, Code 1981, is amended by  
44 adding the following new section:

45 NEW SECTION. Prior to instituting proceedings  
46 for condemnation the applicant shall submit a copy  
47 of the application to the county or city planning  
48 and zoning commission having jurisdiction over the  
49 property sought to be condemned.

50 Sec. 22. INITIAL TERMS. The initial terms of

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Page 15

1 the members of the county commission shall be terms  
2 of one, two, and three years. At the first meeting  
3 of the county commission the members appointed by  
4 the board of supervisors, the members appointed by  
5 the district soil conservation commissioners, and  
6 the members appointed by the mayors and councilpersons  
7 shall separately determine among themselves by lot  
8 which of the members shall have an initial term of  
9 one, two, or three years. If one city has appointed  
10 three members, those members shall separately determine  
11 by lot which of those members shall have an initial  
12 term of one, two, or three years. The county com-  
13 missions shall be established by and the terms of  
14 their members shall commence on January 1, 1982.

15 Prior to April 1, 1982, the department of soil  
16 conservation shall hold the congressional district  
17 conventions. Of the initial terms of office of the  
18 members of the state commissioner, one member from  
19 each congressional district convention shall have  
20 a term of two years and two members shall have terms  
21 of four years. The member who shall have a two-year  
22 initial term shall be determined by lot among the  
23 three members at the congressional district convention.  
24 The terms of the members of the state commission shall  
25 commence on April 1, 1982.

26 Sec. 23. Chapter 93A, Code 1981, is repealed."

S-5237 FILED  
MARCH 11, 1982

BY ARTHUR A. SMALL, JR.  
DAVID M. READINGER

*Placed under of order 3/24 (g. 885)*

SENATE FILE 2218

S-5238

- 1 Amend Senate File 2218 as follows:
- 2 1. Page 4, line 33, by inserting after the word  
3 "inventories" the words "and county land use plans".
- 4 2. Page 4, line 35, by inserting after the word  
5 "inventories" the words "and county land use plans".
- 6 3. Page 5, line 4, by inserting after the word  
7 "inventory" the words "and county land use plan as  
8 required by subsection 3 of this section".
- 9 4. Page 5, lines 5 and 6, by inserting after the  
10 word "inventory" the words "and land use plan".
- 11 5. Page 5, line 7, by inserting after the word  
12 "inventory" the words "and land use plan".
- 13 6. Page 5, line 9, by striking the word "hearing"  
14 and inserting in lieu thereof the word "hearings".
- 15 7. Page 5, by striking lines 10 through 14 and  
16 inserting in lieu thereof the following:  
17 "3. By January 1, 1984, a county commission shall  
18 develop a county land use plan and shall make  
19 recommendations for implementation of the plan to  
20 the county board. The county board within a reasonable  
21 time shall consider and implement those recommendations  
22 and other submissions, reports, and recommendations  
23 as it deems appropriate."  
24 8. Page 5, line 16, by striking the words "and  
25 recommendation" and inserting in lieu thereof the  
26 words ", land use plan and the county board's  
27 implementation actions".
- 28 9. Page 5, line 18, by inserting after the word  
29 "inventory" the words "and land use plan".
- 30 10. Page 5, line 20, by inserting after the word  
31 "inventories" the words ", land use plans".
- 32 11. Page 6, by inserting after line 16 the  
33 following:  
34 "Sec. \_\_\_\_ . NEW SECTION. COUNTY PLANS. In the  
35 development of the county land use plan compiled under  
36 section 6 of this Act, the commission shall consider  
37 at least the following:  
38 1. Methods of preserving prime agricultural lands  
39 for agricultural production.  
40 2. Methods of preserving and providing for  
41 recreational areas, forests, wetlands, streams, lakes,  
42 aquifers, and critical areas.  
43 3. Methods of developing key facilities and large-  
44 scale developments.  
45 4. Provisions for future housing, commercial,  
46 industrial, and recreational needs.  
47 5. A formal county system to allow variances from  
48 the county land use plan that incorporates the  
49 examination of alternatives and a public hearing on  
50 such alternatives.

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Page 2

- 1 6. Methods of implementation of the plan.  
2 7. In addition, county land use commissions shall  
3 consider allowing the voluntary formation of  
4 agricultural areas by landowners."  
5 12. Page 6, line 18, by striking the figure "1."  
6 13. Page 6, line 20, by striking the word  
7 "recommendations" and inserting in lieu thereof the  
8 word "plan".  
9 14. Page 6, by striking line 23 through page 7,  
10 line 4.  
11 15. Page 10, by striking lines 16 through 18.  
12 16. Page 13, by striking line 28 through page  
13 16, line 2.  
14 17. Page 17, by inserting after line 19 the  
15 following:  
16 "Sec. \_\_\_\_ Chapter 657, Code 1981, is amended  
17 by adding the following new section:  
18 NEW SECTION. AGRICULTURAL OR FARMING OPERATIONS.  
19 An agricultural or farming operation lying wholly  
20 within an agricultural area established by sections  
21 9 through 15 of this Act or any of its appurtenances  
22 but not including livestock feedlots shall not be  
23 or become a public or private nuisance because of  
24 a changed land use in or around the locality of that  
25 agricultural or farming operation after it has been  
26 in operation for more than one year. This section,  
27 does not apply whenever a nuisance results from the  
28 negligent, improper, or illegal operation of any  
29 agricultural or farming operation or its  
30 appurtenances."  
31 18. By renumbering the sections and correcting  
32 internal references to conform with this amendment.

S-5238 FILED  
MARCH 11, 1982

BY JULIA GENTLEMAN  
DAVID READINGER  
JOHN MURRAY

*Placed out of order 3/24 (p 885)*

SENATE FILE 2218

5-5239

1 Amend Senate File 2218 as follows:

2 1. By striking all after the enacting clause and  
3 inserting in lieu thereof the following:  
4 "Section 1. NEW SECTION. STATEMENT OF PUBLIC  
5 POLICY. It is the public policy of the state of Iowa  
6 and the objectives of this Act to provide for the  
7 orderly development of land and related natural  
8 resources in Iowa, to preserve the use of prime  
9 agricultural land for agricultural production, to  
10 preserve natural, cultural and historical areas, to  
11 provide for future recreational needs, to provide  
12 for greater uniformity of local land development  
13 plans, and to control urban sprawl, and thereby provide  
14 for the protection and preservation of the private  
15 and public interest in the land, water, and related  
16 resources of this state for the benefit of present  
17 and future generations.

18 Sec. 2. NEW SECTION. DEFINITIONS. As used in  
19 this Act unless the context otherwise requires:

20 1. "Commission" means the state land use policy  
21 commission.

22 2. "Director" means the director of the state  
23 land use policy commission.

24 Sec. 3. NEW SECTION. COMMISSION CREATED. There  
25 is created a state land use policy commission  
26 consisting of nine members appointed by the governor  
27 with the consent of two thirds of the members of the  
28 senate. The term of office of each member shall be  
29 four years beginning and ending as provided in section  
30 69.19. In the selection of the membership,  
31 consideration shall be given to representation from  
32 the various geographical areas of the state and each  
33 member shall be additionally qualified as follows:  
34 one member shall be a person who is actively engaged  
35 in diversified farming operations; one member shall  
36 be a person who is actively engaged in the management  
37 of a manufacturing business; one member shall be a  
38 person who is actively engaged in the management of  
39 a transportation or utility business; one member shall  
40 be a person who has a working knowledge of city or  
41 county government; one member shall be a person who  
42 is involved in soil conservation work, and four members  
43 shall be persons who are chosen to represent the  
44 general public. Each member of the commission shall  
45 also be an elector of this state, but no member shall  
46 be a full-time employee of state government or of  
47 the government of the United States.

48 Sec. 4. NEW SECTION. VACANCY--REMOVAL OF MEMBER.  
49 A vacancy on the commission shall be filled by  
50 appointment by the governor for the unexpired term

1 and shall be subject to the same qualifications as  
2 the original appointment.

3 The governor may remove any commission member for  
4 cause.

5 Sec. 5. NEW SECTION. COMPENSATION. Each member  
6 of the commission, not otherwise in the full-time  
7 employment of a public agency, shall receive the sum  
8 of forty dollars for each day that the member is  
9 engaged in the discharge of official duties and each  
10 member of the commission shall also be compensated  
11 for travel and other necessary expenses incurred while  
12 engaged in the performance of official duties.

13 Sec. 6. NEW SECTION. ORGANIZATION. The commission  
14 shall organize annually by the election of a  
15 chairperson and vice chairperson. Meetings may be  
16 called by the chairperson at any time and shall be  
17 called as soon as possible by the chairperson on the  
18 written request of five members of the commission.  
19 A majority of the commission shall constitute a quorum  
20 and the concurrence of a quorum of the commission  
21 shall be required to determine any matter within its  
22 duties.

23 Sec. 7. NEW SECTION. DIRECTOR APPOINTED--DUTIES.  
24 The commission shall appoint a director who shall  
25 serve at its pleasure. The director shall be selected  
26 on the basis of administrative abilities and  
27 governmental planning qualifications. The salary  
28 of the director shall be determined by the general  
29 assembly.

30 The director shall be responsible for performing  
31 the duties assigned by the commission.

32 The director may appoint, with approval of the  
33 commission, the technical, professional, secretarial,  
34 and clerical staff necessary to accomplish the duties  
35 assigned by the commission, subject to the provisions  
36 of chapter 19A.

37 The director and other employees of the commission  
38 shall receive, in addition to salary, their necessary  
39 traveling and related expenses incurred when engaged  
40 in the performance of official business.

41 Sec. 8. NEW SECTION. DUTIES OF COMMISSION. The  
42 commission shall:

43 1. Develop state land use policy for approval  
44 of the general assembly and make recommendations,  
45 including proposed legislation, concerning the  
46 implementation of the policy as soon as possible.

47 2. Authorize the application for, receipt, and  
48 expenditure of any private or public funds for the  
49 purpose of implementing the provisions of this Act.

50 3. Identify land use issues facing the state of

- 1 Iowa.
- 2 4. Evaluate current land use legislation, policies,  
3 and regulations.
- 4 5. Coordinate, assemble, and maintain a land  
5 capability inventory.
- 6 6. Advise, consult and cooperate with other public  
7 or private agencies in the development of state land  
8 use policy and in the preparation of recommendations  
9 for consideration by the general assembly. The  
10 commission may request the assistance or advice of  
11 any public or private person or agency in carrying  
12 out its assigned duties under this Act.
- 13 7. Make a concise annual report to the governor  
14 and the general assembly, which report shall contain  
15 information relating to the accomplishments of the  
16 commission and include recommendations for legislative  
17 action. The annual report shall conform to the  
18 provisions of section 17.3.
- 19 8. Approve the commission budget request submitted  
20 by the director.
- 21 9. Approve all contracts and agreements between  
22 the commission and other public or private person  
23 or agency.
- 24 10. Obtain an adequate public employees fidelity  
25 bond to cover those employees of the commission  
26 accountable for property or funds of this state.
- 27 11. Adopt, amend or repeal internal rules and  
28 regulations recommended by the director for the  
29 effective administration of the commission.
- 30 Sec. 9. NEW SECTION. GUIDELINES. In developing  
31 a state land use policy and preparing recommendations  
32 relating to its implementation, the commission shall  
33 conform to the following guidelines:
- 34 1. Provide for the implementation of state or  
35 local land use plans by local governmental agencies.
- 36 2. Provide for the review and approval of local  
37 land use plans by a state land use agency.
- 38 3. Provide for review of variances to local land  
39 use plans by a state land use agency.
- 40 4. Provide for an appeal procedure concerning  
41 any local land use decision.
- 42 5. Provide for public hearings before a local  
43 land use plan is adopted or amended.
- 44 6. Provide guidance for state agencies which are  
45 involved in the acquisition, use and control of land.
- 46 7. Provide for the preservation of natural,  
47 cultural and historical areas or facilities.
- 48 8. Provide for the regulation of large-scale  
49 developments.
- 50 9. Provide for restricting the development and

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Page 4

1 construction of incompatible facilities or structures  
2 on flood plains.  
3 10. Provide for the regulation of the use of  
4 underground resources.  
5 11. Provide for the maximum degree of uniformity  
6 of local land use plans with due consideration given  
7 to the unique characteristics and problems of each  
8 local government.  
9 12. Provide for future recreational areas of the  
10 state and give consideration to park trails.  
11 13. Consider establishing control areas or setbacks  
12 along public highways.  
13 14. Consider establishing standards for the  
14 development of residential, commercial and industrial  
15 property.  
16 15. Consider preserving land for future public  
17 use.  
18 16. Encourage the careful consideration of the  
19 agricultural use of land in any land use decision.  
20 Sec. 10. NEW SECTION. DISBURSEMENTS. The state  
21 comptroller shall draw warrants on the treasurer of  
22 state for all disbursements authorized by the  
23 provisions of this Act upon the submission of vouchers  
24 signed by the director.  
25 Sec. 11. NEW SECTION. OFFICE FACILITIES. The  
26 executive council shall provide the commission with  
27 appropriate office facilities.  
28 Sec. 12. In making the initial appointments to  
29 the commission, the governor shall appoint five members  
30 for four-year terms and four members to two-year  
31 terms. Notwithstanding section 7 of this Act, the  
32 commission shall initially determine the salary of  
33 the director, not to exceed twenty-five thousand  
34 dollars per annum."

S-5239 FILED  
MARCH 11, 1982

BY ARTHUR SMALL, JR.

*Placed out of order 3/24 (p. 885)*

SENATE FILE 2218

S-5250

- 1 Amend Senate File 2218 as follows:  
2 1. Page 15, by striking lines 3 and 4.  
3 2. Page 15, line 14, by inserting after the word  
4 "safety." the words "A city, county or other unit  
5 of local government shall not be subject to liability  
6 because it has not enacted, applied or enforced local  
7 laws, ordinances or other rules or regulations to  
8 an agricultural area or agricultural district  
9 notwithstanding the existence of another statute which  
10 would otherwise require it to do so."  
11 3. Page 17, by striking lines 23 through 30 and  
12 inserting in lieu thereof the words "subdivision of  
13 the state."

S-5250 FILED

BY FORREST V. SCHWENGELS

MARCH 15, 1982

*Placed out of order 3/24 (p. 885)*

SENATE FILE 2218

S-5252

- 1 Amend the amendment S-5227 to Senate File 2218 as  
2 follows:  
3 1. Page 4, by striking lines 42 through 44 and  
4 inserting in lieu thereof the following: "The  
5 guidelines shall identify and establish minimum  
6 subject areas to be addressed in the plan, but shall  
7 not mandate a specific solution to the subject areas."

S-5252 FILED

BY ARNE WALDSTEIN

MARCH 15, 1982

WITHDRAWN (p. 738)

SENATE FILE 2218

S-5253

- 1 Amend Senate File 2218 as follows:  
2 1. Page 10, line 29, by inserting after the word  
3 "county." the words "The county board may file a  
4 petition for withdrawal of land from an agricultural  
5 area on its own motion at any time."

S-5253 FILED

BY MICK LURA

MARCH 15, 1982

*Placed out of order 3/24*

SENATE FILE 2218

S-5257

- 1 Amend Senate File 2218 as follows:  
2 1. Page 10, line 29, by inserting after the word  
3 "county." the words "The county board and landowner  
4 may file a joint petition for withdrawal of land from  
5 an agricultural area at any time."

S-5257 FILED

BY MICK LURA

MARCH 15, 1982

*Placed out of order 3/24*

SENATE 10  
MARCH 16, 1982

SENATE FILE 2218

S-5256

- 1 Amend Senate File 2218 as follows:  
2 1. Page 7, by striking line 5 through Page 16,  
3 line 2.  
4 2. Page 16, by striking lines 12 through 14, and  
5 inserting in lieu thereof the following: "Ordinances  
6 may also apply in agricultural districts to the extent  
7 required to implement section 8 of this Act."

S-5256 FILED BY EDGAR H. HOLDEN  
MARCH 15, 1982

*Placed out of order 3/24 (p 285)*

SENATE FILE 2218

S-5254

- 1 Amend the amendment S-5227 to Senate File 2218 as  
2 follows:  
3 1. Page 5, by striking lines 10 through 13, and  
4 inserting in lieu thereof the following: "rejected,  
5 may be amended and resubmitted within sixty days to the  
6 state council or the county commission may cause the  
7 question of approval of the plan to be placed on the  
8 ballot of the next available countywide election."  
9 2. Page 5, line 14, by striking the word "After"  
10 and inserting in lieu thereof the word "If".  
11 3. Page 5, line 21, by inserting after the word  
12 "commission" the words "notwithstanding rejection of  
13 the plan by the state council".

S-5254 FILED BY DICK RAMSEY

MARCH 15, 1982  
ADOPTED (p 239)

SENATE FILE 2218

S-5258

- 1 Amend Senate File 2218 as follows:  
2 1. Page 6, by inserting after line 16, the following:  
3 "3. The county commission shall, to the greatest  
4 extent possible, use the information compiled under  
5 Acts of the Sixty-Seventh General Assembly, 1977 Session,  
6 chapter 53, in compiling the inventories provided  
7 under this section."

S-5258 FILED BY RAY TAYLOR

MARCH 15, 1982

*Placed out of order 3/24*

SENATE FILE 2218

S-5243

- 1 Amend the amendment S-5236 to Senate File 2218 as  
2 follows:  
3 1. Page 1, by striking lines 16 through 21, and  
4 inserting in lieu thereof the following: "person  
5 engaged in farming, or by a family farm operation."  
6 2. Page 1, line 36, by striking the word "seriously".  
7 3. Page 1, line 38, by striking the word  
8 "materially".

S-5243 FILED BY JAMES V. GALLAGHER

MARCH 12, 1982

*Placed out of order 3/24*

S-5255

1 Amend Senate File 2218 as follows:

2 1. Page 3, by striking line 34 through page 4,  
3 line 1 and inserting in lieu thereof the following:

4 "3. The county commission at its first meeting  
5 shall designate the department or agency which will  
6 provide the commission with technical and  
7 administrative assistance."

8 2. Page 4, by striking line 31 through page 5,  
9 line 26 and inserting in lieu thereof the following:

10 "1. By January 1, 1983, the county commission  
11 shall organize and the state council shall establish  
12 advisory guidelines for the development of county  
13 inventories and land use policy recommendations.  
14 The guidelines shall inform the county commissions  
15 of the procedure for completing the inventory and  
16 policy development and of what information on those  
17 subjects is available from state agencies.

18 2. By July 1, 1983, the county commission shall  
19 compile the county inventory. Prior to submitting  
20 the inventory to the state council, the commission  
21 shall hold at least two public hearings on the  
22 inventory. Within sixty days the commission shall  
23 transmit the inventory, revised if necessary, to the  
24 state council.

25 3. By January 1, 1984, the county commission shall  
26 complete a study of land use issues, hold at least  
27 two public hearings on the policy recommendations,  
28 and transmit the revised recommendations concerning  
29 land use in the county to its cities and county board.  
30 The cities and county board, within a reasonable time,  
31 shall consider the recommendations and other  
32 submissions, reports, and recommendations as it deems  
33 appropriate.

34 4. By July 1, 1984, the county commission shall  
35 transmit the land use policy recommendations to the  
36 state council.

37 5. The state council may request additional  
38 information from a county commission after receipt  
39 of its inventory and recommendations.

40 6. By January 1, 1985, the state council shall  
41 evaluate the inventories and recommendations based  
42 on the purposes of section 2 of this Act and submit  
43 its findings and recommendations to the county  
44 commission. A copy shall be retained by the county  
45 auditor for public inspection.

46 7. By January 1, 1985, the state council shall  
47 consider county inventories and the recommendations,  
48 the recommendations of the temporary state land  
49 preservation policy commission, and other submissions,  
50 reports, and recommendations as it deems appropriate.

1 The council shall submit its findings and  
2 recommendations to the general assembly."

3 3. Page 5, by striking line 28 through page 6,  
4 line 16 and inserting in lieu thereof the following:

5 "1. The county inventories are needed to inform  
6 local residents of the location and amount of land  
7 by general land use classifications and the location  
8 and amount of recent farm land conversion to  
9 nonagricultural uses. The county inventories compiled  
10 under section 6 of this Act shall contain at least  
11 the following information:

12 a. The lands used for farm land by general soils  
13 association or soil suitability classifications.

14 b. The lands used or available for nonfarm  
15 residential purposes outside of the corporate limits  
16 of cities.

17 c. The lands used for commercial and industrial  
18 purposes and includes lands used or held in reserve  
19 for the orderly extraction of natural resources.

20 d. The lands used for public facilities, such  
21 as transportation, government buildings, schools,  
22 and parks.

23 e. The lands used for private open space, such  
24 as woodlands, wetlands, vacant, and water bodies.

25 f. The undeveloped lands inside city boundaries.

26 g. The lands converted over a recent twenty-year  
27 period from farmland to residential use, commercial  
28 and industrial use, and public facilities use.

29 2. The information required by subsection 1 shall  
30 be provided in narrative and map form according to  
31 guidelines established by the state council."

32 4. Page 7, by inserting after line 4 the following:

33 "3. A county which established agricultural  
34 districts through county zoning prior to the effective  
35 date of this Act shall not be required to reestablish  
36 the agricultural districts."

37 5. Page 15, line 4, by inserting after the word  
38 "area" the words "except such land may be annexed  
39 if voluntarily requested by the landowner".

40 6. Page 17, by striking lines 20 through 30 and  
41 inserting in lieu thereof the following:

42 "Sec. 30. This Act does not immediately invalidate  
43 any part of a zoning ordinance which is in effect  
44 on the effective date of this Act, or require the  
45 adoption of a zoning ordinance by any subdivision of  
46 the state. To the extent that a provision of a zoning  
47 ordinance discourages the availability or productivity  
48 of agricultural land, encourages urban sprawl, or  
49 discourages efficient urban development, the local  
50 government shall review its comprehensive plan and

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1 zoning ordinance and make changes as necessary before  
2 January 1, 1985 to achieve the purpose of this Act."

3 7. By renumbering the sections and correcting  
4 internal references to conform with this amendment.

S-5255 FILED

BY EDGAR H. HOLDEN

MARCH 15, 1982

*Filed out of order 3/24 (p. 885)*

SENATE FILE 2218

S-5259

1 Amend amendment S-5221 to Senate File 2218 as  
2 follows:

3 1. Page 1, by inserting after line 18 the follow-  
4 ing:

5 "4. "Qualified agricultural area" means an area  
6 which is in agricultural use and for which an  
7 application for a change to a nonagricultural use  
8 has been denied under sections 2 and 3 of this Act."

9 2. Page 2, by inserting after line 10 the follow-  
10 ing:

11 "Sec. 4. NEW SECTION. INCENTIVES FOR AGRICULTURAL  
12 LAND PRESERVATION.

13 1. NUISANCE RESTRICTION. A farm operation located  
14 in a qualified agricultural area shall not be found  
15 to be a nuisance regardless of the established date  
16 of operation or expansion of the agricultural  
17 activities of the farm operation. This subsection  
18 does not apply if the nuisance results from an activity  
19 which is in violation of an applicable statute, rule,  
20 or ordinance. For a feedlot as defined in chapter  
21 172D, the applicability of rules and ordinances subject  
22 to that chapter shall be as provided in that chapter.  
23 This section does not apply to actions or proceedings  
24 arising from injury or damage to persons or property  
25 caused by the farm operation before the agricultural  
26 area qualified. This subsection does not affect or  
27 defeat the right of a person to recover damages for  
28 an injury or damage sustained by the person because  
29 of the pollution or change in condition of the waters  
30 of a stream, the overflowing of the person's land,  
31 or the excessive soil erosion onto another person's  
32 land.

33 2. WATER PRIORITY. In the application for a  
34 permit to divert, store, or withdraw water and in  
35 the allocation of available water resources under  
36 a water permit system, the Iowa natural resources  
37 council shall give priority to the use of water  
38 resources by farm operations, exclusive of irrigation,  
39 located in a qualified agricultural area.

40 3. CONDEMNATION LIMITATION. The power of eminent  
41 domain shall not be exercised by the state, its  
42 political subdivisions, a school corporation, a public  
43 authority, a public district or any other public body  
44 upon farmland in a qualified agricultural area without  
45 the consent of the county board.

46 4. ANNEXATION. A city shall not annex land that  
47 is in a qualified agricultural area.

48 Sec. 5. NEW SECTION. LOCAL GOVERNMENT AUTHORITY.  
49 A city, county, or other unit of local government  
50 shall not exercise any of its powers to enact local

S-5259  
PAGE 2

1 laws, ordinances, or any other rules and regulations  
2 within a qualified agricultural area in a manner which  
3 would unreasonably restrict or regulate farm structures  
4 or farm operations within the area in contravention  
5 of the purposes and policies of this chapter unless  
6 such governmental action bears an immediate and  
7 compelling relationship to the public health or safety.

8     Sec. 6. NEW SECTION. STATE REGULATIONS. A rule  
9 adopted by a state agency after the effective date  
10 of this Act which would restrict or regulate farm  
11 structures or farm operations shall not become  
12 effective as applied to farm structures or farm  
13 operations within a qualified agricultural area unless  
14 prior to the adoption of the rule the agency finds  
15 both of the following:

16     1. That the activity to be regulated within the  
17 district or area has a substantial deleterious effect  
18 outside of the area.

19     2. That the need for the application of the rule  
20 within the area outweighs the policies of this chapter,  
21 which include the encouragement of exclusively  
22 agricultural activities within the area at a level  
23 of intensity that would not be tolerated outside the  
24 area.

25     In addition to the right of an interested person  
26 granted in chapter 17A to request the agency to issue  
27 a concise statement of the principal reasons for and  
28 against the rule it adopted, a resident or owner of  
29 land in a qualified agricultural area may request  
30 the agency to include in that concise statement the  
31 findings required for application within a qualified  
32 agricultural area and the principal reasons used by  
33 the agency in making the findings."

34     3. By renumbering the sections to conform with  
35 this amendment.

S-5259 FILED  
MARCH 15, 1982  
LOST (p. 740)

BY MICK LURA

-5260

1 Amend Senate File 2218 as follows:

2 1. By striking page 6, line 17 through page 7,  
3 line 4 and inserting in lieu thereof the following:  
4 "Sec. 8. NEW SECTION. AGRICULTURAL DISTRICTS.  
5 A county may establish agricultural districts by  
6 adopting ordinances under chapter 358A. The ordinances  
7 must be consistent with those county land use  
8 recommendations that have been adopted by the county  
9 board under section 6 of this Act. Except as provided  
10 below, agricultural districting ordinances shall limit  
11 the use of the land in agricultural districts to farm  
12 operations.

13 1. The following shall be permitted in an  
14 agricultural district:

15 a. Residences constructed for occupation by a  
16 person, or by a family having at least one member  
17 who earns a substantial part of his or her livelihood  
18 from farm operations on the parcel, or by a parent  
19 or child of that farm operator. Nonconforming pre-  
20 existing residences may be continued in residential  
21 use.

22 b. Property of a telephone company, city utility  
23 as defined in section 390.1, public utility as defined  
24 in section 476.1, or pipeline company as defined in  
25 section 479.2.

26 c. Public or private elementary or secondary  
27 schools.

28 d. Churches.

29 e. Sanitary disposal projects authorized pursuant  
30 to chapter 455B of the Code.

31 2. The county board of supervisors may permit  
32 a use not listed in subsection 1 in an agricultural  
33 district only if it finds that use meets all of the  
34 following conditions:

35 a. The use is not inconsistent with the purposes  
36 set forth in section 2 of this Act.

37 b. The use does not interfere seriously with farm  
38 operations within the districts.

39 c. The use does not materially alter the stability  
40 of the overall land use pattern in the area."

41 2. Page 10, line 17, by striking the words "  
42 subsection 2,".

S-5260 FILED

BY DICK RAMSEY

LUCAS DE KOSTER

MARCH 15, 1982

BILL HUTCHINS

LOWELL JUNKINS

*Placed out of order 2/24 (p. 886)*

## SENATE FILE 2218

S-5263

1 Amend the amendment S-5260 to Senate File 2218  
2 as follows:

3 1. Page 1, by striking lines 16 through 21, and  
4 inserting in lieu thereof the following: "person  
5 engaged in farming or by a family farm operation."

6 2. Page 1, line 37, by striking the word "seriously".

7 3. Page 1, line 39, by striking the word  
8 "materially".

S-5263 FILED

BY JAMES V. GALLAGHER

MARCH 15, 1982

*Placed out of order 3/24*

SENATE FILE 2218

S-5325

1 Amend Senate File 2218 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:

4 "Section 1. Chapter 93A, Code 1981, is amended  
5 by striking the chapter and inserting in lieu thereof  
6 sections 2 through 20 of this Act.

7 Sec. 2. NEW SECTION. PURPOSE. It is the intent  
8 of the general assembly to provide for the development  
9 of local land use inventories and to encourage the  
10 use of procedures which provide for the orderly use  
11 and development of land and related natural resources  
12 in Iowa for residential, commercial, industrial, and  
13 recreational purposes, preserve private property  
14 rights, and preserve the use of agricultural land  
15 for agricultural production, through processes that  
16 emphasize the participation of citizens and local  
17 governments.

18 The general assembly recognizes the importance  
19 of preserving the state's finite supply of agricultural  
20 land. Conversion of farmland to urban development,  
21 and other nonfarm uses, reduces future food production  
22 capabilities and may ultimately undermine agriculture  
23 as a major economic activity in Iowa.

24 It is the intent of the general assembly to provide  
25 local citizens and local governments the means by  
26 which agricultural land may be protected from  
27 nonagricultural development pressures. This may be  
28 accomplished by the establishment of agricultural  
29 districts or agricultural areas in which substantial  
30 agricultural activities are encouraged, so that land  
31 inside these districts and areas is conserved for  
32 the production of food, fiber, and livestock, thus  
33 assuring the preservation of agriculture as a major  
34 factor in the economy of this state.

35 Sec. 3. NEW SECTION. DEFINITIONS. As used in  
36 this chapter unless the context otherwise requires:

37 1. "Agricultural area" means an area meeting the  
38 qualifications of section 9 of this Act and designated  
39 under section 12 of this Act.

40 2. "Agricultural district" means a district  
41 established under section 8 of this Act.

42 3. "County board" means the county board of  
43 supervisors.

44 4. "County commission" means the county land  
45 preservation commission.

46 5. "County committee" means the county agricultural  
47 areas committee.

48 6. "Farm" means the land, buildings, and machinery  
49 used in the commercial production of farm products.

50 7. "Farm operation" means a condition or activity

1 which occurs on a farm in connection with the  
2 production of farm products and includes but is not  
3 limited to the marketing of products at roadside  
4 stands or farm markets, the creation of noise, odor,  
5 dust, fumes, the operation of machinery and irrigation  
6 pumps, gound and aerial seeding and spraying, the  
7 application of chemical fertilizers, conditioners,  
8 insecticides, pesticides, and herbicides, and the  
9 employment and use of labor.

10 8. "Farm products" means those plants and animals  
11 and their products which are useful to people and  
12 includes but is not limited to forages and sod crops,  
13 grains and feed crops, dairy and dairy products,  
14 poultry and poultry products, livestock, fruits,  
15 vegetables, flowers, seeds, grasses, trees, fish,  
16 honey, and other similar products, or any other plant,  
17 animal, or plant or animal product which supplies  
18 people with food, fee, fiber, or fur.

19 9. "Nuisance" means a public or private nuisance  
20 as defined either by statute, administrative rule,  
21 ordinance, or the common law.

22 10. "Nuisance action or proceeding" means an  
23 action, claim, or proceeding, whether brought at law,  
24 in equity, or as an administrative proceeding, which  
25 is based on nuisance.

26 11. "State council" means the state land  
27 preservation council.

28 12. "Farmland" means those parcels of land suitable  
29 for agricultural production which will continue to  
30 be economically feasible for that use if given the  
31 protections afforded by this chapter to land within  
32 an agricultural area or agricultural district.

5532 33 Sec. 4. NEW SECTION. STATE COUNCIL ESTABLISHED.

34 1. A state land preservation council is created.  
35 The state council is composed of the following:

36 a. The administrative heads of the department  
37 of agriculture, department of soil conservation, state  
38 conservation commission, Iowa natural resources  
39 council, department of environmental quality,  
40 geological survey, state agricultural extension ser-  
41 vice, and Iowa development commission or that person's  
42 designee from the respective agency.

43 b. Two persons appointed by the governor, one  
44 from a city of under ten thousand population and one  
45 from a city of ten thousand or more population.

46 c. Six soil conservation district commissioners,  
47 one elected from each congressional district. The  
48 commissioners of each district shall elect one  
49 commissioner to attend a congressional district  
50 convention. The convention shall elect one of the

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Page 3

1 commissioners serving as a delegate to the convention  
2 to serve on the state council.

3 2. The chairperson and vice chairperson of the  
4 temporary state land preservation policy commission  
5 or their designees shall be members of the state  
6 council.

7 3. Members of the state council who are not state  
8 employees shall receive compensation of forty dollars  
9 per diem and reimbursement from the state for travel  
10 and other necessary expenses incurred in the per-  
11 formance of the member's official duties. Members  
12 who are state employees shall receive reimbursement  
13 for travel and expenses from the budgets of their  
14 respective agencies.

15 4. A vacancy in the state council shall be filled  
16 in the same manner as the appointment of the member  
17 whose position is vacant.

18 Sec. 5. NEW SECTION. COUNTY COMMISSIONS  
19 ESTABLISHED.

20 1. In each county a county land preservation  
21 commission is created composed of the following  
22 members:

23 a. One member appointed by and from the county  
24 agricultural extension council.

25 b. Two members appointed by the district soil  
26 conservation commissioners, one of whom must be a  
27 member of the district soil conservation commission  
28 and one must be a person who is not a commissioner,  
29 but is actively operating a farm in the county.

30 c. One member appointed by the board of supervisors  
31 from the residents of the county who may be a member  
32 of the board.

33 d. One member appointed by and from a convention  
34 of the mayors and councilpersons of the cities of  
35 the county. If a participating city contains fifty  
36 percent or more of the total population of the  
37 participating cities, that city may appoint the member  
38 appointed under this paragraph.

39 However, if a city contains more than fifty percent  
40 of the population of a county which has a population  
41 exceeding fifty thousand persons, that city shall  
42 not participate in the convention of mayors and  
43 councilpersons and the members appointed under  
44 paragraph d shall be one member appointed by and from  
45 the mayor and councilpersons of that city and one  
46 member appointed by and from the convention of mayors  
47 and councilpersons and the member appointed under  
48 paragraph c shall be a resident of the county engaged  
49 in actual farming operations appointed by the board  
50 of supervisors.

1 from among its members. A majority of the members  
2 of the county commission constitutes a quorum.  
3 Concurrence of a quorum is required to determine any  
4 matter relating to its official duties.

5 3. The state agricultural extension service shall  
6 assist county commissions with technical,  
7 informational, and clerical assistance.

8 4. A vacancy in the county commission shall be  
9 filled in the same manner as the appointment of the  
10 member whose position is vacant.

11 Sec. 6. NEW SECTION. COUNTY INVENTORIES.

12 1. The state council shall meet and organize by  
13 the election of a chairperson and vice chairperson  
14 from among its members. A majority of the members  
15 of the state council constitutes a quorum. Concurrence  
16 of a quorum is required to determine any matter  
17 relating to its official duties.

18 2. The department of soil conservation shall  
19 provide clerical staff to the state council.

20 3. The state council shall establish advisory  
21 guidelines for the development of county inventories.  
22 The guidelines shall inform the county commissions  
23 of information to be included in the inventories and  
24 what part of that information is available from state  
25 agencies. The county inventories shall contain at  
26 least the following:

27 a. The amount of land available and used for  
28 agricultural purposes by soil suitability  
29 classifications.

30 b. The amount of woodlands.

31 c. The amount of land used for recreation.

32 d. The amount of historical sites.

33 e. The amount of land available within cities  
34 for development.

35 f. The amount of land used for commercial,  
36 industrial, and residential purposes.

37 g. The amount of land used for or held in reserve  
38 for the extraction of natural resources including  
39 but not limited to coal, colloidal clay, gypsum,  
40 limestone, sand, and gravel.

41 h. The amount of land used for farming operations  
42 within the limits of a city.

43 i. The amount of land or building lots presently  
44 platted within city limits that are not occupied by  
45 buildings or inhabited structures.

46 j. The amount of land which has been converted  
47 from one type of use to another since 1960, including  
48 but not limited to the uses listed in this subsection.

49 4. The information required by subsection 3 shall  
50 be provided both in narrative and map form according

1 4. The information required by subsection 3 shall  
2 be provided both in narrative and map form according  
3 to guidelines established by the state council. The  
4 council shall require a cartographic display  
5 contrasting each county's land use in 1960 with the  
6 land use in existence as of the date of the inventory.

7 5. The county commissions shall compile county  
8 inventories and submit them to the state council.  
9 The state council may request additional information  
10 from a county commission after submission of the  
11 inventory.

12 6. The state council shall compile the inventories  
13 submitted by the county commissions into a statewide  
14 inventory and submit it to the general assembly.

15 Sec. 7. NEW SECTION. SCHEDULE AND DUTIES. Subject  
16 to extensions of time granted to county commissions  
17 by the state council for good cause shown, the general  
18 assembly intends that the state council and county  
19 commissions meet the following schedule:

20 1. By September 1, 1982, the state soil  
21 conservation commissioners shall be elected to the  
22 state council.

23 2. By October 1, 1982, the state council shall  
24 organize.

25 3. By December 31, 1982, the county commissions  
26 shall organize and the state council shall establish  
27 advisory guidelines for the development of county  
28 inventories. The state council shall assist the  
29 county commission in obtaining information for use  
30 in compiling the county inventories.

31 4. By July 1, 1983, the county commission shall  
32 compile a county inventory and submit it to the state  
33 council.

34 5. By December 31, 1983, the state council shall  
35 adopt guidelines for the development of county land  
36 use plans.

37 6. By September 1, 1984, after a public hearing,  
38 a county commission shall propose to the county board  
39 a county land use plan, in keeping with the guidelines  
40 established by the state council, and send a copy  
41 of the plan to the state council or advise the county  
42 board and the state council that under existing  
43 circumstances in the county it finds no need for a  
44 land use plan. Upon receipt of a plan, the county  
45 board may rerefer the plan to the county commission  
46 for modification, or may cause the question of the  
47 approval of the plan, either as originally submitted  
48 or as modified, to be placed on the ballot of the  
49 next available countywide election, or may reject  
50 the plan.

1 as they pertain to the planning guidelines adopted  
2 pursuant to section 7 of this Act to appropriate  
3 county commissions and their county boards.

4 8. If the plan is approved by a majority of the  
5 voters of the county, a copy shall be provided to  
6 the state council forthwith and it becomes the land  
7 use policy of the county and shall be administered  
8 and enforced by the county. The county commission  
9 shall review the county plan periodically for the  
10 purpose of amending it as the commission deems  
11 appropriate. If the commission amends the plan it  
12 shall forward the proposal to the county board of  
13 supervisors which shall cause the amendment to be  
14 published in a newspaper of general circulation in  
15 the county. If a petition is filed with the county  
16 auditor within ninety days of the publication by five  
17 percent of the qualified electors of the county  
18 requesting that the amendment be submitted to the  
19 qualified electors of the county, the county board  
20 of supervisors shall either withdraw the amendment  
21 or direct the county commissioner of elections to  
22 place the approval of the amendment on the ballot  
23 at the next available countywide election. The  
24 amendment shall become effective unless a petition  
25 is filed in the required time and the amendment is  
26 disapproved by a majority of the voters voting on  
27 the ballot issue.

28 9. Unless extended by the legislature before that  
29 date, the state council's existence shall terminate  
30 on June 30, 1987.

31 Sec. 8. NEW SECTION. AGRICULTURAL DISTRICTS.  
32 A county may establish agricultural districts by  
33 adopting ordinances under chapter 358A. The ordinances  
34 must be consistent with any county land use plans  
35 that has been adopted by the county under section  
36 7 of this Act. Except as provided below, agricultural  
37 districting ordinances shall limit the use of the  
38 land in agricultural districts to farm operations.

39 1. The following shall be permitted in an  
40 agricultural district:

41 a. Residences constructed for occupation by a  
42 person, or by a family having at least one member  
43 who earns a substantial part of his or her livelihood  
44 from farm operations on the parcel, or by a parent  
45 or child of that farm operator. Nonconforming  
46 preexisting residences may be continued in residential  
47 use.

48 b. Property of a telephone company, city utility  
49 as defined in section 390.1, public utility as defined  
50 in section 476.1, or pipeline company as defined in

1 as defined in section 390.1, public utility as defined  
2 in section 476.1, or pipeline company as defined in  
3 section 479.2.

4 c. Public or private elementary or secondary  
5 schools.

6 d. Churches.

7 e. Sanitary disposal projects authorized pursuant  
8 to chapter 455B of the Code.

9 2. The county board of supervisors may permit  
10 any use not listed in subsection 1 in an agricultural  
11 district only if it finds all of the following:

12 a. The use is not inconsistent with the purposes  
13 set forth in section 2 of this Act.

14 b. The use does not interfere seriously with farm  
15 operations within the district.

16 c. The use does not materially alter the stability  
17 of the overall land use pattern in the area.

18 Sec. 9. NEW SECTION. CREATION OF AGRICULTURAL  
19 AREAS. An owner of farmland may submit a proposal  
20 to the county committee for the creation of an  
21 agricultural area within the county. An agricultural  
22 area, at its creation, shall include at least five  
23 hundred acres of farmland, however, a smaller area  
24 may be created if the farmland is adjacent to an agri-  
25 cultural district. The proposal shall include a  
26 description of the proposed area, including its  
27 boundaries. The territory shall be as compact and  
28 as nearly adjacent as feasible. Land shall not be  
29 included in an agricultural area without the consent  
30 of the owner. Agricultural areas shall not exist  
31 within the corporate limits of the city. Agricultural  
32 areas may be created in a county which has adopted  
33 zoning ordinances.

34 Sec. 10. NEW SECTION. COUNTY AGRICULTURAL AREAS  
35 COMMITTEE. In any county in which a proposal for  
36 creation of an agricultural area is submitted, the  
37 county board shall establish a county agricultural  
38 areas committee if such a committee has not already  
39 been established for the county. The county com-  
40 mittee shall consist of four active farmers, three  
41 of whom are actively engaged in both crop and livestock  
42 farming, and a member of the county board. The  
43 committee shall select one of its members to serve  
44 as chairperson of the committee. Members of the  
45 committee are appointed by and serve at the pleasure  
46 of the county board. The members shall serve without  
47 compensation, but the board may authorize reimbursement  
48 of each member's actual and necessary expenses incurred  
49 in the performance of official duties.

50 Sec. 11. NEW SECTION. DUTIES OF COUNTY COMMITTEE.

1 requirements, the county committee shall provide  
2 notice of the proposal by publishing notice in a  
3 newspaper of general circulation in the county.  
4 Within forty-five days after receipt, the committee  
5 shall hold a public hearing on the proposal.

6 2. Within sixty days after receipt, the committee  
7 shall make a recommendation to the county board.  
8 Its recommendation may include modifications of the  
9 proposed area.

10 Sec. 12. NEW SECTION. ADOPTION BY THE COUNTY  
11 BOARD. Within forty-five days after receiving the  
12 recommendation of the county committee, the county  
13 board shall adopt the proposal or any modification  
14 of the proposal it deems appropriate, unless to do  
15 so would be inconsistent with the purposes of this  
16 chapter or any county land use plan adopted pursuant  
17 to section 7 of this Act.

18 An agricultural area shall be subject to the same  
19 use restrictions provided in section 8 of this Act  
20 for agricultural districts.

21 Sec. 13. NEW SECTION. REQUIREMENT THAT DESCRIPTION  
22 OF AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR  
23 AND COUNTY RECORDER. Upon the creation of an  
24 agricultural area, its description shall be filed  
25 by the county board with the county auditor and placed  
26 on record in the office of the county recorder.

27 Sec. 14. NEW SECTION. WITHDRAWAL. At any time  
28 after three years from the date of creation of an  
29 agricultural area, an owner may withdraw from an  
30 agricultural area by filing with the county board  
31 of supervisors a notice of withdrawal containing  
32 a legal description of the land to be withdrawn.  
33 Within sixty days after receipt of the notice and  
34 upon verification that the land to be withdrawn has  
35 been in an agricultural area for three years, the  
36 board shall cause the description of that agricultural  
37 area filed with the county auditor and recorded with  
38 the county recorder to be modified to reflect such  
39 withdrawal. Withdrawal shall be effective on the  
40 date of recording. The agricultural area from which  
41 the land is withdrawn shall continue in existence  
42 even if smaller than five hundred acres after  
43 withdrawal.

44 Sec. 15. NEW SECTION. LIMITATION ON POWER OF  
45 CERTAIN PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT  
46 ASSESSMENTS OR SPECIAL ASSESSMENTS. A political  
47 subdivision or a benefited district providing public  
48 services such as sewer, water, or lights or for nonfarm  
49 drainage shall not impose benefit assessments or  
50 special assessments on land used for primarily

1 subdivision or a benefited district providing public  
2 services such as sewer, water, or lights or for nonfarm  
3 drainage shall not impose benefit assessments or  
4 special assessments on land used for primarily  
5 agricultural production within an agricultural area  
6 or in an agricultural district on the basis of  
7 frontage, acreage, or value, unless the benefit  
8 assessments or special assessments were imposed prior  
9 to the formation of the agricultural area or  
10 agricultural district, or unless the service is  
11 provided to the landowner on the same basis as others  
12 having the service.

13 Sec. 16. NEW SECTION. INCENTIVES FOR AGRICULTURAL  
14 LAND PRESERVATION.

15 1. NUISANCE RESTRICTION. A farm operation located  
16 in an agricultural area or an agricultural district  
17 shall not be found to be a nuisance regardless of  
18 the established date of operation or expansion of  
19 the agricultural activities of the farm operation.  
20 The subsection does not apply if the nuisance results  
21 from the negligent operation of the farm. This section  
22 does not apply to actions or proceedings arising from  
23 injury or damage to person or property caused by the  
24 farm operation before the creation of the agricultural  
25 area or agricultural district. This subsection does  
26 not affect or defeat the right of a person to recover  
27 damages for injury or damage sustained by the person  
28 because of the pollution or change in condition of  
29 the waters of a stream, the overflowing of the person's  
30 land, or excessive soil erosion onto another person's  
31 land.

32 2. WATER PRIORITY. In the application for a  
33 permit to divert, store, or withdraw water and in  
34 the allocation of available water resources under  
35 a water permit system, the Iowa natural resources  
36 council shall give priority to the use of water  
37 resources by farm operations, exclusive of irrigation,  
38 located in an agricultural area or an agricultural  
39 district over all other uses except the competing  
40 uses of water for ordinary household purposes.

41 Sec. 17. NEW SECTION. STATE REGULATIONS. A rule  
42 adopted by a state agency after the effective date  
43 of this Act which would restrict or regulate farm  
44 structures or farm operations shall not become  
45 effective as applied to farm structures or farm  
46 operations within an agricultural district or  
47 agricultural area unless prior to the adoption of  
48 the rule the agency finds both of the following:

49 1. That the activity to be regulated within the  
50 district or area has a substantial deleterious effect

1 the rule the agency finds both of the following:

2 1. That the activity to be regulated within the  
3 district or area has a substantial deleterious effect  
4 outside of the district or area.

5 2. That the need for the application of the rule  
6 within the district or area outweighs the policies  
7 of this chapter, which include the encouragement of  
8 exclusively agricultural activities within the district  
9 or area at a level of intensity that would not be  
10 tolerated outside the district or area.

11 In addition to the right of an interested person  
12 granted in chapter 17A to request the agency to issue  
13 a concise statement of the principal reasons for and  
14 against the rule it adopted, a resident or owner of  
15 land in an agricultural district or area may request  
16 the agency to include in that concise statement the  
17 findings required for application of the rule within  
18 an agricultural district or area and the principal  
19 reasons used by the agency in making the findings.

20 Sec. 18. Section 358A.2, Code 1981 Supplement,  
21 is amended to read as follows:

22 358A.2 FARMS EXEMPT. No ordinance adopted under  
23 this chapter applies to land, farm houses, farm barns,  
24 farm outbuildings or other buildings or structures  
25 which are primarily adapted, by reason of nature and  
26 area, for use for agricultural purposes, while so  
27 used. However, the ordinances may apply to any struc-  
28 ture, building, dam, obstruction, deposit or excavation  
29 in or on the flood plains of any river or stream.  
30 Ordinances may also apply in agricultural districts  
31 and agricultural areas to the extent required to  
32 implement sections 8 and 15 of this Act.

33 Sec. 19. Section 358A.5, unnumbered paragraph  
34 1, Code 1981 Supplement, is amended to read as follows:

35 ~~Sueh~~ The regulations shall be made in accordance  
36 with a comprehensive plan and designed to preserve  
37 the availability and productivity of agricultural  
38 land; to discourage urban sprawl and encourage  
39 efficient urban development patterns; to lessen  
40 congestion in the street or highway; to secure safety  
41 from fire, flood, panic, and other dangers; to protect  
42 health and the general welfare; to provide adequate  
43 light and air; to prevent the overcrowding of land;  
44 to avoid undue concentration of population; to promote  
45 the conservation of energy resources; to promote  
46 reasonable access to solar energy; and to facilitate  
47 the adequate provision of transportation, water,  
48 sewerage, schools, parks and other public requirements.  
49 However, provisions of this section relating to the  
50 objectives of energy conservation and access to solar

July 1, 1981.

Sec. 20. Section 414.3, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 125, section 2, is amended to read as follows:

~~Such~~ The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability and productivity of agricultural land; to discourage urban sprawl and encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy shall do not be construed as voiding void any zoning regulation existing on the effective date of this Act July 1, 1981, or to require zoning in a city that did not have zoning prior to the effective date of this Act July 1, 1981.

Sec. 21. Section 472.3, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the damages are to be paid by the state and the land to be condemned is within an agricultural district or agricultural area as provided in chapter 93A, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture soil conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

Sec. 22. This Act does not invalidate any part of a zoning ordinance which is in effect on the effective date of this Act, or require the adoption of a zoning ordinance by any subdivision of the state."

S-5325 FILED  
MARCH 22, 1982

BY ARNE WALDSTEIN

*Adopted as amended by*  
*5346B, 5346C,*  
*5347-5351*  
*3/24 (p. 884)*

DALE TIEDEN FORREST SCHWENGELS  
ARTHUR GRATIAS NORMAN GOODWIN  
ELVIE DREESZEN NORMAN RODGERS  
JACK HESTER C.W. BILL HUTCHINS  
C. JOSEPH COLEMAN RICHARD VANDE HOEF

SENATE FILE 2218

S-5326

1 Amend the Amendment S-5325 to Senate File 2218 as  
2 follows:

3 1. Page 6, by striking lines 44 through 49, and  
4 inserting in lieu thereof the words "person engaged  
5 in farming or by a family farm operation."

6 2. Page 7, line 14, by striking the word "seriously".

7 3. Page 7, line 16, by striking the word "materially".

S-5326 FILED  
MARCH 22, 1982

BY JAMES V. GALLAGHER

*B- Lost 3/23 (p. 872)*

*A. Placed out of order (p. 876)*

SENATE FILE 2218

S-5346

1 Amend the Amendment S-5325 to Senate File 2218 as  
2 follows:

3 1. Page 5, line 39, by striking the words "in  
A 4 keeping with" and inserting in lieu thereof the words  
5 "giving consideration to".

6 2. Page 6, line 12, by striking the word  
7 "amending" and inserting in lieu thereof the words  
8 "proposing amendments to".

9 3. Page 6, line 13, by striking the word "amends"  
10 and inserting in lieu thereof the words "proposes  
B 11 amendments to".

12 4. Page 6, line 15, by striking the word "shall"  
C 13 and inserting in lieu thereof the words "may rerefer  
14 the amendment to the commission for modification,  
15 may reject the amendment, or may".

S-5346 FILED

BY FORREST V. SCHWENGELS

MARCH 23, 1982

A - WITHDRAWN (p. 873)

B - ADOPTED (p. 873)

C - ADOPTED (p. 875)

SENATE FILE 2218

S-5347

1 Amend the Amendment S-5325 to Senate File 2218 as  
2 follows:

3 1. Page 5, by inserting after line 6 the following:

4 "5. The county commission shall, to the greatest  
5 extent possible, use the information compiled under  
6 Acts of the Sixty-Seventh General Assembly, 1977  
7 Session, chapter 53, in compiling the inventories  
8 provided under this section."

S-5347 FILED

BY RAY TAYLOR

MARCH 23, 1982

ADOPTED (p. 876)

SENATE FILE 2218

S-5351

1 Amend the Amendment S-5325 to Senate File 2218 as  
2 follows:

3 1. Page 6, by striking lines 44 through 47, and  
4 inserting in lieu thereof the following: "person  
5 engaged in farming or by a family farm operation.  
6 Nonconforming".

S-5351 FILED

BY JAMES V. GALLAGHER

MARCH 23, 1982

ELVIE DREESZEN

ADOPTED (p. 876)

ALVIN V. MILLER

SENATE FILE 2218

S-5358

1 Amend amendment S-5325 to Senate File 2218 as  
2 follows:

3 1. Page 11, by inserting after line 1 the  
4 following:

5 "Sec. 20. Section 358A.8, Code 1981, is amended  
6 to read as follows:

7 358A.8 COMMISSION APPOINTED. In order to avail  
8 itself of the powers conferred by this chapter, the  
9 board of supervisors shall ~~appoint-a~~ authorize the  
10 county land preservation commission, a-majority-of  
11 ~~whose-members-shall-reside-within-the-county-but~~  
12 ~~outside-the-corporate-limits-of-any-city,~~ to be known  
13 serve as the county zoning commission, to recommend  
14 the boundaries of the various original districts,  
15 and appropriate regulations and restrictions to be  
16 enforced therein. Such commission shall, with due  
17 diligence, prepare a preliminary report and hold  
18 public hearings thereon before submitting its final  
19 report; and the board of supervisors shall not hold  
20 its public hearings or take action until it has  
21 received the final report of such commission. After  
22 the adoption of such regulations, restrictions, and  
23 boundaries of districts, the zoning commission may,  
24 from time to time, recommend to the board of  
25 supervisors amendments, supplements, changes or  
26 modifications. The zoning commission, with the  
27 approval of the board of supervisors, may contract  
28 with professional consultants, regional planning  
29 commissions, the Iowa development commission, or the  
30 federal government, for local planning assistance."

31 2. By renumbering the sections to conform with  
32 this amendment.

S-5358 FILED & LOST  
MARCH 23, 1982 (p.877)

BY RAY TAYLOR

SENATE FILE 2218

S-5352

Amend amendment S-5325 to Senate File 2218 as follows:

1. Page 2, by striking line 34 through page 3, line 17 and inserting in lieu thereof the following:  
"1. The state land preservation council shall consist of six elected members elected from conventions. The conventions shall be in each congressional district. The members of the county commissions appointed under section 5, subsection 1, paragraphs b, c and d of this Act shall attend as delegates. At each convention the members appointed by county supervisors, by district soil conservation commissioners, and by mayors and councilpersons shall elect one county commissioner to the state council. The department of soil conservation shall provide assistance in making the arrangements for the conventions. Each member of each county commission present shall have one vote at the convention. If the congressional district elections do not result in the election of a county supervisor, a mayor and a soil conservation commissioner, the governor shall appoint one member to represent each of these groups to the state council.

2. The state council shall convene and organize by the election from its members of a chairperson and a vice chairperson. A majority of the members of the state council shall constitute a quorum and the concurrence of a quorum shall be required to determine any matter relating to its official duties. Each member of the state council is entitled to receive a forty dollar per diem and shall be reimbursed for actual and necessary expenses.

3. If a vacancy occurs on the state council the department of soil conservation shall call a congressional district convention only of those county commissioners who would elect a member to fill that vacancy.

4. The department may employ professional technical and clerical assistance to carry out the state council's duties. The state council shall be administratively attached to the department of soil conservation which shall provide support services to the state council."

2. Page 5, by striking lines 20 through 26 and inserting in lieu thereof the following:

"1. By August 1, 1982, the county commissions shall organize.

2. By September 1, 1982, the congressional district conventions shall elect the members of the state council.

3. By October 1, 1982, the state council shall organize.

4. By December 31, 1982, the state council shall establish".

STATE OF IOWA  
FISCAL NOTERequest No. 82-348

In compliance with a written request received April 6, 19 82, there is hereby submitted a Fiscal Note for Amend. H-5708 to S.F. 2218 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

Senate File 2218 amended by H-5708 is an Act relating to the uses of land in the state by requiring inventories and plans by county organizations and providing for a state land preservation council to help and establish guidelines for the county organizations.

The fiscal impact of H-5708 on S.F. 2218 would be in who incurs the costs involved in compiling the county land use inventories. Under S.F. 2218 the costs of the inventories would have been divided between the state agricultural extension service, who is to provide technical, informational, and clerical assistance to the county organizations, and by the counties. S.F. 2218 with H-5708 allows the counties to get reimbursement from the state for their reasonable costs incurred in preparing the inventories.

Many variables go into the cost of compiling the inventories, these include:

1. The advisory guidelines for the county inventories established by the state council will determine how much effort by each county will be required.
2. The extent to which the state agricultural extension service responsibility for technical, informational and clerical assistance will cover the costs of the inventories.
3. The amount of information required on inventories which is already available and compiled from state agencies.
4. The various kinds of work and expertise which individual counties have related to inventories.

The estimates of the county costs of compiling the inventories range from \$1,000 to \$30,000 apiece. The actual cost of compiling the inventories could only be calculated once all the variables are known.

The known cost to the state agricultural extension service and the other costs of S.F. 2218 with H-5667 are:

\$100,000 to \$150,000 for state agricultural extension service to assist county commissions with technical, informational, and clerical assistance. This would be the cost to the agricultural extension service over the period required to generate the inventories and plans.

\$92,000 for the department of soil conservation to provide clerical assistance to the state council. This would be an annual cost over the life of the state council.

Up to \$100,000 in costs for agricultural extension services, district soil conservation commissioners, county boards, and cities. This funding would be needed to provide reimbursement for expenses incurred in the performance of duties of the five members appointed in each county to serve as the county land preservation commission.

FILED APRIL 8, 1982 BY GERRY RANKIN, Fiscal Director

STATE OF IOWA  
F I S C A L N O T ERequest No. 82-343

In compliance with a written request received April 1, 19 82, there is hereby submitted a Fiscal Note for Amend. H-5667 to S.F. 2218 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

Amendment H-5667 to Senate File 2218 is an Act relating to the uses of land in the state by requiring inventories and plans by county organizations and providing for a state land preservation council to help and establish guidelines for the county organizations.

The fiscal impact of H-5667 by amending S.F. 2218 would be in the costs involved in compiling county land use inventories. H-5667 changes amended S.F. 2218 from mandating what information is to be included in the county inventories to requiring counties only to assemble that information which is available.

Requiring county organizations to only compile the inventories from information available will eliminate the costs involved in gathering and researching any new information required by the inventories. The costs which are incurred in compiling the inventories should be covered by the agricultural extension service which is to provide technical, informational, and clerical assistance to the county organizations.

The cost to the state agricultural extension service for providing this help with inventories is estimated at \$75,000 to \$100,000. The state agricultural extension service would also require \$25,000 to \$50,000 for helping in the development of county land use plans to be developed by the county organizations.

A summary of the cost of the state agricultural extension service and the other costs of amended S.F. 2218 with H-5667 is:

\$100,000 to \$150,000 for state agricultural extension service to assist county commissions with technical, informational, and clerical assistance. This would be the cost to the agricultural extension service over the period required to generate the inventories and plans.

\$ 92,000 for the department of soil conservation to provide clerical assistance to state council. This would be an annual cost over the life of the state council.

Up to \$100,000 in costs for agricultural extension services, district soil conservation commissioners, county boards, and cities. This funding would be needed to provide reimbursement for expenses incurred in the performance of duties of the five members appointed in each county to serve as the county land preservation commission.

Source: State Agricultural Extension Service  
Department of Soil Conservation

FILED APRIL 8, 1982 BY GERRY RANKIN, Fiscal Director

STATE OF IOWA  
FISCAL NOTERequest No. 82-360

In compliance with a written request received April 8, 19 82, there is hereby submitted a Fiscal Note for Amendment H-5781 to H-5667 on Senate File 2218 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

Amendment H-5781 to H-5667 on Senate File 2218, is an Act relating to the uses of land in the state by requiring inventories and plans by county organizations.

The fiscal impact of H-5781 to H-5667 on S.F. 2218 would be associated with the costs involved in compiling the inventories and plans required of each county. The state agricultural extension service is to provide technical, informational, and clerical assistance to the county organizations. The cost to the state agricultural extension service for providing this help with the inventories and plans is estimated at \$100,000 to \$150,000.

The cost to the individual counties in compiling the required plans and inventories would depend upon many variables. These include:

- 1) The extent to which the state agricultural extension service responsibility for technical, informational and clerical assistance will cover the costs of the inventories.
- 2) The amount of information for the inventories which is already available.
- 3) The various kinds of work and expertise which individual counties have related to inventories.

The actual cost of compiling the inventories could only be calculated once all the variables are known.

Other costs associated with this Act would be up to \$100,000 for the agricultural extension services, district soil conservation commissioners, county boards, and cities. This funding would be needed to provide reimbursement for expenses incurred in the performance of duties for the five members appointed in each county to serve as the county land preservation commission

Source: State Agricultural Extension Service  
Department of Soil Conservation

FILED APRIL 12, 1982

BY GERRY RANKIN, Fiscal Director

*See Agriculture 3/26 Amended per 56676 to Pass  
4/11 (p. 1189)*

Senate File 2218

Agriculture: Bennett, Chair; McKean, Cook, Dieleman and Cochran.

SENATE FILE 2218

BY COMMITTEE ON NATURAL RESOURCES

(AS AMENDED AND PASSED BY THE SENATE MARCH 24, 1982)

*As* Passed Senate, Date 4-24-82 (p. 1483) Passed House, Date 4-13-82 (p. 1398)

Vote: Ayes 27 Nays 17 Vote: Ayes 53 Nays 43

Approved May 14, 1982

*Failed to pass (p. 1478) Reconsidered motion to reconsider (p. 1446) Loss 4/15*

### A BILL FOR

1 An Act relating to the uses of land in this state by requiring  
2 inventories by county organizations, authorizing agricultural  
3 use ordinances and agricultural areas, and providing for the  
4 restriction of certain proceedings and assessments.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*4/20 Conference Committee Appointed  
Representatives Bennett (Chair), Galter, Pellitt, Cochran, Lloyd-Jones\* (p. 1582)  
Senators Lieder (Chair), Waldstein, Schwegels, Slater, Van Fleet (p. 1316)  
\* Davitt replaced Lloyd-Jones 4/21 (p. 1645)*

*Passed per C.C. Report*

*Senate 4-24-82 (p. 1483)  
27-17*

*House 4-24-82 (p. 1875)  
60-37*

ALL NEW LANGUAGE  
BY THE SENATE

5764, 5688 amended

1 Section 1. Chapter 93A, Code 1981, is amended by striking  
2 the chapter and inserting in lieu thereof sections 2 through  
3 20 of this Act.

4 Sec. 2. NEW SECTION. PURPOSE. It is the intent of the  
5 general assembly to provide for the development of local land  
6 use inventories and to encourage the use of procedures which  
7 provide for the orderly use and development of land and related  
8 natural resources in Iowa for residential, commercial,  
9 industrial, and recreational purposes, preserve private  
10 property rights, and preserve the use of agricultural land  
11 for agricultural production, through processes that emphasize  
12 the participation of citizens and local governments.

13 The general assembly recognizes the importance of preserving  
14 the state's finite supply of agricultural land. Conversion  
15 of farmland to urban development, and other nonfarm uses,  
16 reduces future food production capabilities and may ultimately  
17 undermine agriculture as a major economic activity in Iowa.

18 It is the intent of the general assembly to provide local  
19 citizens and local governments the means by which agricultural  
20 land may be protected from nonagricultural development  
21 pressures. This may be accomplished by the establishment  
22 of agricultural districts or agricultural areas in which  
23 substantial agricultural activities are encouraged, so that  
24 land inside these districts and areas is conserved for the  
25 production of food, fiber, and livestock, thus assuring the  
26 preservation of agriculture as a major factor in the economy  
27 of this state.

28 Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter  
29 unless the context otherwise requires:

30 1. "Agricultural area" means an area meeting the  
31 qualifications of section 9 of this Act and designated under  
32 section 12 of this Act.

33 2. "Agricultural district" means a district established  
34 under section 8 of this Act.

35 3. "County board" means the county board of supervisors.

1 4. "County commission" means the county land preservation  
2 commission.

3 5. "County committee" means the county agricultural areas  
4 committee.

5 6. "Farm" means the land, buildings, and machinery used  
6 in the commercial production of farm products.

7 7. "Farm operation" means a condition or activity which  
8 occurs on a farm in connection with the production of farm  
9 products and includes but is not limited to the marketing  
10 of products at roadside stands or farm markets, the creation  
11 of noise, odor, dust, fumes, the operation of machinery and  
12 irrigation pumps, ground and aerial seeding and spraying,  
13 the application of chemical fertilizers, conditioners,  
14 insecticides, pesticides, and herbicides, and the employment  
15 and use of labor.

16 8. "Farm products" means those plants and animals and  
17 their products which are useful to people and includes but  
18 is not limited to forages and sod crops, grains and feed  
19 crops, dairy and dairy products, poultry and poultry products,  
20 livestock, fruits, vegetables, flowers, seeds, grasses, trees,  
21 fish, honey, and other similar products, or any other plant,  
22 animal, or plant or animal product which supplies people with  
23 food, feed, fiber, or fur.

24 9. "Nuisance" means a public or private nuisance as defined  
25 either by statute, administrative rule, ordinance, or the  
26 common law.

27 10. "Nuisance action or proceeding" means an action,  
28 claim, or proceeding, whether brought at law, in equity, or  
29 as an administrative proceeding, which is based on nuisance.

30 11. "State council" means the state land preservation  
31 council.

5667-32 12. "Farmland" means those parcels of land suitable for  
33 agricultural production which will continue to be economically  
34 feasible for that use if given the protections afforded by  
35 this chapter to land within an agricultural area or

1 agricultural district.

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2 Sec. 4. NEW SECTION. STATE COUNCIL ESTABLISHED.

3 1. A state land preservation council is created. The  
4 state council is composed of the following:

5 a. The administrative heads of the department of  
6 agriculture, department of soil conservation, state  
7 conservation commission, Iowa natural resources council,  
8 department of environmental quality, geological survey, state  
9 agricultural extension service, and Iowa development commission  
10 or that person's designee from the respective agency.

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11 b. Two persons appointed by the governor, one from a city  
12 of under ten thousand population and one from a city of ten  
13 thousand or more population.

14 c. Six soil conservation district commissioners, one  
15 elected from each congressional district. The commissioners  
16 of each district shall elect one commissioner to attend a  
17 congressional district convention. The convention shall elect  
18 one of the commissioners serving as a delegate to the  
19 convention to serve on the state council.

20 2. The chairperson and vice chairperson of the temporary  
21 state land preservation policy commission or their designees  
22 shall be members of the state council.

23 3. Members of the state council who are not state employees  
24 shall receive compensation of forty dollars per diem and  
25 reimbursement from the state for travel and other necessary  
26 expenses incurred in the performance of the member's official  
27 duties. Members who are state employees shall receive  
28 reimbursement for travel and expenses from the budgets of  
29 their respective agencies.

30 4. A vacancy in the state council shall be filled in the  
31 same manner as the appointment of the member whose position  
32 is vacant.

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33 Sec. 5. NEW SECTION. COUNTY COMMISSIONS ESTABLISHED.

34 1. In each county a county land preservation commission  
35 is created composed of the following members:

1 a. One member appointed by and from the county agricultural  
2 extension council.

3 b. Two members appointed by the district soil conservation  
4 commissioners, one of whom must be a member of the district  
5 soil conservation commission and one must be a person who  
6 is not a commissioner, but is actively operating a farm in  
7 the county.

8 c. One member appointed by the board of supervisors from  
9 the residents of the county who may be a member of the board.

57-10 d. One member appointed by and from a convention of the  
11 mayors and councilpersons of the cities of the county. If  
12 a participating city contains fifty percent or more of the  
13 total population of the participating cities, that city may  
14 appoint the member appointed under this paragraph.

15 However, if a city contains more than fifty percent of  
16 the population of a county which has a population exceeding  
17 fifty thousand persons, that city shall not participate in  
18 the convention of mayors and councilpersons and the members  
19 appointed under paragraph d shall be one member appointed  
20 by and from the mayor and councilpersons of that city and  
21 one member appointed by and from the convention of mayors  
22 and councilpersons and the member appointed under paragraph  
23 c shall be a resident of the county engaged in actual farming  
24 operations appointed by the board of supervisors.

25 2. The county commission shall meet and organize by the  
26 election of a chairperson and vice chairperson from among  
27 its members. A majority of the members of the county  
28 commission constitutes a quorum. Concurrence of a quorum  
29 is required to determine any matter relating to its official  
30 duties.

31 3. The state agricultural extension service shall assist  
32 county commissions with technical, informational, and clerical  
33 assistance.

34 4. A vacancy in the county commission shall be filled  
35 in the same manner as the appointment of the member whose

56671 position is vacant.

56672 Sec. 6. NEW SECTION. COUNTY INVENTORIES.

3 1. The state council shall meet and organize by the  
4 election of a chairperson and vice chairperson from among  
5 its members. A majority of the members of the state council  
6 constitutes a quorum. Concurrence of a quorum is required  
7 to determine any matter relating to its official duties.

8 2. The department of soil conservation shall provide  
9 clerical staff to the state council.

10 3. The state council shall establish advisory guidelines  
11 for the development of county inventories. The guidelines  
12 shall inform the county commissions of information to be  
13 included in the inventories and what part of that information  
14 is available from state agencies. The county inventories  
15 shall contain at least the following:

16 a. The amount of land available and used for agricultural  
17 purposes by soil suitability classifications.

18 b. The amount of woodlands.

19 c. The amount of land used for recreation.

20 d. The amount of historical sites.

21 e. The amount of land available within cities for  
22 development.

23 f. The amount of land used for commercial, industrial,  
24 and residential purposes.

25 g. The amount of land used for or held in reserve for  
26 the extraction of natural resources including but not limited  
27 to coal, colloidal clay, gypsum, limestone, sand, and gravel.

28 h. The amount of land used for farming operations within  
29 the limits of a city.

571430 i. The amount of land or building lots presently platted  
31 within city limits that are not occupied by buildings or  
32 inhabited structures.

33 j. The amount of land which has been converted from one  
34 type of use to another since 1960, including but not limited  
35 to the uses listed in this subsection.

1 4. The information required by subsection 3 shall be  
2 provided both in narrative and map form according to guidelines  
3 established by the state council. The council shall require  
4 a cartographic display contrasting each county's land use  
5 in 1960 with the land use in existence as of the date of the  
6 inventory.

7 5. The county commission shall, to the greatest extent  
8 possible, use the information compiled under Acts of the  
9 Sixty-seventh General Assembly, 1977 Session, chapter 53,  
10 in compiling the inventories provided under this section.

11 6. The county commissions shall compile county inventories  
12 and submit them to the state council. The state council may  
13 request additional information from a county commission after  
14 submission of the inventory.

15 7. The state council shall compile the inventories  
16 submitted by the county commissions into a statewide inventory  
17 and submit it to the general assembly.

18 Sec. 7. NEW SECTION. SCHEDULE AND DUTIES. Subject to  
19 extensions of time granted to county commissions by the state  
20 council for good cause shown, the general assembly intends  
21 that the state council and county commissions meet the  
22 following schedule:

23 1. By September 1, 1982, the state soil conservation  
24 commissioners shall be elected to the state council.

25 2. By October 1, 1982, the state council shall organize.

26 3. By December 31, 1982, the county commissions shall  
27 organize and the state council shall establish advisory  
28 guidelines for the development of county inventories. The  
29 state council shall assist the county commission in obtaining  
30 information for use in compiling the county inventories.

31 4. By July 1, 1983, the county commission shall compile  
32 a county inventory and submit it to the state council.

33 5. By December 31, 1983, the state council shall adopt  
34 guidelines for the development of county land use plans.

35 6. By September 1, 1984, after a public hearing, a county

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1 commission shall propose to the county board a county land  
2 use plan, in keeping with the guidelines established by the  
3 state council, and send a copy of the plan to the state council  
4 or advise the county board and the state council that under  
5 existing circumstances in the county it finds no need for  
6 a land use plan. Upon receipt of a plan, the county board  
7 may rerefer the plan to the county commission for modification,  
8 or may cause the question of the approval of the plan, either  
9 as originally submitted or as modified, to be placed on the  
10 ballot of the next available countywide election, or may  
11 reject the plan.

12 7. By December 31, 1984, the state council shall forward  
13 its appraisal of the county plans received as they pertain  
14 to the planning guidelines adopted pursuant to section 7 of  
15 this Act to appropriate county commissions and their county  
16 boards.

5733 17 8. If the plan is approved by a majority of the voters  
18 of the county, a copy shall be provided to the state council  
19 forthwith and it becomes the land use policy of the county  
20 and shall be administered and enforced by the county. The  
21 county commission shall review the county plan periodically  
22 for the purpose of proposing amendments to it as the commission  
23 deems appropriate. If the commission proposes amendments  
24 to the plan it shall forward the proposal to the county board  
25 of supervisors which may rerefer the amendment to the  
26 commission for modification, may reject the amendment, or  
27 may cause the amendment to be published in a newspaper of  
28 general circulation in the county. If a petition is filed  
29 with the county auditor within ninety days of the publication  
30 by five percent of the qualified electors of the county  
31 requesting that the amendment be submitted to the qualified  
32 electors of the county, the county board of supervisors shall  
33 either withdraw the amendment or direct the county commissioner  
34 of elections to place the approval of the amendment on the  
35 ballot at the next available countywide election. The

1 amendment shall become effective unless a petition is filed  
2 in the required time and the amendment is disapproved by a  
3 majority of the voters voting on the ballot issue.

4 9. Unless extended by the legislature before that date,  
5 the state council's existence shall terminate on June 30,  
6 1987.

5667-7 Sec. 8. NEW SECTION. AGRICULTURAL DISTRICTS. A county  
8 may establish agricultural districts by adopting ordinances  
9 under chapter 358A. The ordinances must be consistent with  
10 any county land use plans that has been adopted by the county  
11 under section 7 of this Act. Except as provided below,  
12 agricultural districting ordinances shall limit the use of  
13 the land in agricultural districts to farm operations.

14 1. The following shall be permitted in an agricultural  
15 district:

16 a. Residences constructed for occupation by a person  
17 engaged in farming or by a family farm operation.

18 Nonconforming preexisting residences may be continued in  
19 residential use.

20 b. Property of a telephone company, city utility as defined  
21 in section 390.1, public utility as defined in section 476.1,  
22 or pipeline company as defined in section 479.2.

23 c. Public or private elementary or secondary schools.

24 d. Churches.

25 e. Sanitary disposal projects authorized pursuant to  
26 chapter 455B of the Code.

5706-7 27 2. The county board of supervisors may permit any use  
28 not listed in subsection 1 in an agricultural district only  
29 if it finds all of the following:

30 a. The use is not inconsistent with the purposes set forth  
31 in section 2 of this Act.

32 b. The use does not interfere seriously with farm  
33 operations within the district.

34 c. The use does not materially alter the stability of  
35 the overall land use pattern in the area.

5715-7

1        Sec. 9. NEW SECTION.    CREATION OF AGRICULTURAL AREAS.

5516 > 2 An owner of farmland may submit a proposal to the county  
3 committee for the creation of an agricultural area within  
4 the county. An agricultural area, at its creation, shall  
5 include at least five hundred acres of farmland, however,  
6 a smaller area may be created if the farmland is adjacent  
7 to an agricultural district. The proposal shall include a  
8 description of the proposed area, including its boundaries.  
9 The territory shall be as compact and as nearly adjacent as  
10 feasible. Land shall not be included in an agricultural area  
11 without the consent of the owner. Agricultural areas shall  
5725 > 12 not exist within the corporate limits of the city.

13 Agricultural areas may be created in a county which has adopted  
14 zoning ordinances.

15        Sec. 10. NEW SECTION.    COUNTY AGRICULTURAL AREAS COMMITTEE.

16 In any county in which a proposal for creation of an  
17 agricultural area is submitted, the county board shall  
18 establish a county agricultural areas committee if such a  
19 committee has not already been established for the county.  
20 The county committee shall consist of four active farmers,  
21 three of whom are actively engaged in both crop and livestock  
22 farming, and a member of the county board. The committee  
23 shall select one of its members to serve as chairperson of  
24 the committee. Members of the committee are appointed by  
25 and serve at the pleasure of the county board. The members  
26 shall serve without compensation, but the board may authorize  
27 reimbursement of each member's actual and necessary expenses  
28 incurred in the performance of official duties.

29        Sec. 11. NEW SECTION.    DUTIES OF COUNTY COMMITTEE.

30        1. Within fifteen days of receipt of a proposal for an  
31 agricultural area which meets the statutory requirements,  
32 the county committee shall provide notice of the proposal  
33 by publishing notice in a newspaper of general circulation  
34 in the county. The county committee shall provide a copy  
35 of the proposal to the county commission. Within forty-five

1 days after receipt, the committee shall hold a public hearing  
2 on the proposal.

3 2. Within sixty days after receipt, the committee shall  
4 make a recommendation to the county board. Its recommendation  
5 may include modifications of the proposed area.

6 Sec. 12. NEW SECTION. ADOPTION BY THE COUNTY BOARD.

7 Within forty-five days after receiving the recommendation  
8 of the county committee, the county board shall adopt the  
9 proposal or any modification of the proposal it deems  
10 appropriate, unless to do so would be inconsistent with the  
11 purposes of this chapter or any county land use plan adopted  
12 pursuant to section 7 of this Act.

13 An agricultural area shall be subject to the same use  
14 restrictions provided in section 8 of this Act for agricultural  
15 districts.

16 Sec. 13. NEW SECTION. REQUIREMENT THAT DESCRIPTION OF  
17 AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR AND COUNTY  
18 RECORDER. Upon the creation of an agricultural area, its  
19 description shall be filed by the county board with the county  
20 auditor and placed on record in the office of the county  
21 recorder.

22 Sec. 14. NEW SECTION. WITHDRAWAL. At any time after  
23 three years from the date of creation of an agricultural area,  
24 an owner may withdraw from an agricultural area by filing  
25 with the county board of supervisors a notice of withdrawal  
26 containing a legal description of the land to be withdrawn.  
27 Within sixty days after receipt of the notice and upon  
28 verification that the land to be withdrawn has been in an  
29 agricultural area for three years, the board shall cause the  
30 description of that agricultural area filed with the county  
31 auditor and recorded with the county recorder to be modified  
32 to reflect such withdrawal. Withdrawal shall be effective  
33 on the date of recording. The agricultural area from which  
34 the land is withdrawn shall continue in existence even if  
35 smaller than five hundred acres after withdrawal.

5714 1        Sec. 15. NEW SECTION.    LIMITATION ON POWER OF CERTAIN  
2 PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT ASSESSMENTS OR SPECIAL  
3 ASSESSMENTS.    A political subdivision or a benefited district  
4 providing public services such as sewer, water, or lights  
5 or for nonfarm drainage shall not impose benefit assessments  
6 or special assessments on land used for primarily agricultural  
7 production within an agricultural area or in an agricultural  
8 district on the basis of frontage, acreage, or value, unless  
9 the benefit assessments or special assessments were imposed  
10 prior to the formation of the agricultural area or agricultural  
11 district, or unless the service is provided to the landowner  
12 on the same basis as others having the service.

5715 13        Sec. 16. NEW SECTION.    INCENTIVES FOR AGRICULTURAL LAND  
14 PRESERVATION.

15        1. NUISANCE RESTRICTION.    A farm operation located in  
16 an agricultural area or an agricultural district shall not  
5716 17 be found to be a nuisance regardless of the established date  
18 of operation or expansion of the agricultural activities of  
19 the farm operation.    The subsection does not apply if the  
5717 20 nuisance results from the negligent operation of the farm.  
21 This section does not apply to actions or proceedings arising  
22 from injury or damage to person or property caused by the  
23 farm operation before the creation of the agricultural area  
24 or agricultural district.    This subsection does not affect  
25 or defeat the right of a person to recover damages for injury  
26 or damage sustained by the person because of the pollution  
27 or change in condition of the waters of a stream, the  
28 overflowing of the person's land, or excessive soil erosion  
29 onto another person's land.

30        2. WATER PRIORITY.    In the application for a permit to  
31 divert, store, or withdraw water and in the allocation of  
32 available water resources under a water permit system, the  
33 Iowa natural resources council shall give priority to the  
34 use of water resources by farm operations, exclusive of  
35 irrigation, located in an agricultural area or an agricultural

1 district over all other uses except the competing uses of  
2 water for ordinary household purposes.

3 Sec. 17. NEW SECTION. STATE REGULATIONS. A rule adopted  
4 by a state agency after the effective date of this Act which  
5 would restrict or regulate farm structures or farm operations  
6 shall not become effective as applied to farm structures or  
7 farm operations within an agricultural district or agricultural  
8 area unless prior to the adoption of the rule the agency finds  
9 both of the following:

10 1. That the activity to be regulated within the district  
11 or area has a substantial deleterious effect outside of the  
12 district or area.

13 2. That the need for the application of the rule within  
14 the district or area outweighs the policies of this chapter,  
15 which include the encouragement of exclusively agricultural  
16 activities within the district or area at a level of intensity  
17 that would not be tolerated outside the district or area.

18 In addition to the right of an interested person granted  
19 in chapter 17A to request the agency to issue a concise  
20 statement of the principal reasons for and against the rule  
21 it adopted, a resident or owner of land in an agricultural  
22 district or area may request the agency to include in that  
23 concise statement the findings required for application of  
24 the rule within an agricultural district or area and the  
25 principal reasons used by the agency in making the findings.

26 Sec. 18. Section 358A.2, Code 1981 Supplement, is amended  
27 to read as follows:

28 358A.2 FARMS EXEMPT. No ordinance adopted under this  
29 chapter applies to land, farm houses, farm barns, farm  
30 outbuildings or other buildings or structures which are  
31 primarily adapted, by reason of nature and area, for use for  
32 agricultural purposes, while so used. However, the ordinances  
33 may apply to any structure, building, dam, obstruction, deposit  
34 or excavation in or on the flood plains of any river or stream.  
35 Ordinances may also apply in agricultural districts and

1 agricultural areas to the extent required to implement sections  
2 8 and 15 of this Act.

3 Sec. 19. Section 358A.5, unnumbered paragraph 1, Code  
4 1981 Supplement, is amended to read as follows:

5728-5 ~~Such~~ The regulations shall be made in accordance with a  
6 comprehensive plan and designed to preserve the availability  
7 and productivity of agricultural land; to discourage urban  
8 sprawl and encourage efficient urban development patterns;  
9 to lessen congestion in the street or highway; to secure  
10 safety from fire, flood, panic, and other dangers; to protect  
11 health and the general welfare; to provide adequate light  
12 and air; to prevent the overcrowding of land; to avoid undue  
13 concentration of population; to promote the conservation of  
14 energy resources; to promote reasonable access to solar energy;  
15 and to facilitate the adequate provision of transportation,  
16 water, sewerage, schools, parks and other public requirements.  
17 However, provisions of this section relating to the objectives  
18 of energy conservation and access to solar energy shall not  
19 be construed as voiding any zoning regulation existing on  
20 July 1, 1981, or to require zoning in a county that did not  
21 have zoning prior to July 1, 1981.

22 Sec. 20. Section 414.3, unnumbered paragraph 1, Code 1981,  
23 as amended by Acts of the Sixty-ninth General Assembly, 1981  
24 Session, chapter 125, section 2, is amended to read as follows:

5729-25 ~~Such~~ The regulations shall be made in accordance with a  
26 comprehensive plan and designed to preserve the availability  
27 and productivity of agricultural land; to discourage urban  
28 sprawl and encourage efficient urban development patterns;  
29 to lessen congestion in the street; to secure safety from  
30 fire, flood, panic, and other dangers; to promote health and  
31 the general welfare; to provide adequate light and air; to  
32 prevent the overcrowding of land; to avoid undue concentration  
33 of population; to promote the conservation of energy resources;  
34 to promote reasonable access to solar energy; and to facilitate  
35 the adequate provision of transportation, water, sewerage,

1 schools, parks, and other public requirements. However,  
2 provisions of this section relating to the objectives of  
3 energy conservation and access to solar energy shall do not  
4 ~~be construed as voiding~~ void any zoning regulation existing  
5 ~~on the effective date of this Act~~ July 1, 1981, or to require  
6 zoning in a city that did not have zoning prior to the  
7 ~~effective date of this Act~~ July 1, 1981.

8 Sec. 21. Section 472.3, Code 1981, is amended by adding  
9 the following new subsection:

10 NEW SUBSECTION. If the damages are to be paid by the state  
11 and the land to be condemned is within an agricultural district  
12 or agricultural area as provided in chapter 93A, a statement  
13 disclosing whether any of that land is classified as class  
14 I or class II land under the United States department of  
15 agriculture soil conservation service land capability  
16 classification system contained in the agriculture handbook  
17 number 210, 1961 edition and, if so classified, stating that  
18 the class I or class II land is reasonably necessary for the  
19 work of internal improvement for which condemnation is sought.

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20 Sec. 22. This Act does not invalidate any part of a zoning  
21 ordinance which is in effect on the effective date of this  
22 Act, or require the adoption of a zoning ordinance by any  
23 subdivision of the state.

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SENATE FILE 2218

H-5667

- 1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 10, by inserting after the word  
4 "rights," the words "preserve recreational areas,  
5 forests, wetlands, streams, lakes, and aquifers,  
6 preserve critical areas".
- 7 2. Page 2, by striking line 33 through page 3,  
8 line 1 and inserting in lieu thereof the words "the  
9 production of farm products".
- 10 3. Page 3, line 10, by inserting after the word  
11 "agency" the words "serving as nonvoting ex officio  
12 officers".
- 13 4. Page 3, by striking lines 20 through 22 and  
14 inserting in lieu thereof the following:  
15 "2. The persons who served as the chairperson  
16 and vice chairperson of the temporary state land  
17 preservation policy commission under Acts of the  
18 Sixty-seventh General Assembly, 1977 Session, chapter  
19 53, or their designees shall be members of the state  
20 council. Subsection 4 does not apply to this  
21 subsection."
- 22 5. Page 3, by inserting after line 32 the follow-  
23 ing:  
24 "1. The state council shall meet and organize  
25 by the election of a chairperson and vice chairperson  
26 from among its members. A majority of the members  
27 of the state council constitutes a quorum. Concurrence  
28 of a quorum is required to determine any matter  
29 relating to its official duties.  
30 2. The department of soil conservation shall  
31 provide clerical staff to the state council."
- 32 6. Page 5, line 1, by inserting after the word  
33 "vacant." the words "The term of a county commissioner  
34 is four years. However, in the initial appointments  
35 to the county commission, the members appointed under  
36 paragraphs a and b of subsection 1 shall be appointed  
37 to terms of two years. Members may be appointed to  
38 succeed themselves."
- 39 7. Page 5, by inserting after line 1 the follow-  
40 ing:  
41 "5. If a county has established a county zoning  
42 commission under section 358A.8, the board of  
43 supervisors may elect to have that commission serve  
44 as the county commission and the county commission  
45 shall not be appointed."
- 46 8. Page 5, by striking lines 3 through 9.
- 47 9. Page 5, line 15, by inserting after the word  
48 "shall" the words "where adequate data is available".
- 49 10. Page 5, line 24, by striking the words "and  
50 residential" and inserting in lieu thereof the words

1 "residential and transportation".

2 11. Page 6, by striking lines 4 through 6 and  
3 inserting in lieu thereof the following: "a  
4 cartographic display which contrasts the county's  
5 present land use with the land use in the county in  
6 1960. The land use in the county in 1960 shall be  
7 determined by the county commission to the best of  
8 its belief based on available information. The  
9 displays need only show the areas in agriculture,  
10 woodlands, commercial, industrial, residential and  
11 transportation uses."

12 12. Page 6, line 31, by striking the word and  
13 figures "July 1, 1983" and inserting in lieu thereof  
14 the word and figures "January 1, 1984".

15 13. Page 6, line 33, by striking the word and  
16 figures "December 31, 1983" and inserting in lieu  
17 thereof the word and figures "June 30, 1984".

18 14. Page 6, line 35, by striking the word and  
19 figures "September 1, 1984" and inserting in lieu  
20 thereof the word and figures "March 1, 1985".

21 15. Page 7, line 12, by striking the word and  
22 figures "December 31, 1984" and inserting in lieu  
23 thereof the word and figures "June 30, 1985".

24 16. Page 7, line 16, by inserting after the word  
25 "boards" the words "and shall submit the statewide  
26 inventory to the general assembly".

27 17. Page 8, by striking lines 8 through 12 and  
28 inserting in lieu thereof the following: "may  
29 establish an agricultural district pursuant to chapter  
30 358A which is consistent with an adopted comprehensive  
31 plan. Such a district shall limit the use of".

32 18. Page 8, line 14, by striking the word "shall"  
33 and inserting in lieu thereof the word "may".

H-5667 FILED  
APRIL 1, 1982

BY COMMITTEE ON AGRICULTURE  
PELLETT, Chair

*Adopted 4/13 (p. 1397)  
as amended by ~~5751~~ 5751  
Motion to reconsider (p. 1446)  
" Placed out of order 4/15*

5688

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. By striking everything after the enacting  
4 clause and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. LEGISLATIVE POLICY.

6 It is a policy of this state to preserve the  
7 availability and productivity of agricultural land,  
8 to discourage urban sprawl and encourage efficient  
9 urban development patterns, to designate and preserve  
10 critical areas and designate and control key facilities  
11 and large scale developments, to promote efficient  
12 use and conservation of energy, to preserve private  
13 property rights, and to establish the state policy  
14 for the guidance and direction of state agencies in  
15 the use of land.

16 The general assembly recognizes the importance  
17 of preserving the state's finite supply of agricultural  
18 land. Conversion of farmland to urban development,  
19 and other nonfarm uses, reduces future food production  
20 capabilities and may ultimately undermine agriculture  
21 as a major economic activity in Iowa.

22 It is the intent of the general assembly to provide  
23 local citizens and local governments the means by  
24 which agricultural land may be protected from  
25 nonagricultural development pressures. This may be  
26 accomplished by the establishment of agricultural  
27 districts or agricultural areas in which substantial  
28 agricultural activities are encouraged, so that land  
29 inside these districts and areas is conserved for  
30 the production of food, fiber, and livestock, thus  
31 assuring the preservation of agriculture as a major  
32 factor in the economy of this state.

33 Sec. 2. NEW SECTION. DEFINITIONS. As used in  
34 sections 1 through 28 of this Act unless the context  
35 otherwise requires:

36 1. "Department" means the department of soil  
37 conservation.

38 2. "State commission" means the state land  
39 preservation commission.

40 3. "County commission" means a county land  
41 preservation commission.

42 4. "State critical area" means an area where  
43 substantial evidence indicates that uncontrolled or  
44 incompatible development could result in damage to  
45 the environment, life, or property, or an area where  
46 the long-term public interest is of more than local  
47 significance. Such areas shall include but not  
48 necessarily be limited to:

49 a. "Fragile or historic lands" where uncontrolled  
50 or incompatible development could result in

1 irreversible damage to important historic, cultural,  
2 scientific, or aesthetic values or natural systems  
3 which are of more than local significance including  
4 open spaces, wilderness areas, greenbelts, shorelands  
5 of rivers, lakes, and streams, rare or valuable  
6 ecosystems and geological formations, significant  
7 wildlife habitats, and unique scenic or historic  
8 sites.

9 b. "Natural hazard lands" where uncontrolled or  
10 incompatible development could unreasonably endanger  
11 life and property including flood plains and areas  
12 frequently subject to weather disasters, and areas  
13 of unstable geological formations.

14 c. "Renewable resource lands" where uncontrolled  
15 or incompatible development which results in the loss  
16 or reduction of continued long-range productivity  
17 could endanger future water, food, and fiber  
18 requirements of more than local concern including  
19 watershed lands, aquifers and aquifer recharge areas,  
20 and forest lands.

21 5. "Key facility" means a public facility which  
22 is expected to result in development and urbanization  
23 exceeding local impact, including but not limited  
24 to major airports, major highway interchanges including  
25 interchanges with frontage roads, access streets and  
26 other limited access highways, major recreational  
27 land and facilities, and major facilities for the  
28 development, generation, or transmission of energy.

29 6. "Large-scale development" means any private  
30 development likely to generate issues of more than  
31 local significance because of its magnitude or because  
32 of its location with respect to its surroundings.

33 7. "Local critical area" means any fragile or  
34 historic lands or sites, natural hazard lands,  
35 renewable resource lands of local significance, or  
36 open spaces of local significance, designated by a  
37 city or county, where evidence indicates that  
38 development could result in damage to the environment,  
39 life, or property, or adversely affect the public  
40 interest or well-being, and which is not designated  
41 as a state critical area. Such areas shall include  
42 but not be limited to wetlands, wilderness areas,  
43 wildlife areas, greenbelts or other open spaces,  
44 historical sites, and flood plains.

45 8. "Special district" means a benefited water  
46 district, a rural water district, a benefited fire  
47 district, a benefited street lighting district, school  
48 district, sanitary district, or a solid waste disposal  
49 project established pursuant to part 1, division IV  
50 of chapter 455B.

1 9. "Land use" means all activities, occupations,  
2 practices, and utilization of space, including ground  
3 space, water, subsurface, and air space.  
4 10. "Land use planning" means the art, science,  
5 and process of arranging ground space, and its  
6 accompanying activity patterns, structures, systems,  
7 and functions so as to adapt it most economically,  
8 functionally, and gracefully to the diverse present  
9 and anticipated future activities and occupations  
10 of civilized man.  
11 11. "Land use policy" means a definite course  
12 of action selected after evaluation of alternative  
13 courses in order to effectuate wise and prudent  
14 decisions for the use of land.  
15 12. "Land use guideline" means a statement of  
16 the criteria, standards, specifications, and procedures  
17 to be used in developing land use policy.  
18 13. "Land use goal or objective" means a broad  
19 statement of ideals, aims, and desired results of  
20 land use planning and policy projected as far as  
21 possible into the future.  
22 14. "Comprehensive plan" means a document or  
23 documents in map, text, tabular, chart, or similar  
24 form which illustrates land use goals or objectives  
25 and which is used as a tool in present and future  
26 land use decision-making.  
27 15. "Urban sprawl" means the irregular and  
28 uncontrolled development of urban land uses without  
29 regard to land use planning as defined in this section.  
30 16. "Agricultural land" means land which is  
31 suitable as determined by soil surveys and other land  
32 capability information, for farming purposes.  
33 Agricultural land includes land which is not used  
34 for farming purposes but which is suitable for, and  
35 can be economically converted to, farming purposes.  
36 17. "Agricultural area" means an area meeting  
37 the qualifications of section 11 of this Act and  
38 designated under section 15 of this Act.  
39 18. "Agricultural district" means a district  
40 established under section 10 of this Act.  
41 19. "County board" means the county board of  
42 supervisors.  
43 20. "County committee" means the county  
44 agricultural area committee.  
45 21. "Farm" means the land, buildings, and machinery  
46 used in the commercial production of farm products.  
47 22. "Farm operation" means a condition or activity  
48 which occurs on a farm in connection with the  
49 production of farm products and includes but is not  
50 limited to the marketing of products at roadside

1 stands or farm markets, the creation of noise, odor,  
2 dust, fumes, the operation of machinery and irrigation  
3 pumps, ground and aerial seeding and spraying, the  
4 application of chemical fertilizers, conditioners,  
5 insecticides, pesticides, and herbicides, and the  
6 employment and use of labor.

7 23. "Farm products" means those plants and animals  
8 and their products which are useful to people and  
9 includes but is not limited to forages and sod crops,  
10 grains and feed crops, dairy and dairy products,  
11 poultry and poultry products, livestock, fruits,  
12 vegetables, flowers, seeds, grasses, trees, fish,  
13 honey, and other similar products, or any other plant,  
14 animal, or plant or animal product which supplies  
15 people with food, feed, fiber, or fur.

16 24. "Nuisance" means a public or private nuisance  
17 as defined either by statute, administrative rule,  
18 ordinance, or the common law.

19 25. "Nuisance action or proceeding" means an  
20 action, claim, or proceeding, whether brought at law  
21 in equity or as an administrative proceeding, which  
22 is based on nuisance.

23 26. "Farmland" means those parcels of land suitable  
24 for agricultural production which will continue to  
25 be economically feasible for that use if given the  
26 protections afforded by this chapter to land within  
27 an agricultural area or exclusive agricultural  
28 district.

29 Sec. 3. NEW SECTION. COUNTY COMMISSION  
30 ESTABLISHED.

31 1. There is created a county land preservation  
32 policy commission composed of the following members:

33 a. Three members appointed by and from the district  
34 soil conservation commissioners.

35 b. Three members appointed by and from the county  
36 board of supervisors.

37 c. Three members appointed by and from a convention  
38 of the mayors and councilpersons of the cities of  
39 the county. If a participating city contains fifty  
40 percent or more of the total population of the  
41 participating cities, that city may appoint two of  
42 the members appointed under this paragraph.

43 However, if a city contains more than one-half  
44 of the population of a county which has a population  
45 exceeding fifty thousand persons, that city shall  
46 not participate in the convention of mayors and  
47 councilpersons and the members appointed under this  
48 paragraph shall be three members appointed by and  
49 from the mayor and councilpersons of that city and  
50 three members appointed by and from the convention

1 of mayors and councilpersons and the members appointed  
2 under paragraph b of this subsection shall be three  
3 county supervisors or township trustees of the county  
4 engaged in actual farming operations appointed by  
5 the board of supervisors and who shall be chosen first  
6 from those supervisors who are engaged in actual  
7 farming operations.

8 2. The convention of the mayors and councilpersons  
9 shall be organized by the board of supervisors. The  
10 members of the county commission shall serve terms  
11 of three years. A vacancy shall be filled in the  
12 same manner as the original appointment.

13 3. The county commission shall annually meet to  
14 organize and elect a chairperson and vice chairperson  
15 from among its members. A majority of the members  
16 of the county commission shall constitute a quorum  
17 and the concurrence of a quorum shall be required  
18 to determine any matter relating to its official  
19 duties. Each member of the county commission shall  
20 be entitled to receive reimbursement for travel and  
21 other necessary expenses incurred in the performance  
22 of the member's official duties. The reimbursement  
23 shall be made from state funds appropriated for this  
24 purpose.

25 4. The state agricultural extension service shall  
26 assist county commissions with technical,  
27 informational, and clerical assistance.

28 Sec. 4. NEW SECTION. STATE COMMISSION ESTABLISHED.

29 1. The state commission shall consist of six  
30 members elected from conventions and three members  
31 appointed by the governor. Prior to the convention  
32 the members of the county commission shall appoint  
33 one-third of its membership to attend the convention.  
34 One member shall be appointed by the county  
35 commissioners appointed by county supervisors, one  
36 by those appointed by district soil conservation  
37 commissioners, and one for each three members appointed  
38 by mayors and councilpersons shall be appointed by  
39 and from those members. The county commissioners  
40 appointed to the convention from the second, third,  
41 and sixth congressional districts shall meet in one  
42 convention and those from the first, fourth, and fifth  
43 congressional districts shall meet in one convention.  
44 At each convention the members appointed by county  
45 supervisors, by district soil conservation  
46 commissioners, and by mayors and councilpersons shall  
47 each meet separately and elect one county commissioner  
48 appointed as they were to the state commission. After  
49 the convention the governor shall appoint three county  
50 commissioners to the state commission, one from those

1 appointed by the board of supervisors, one from those  
2 appointed by district soil conservation commissioners,  
3 and one from those appointed by the mayors and  
4 councilpersons. The department shall provide  
5 assistance in making the arrangements for the  
6 conventions. Each member of each county commission  
7 present shall have one vote at the convention.

8 2. The state commission shall convene and organize  
9 by the election from its members of a chairperson  
10 and a vice chairperson. A majority of the members  
11 of the state commission shall constitute a quorum  
12 and the concurrence of a quorum shall be required  
13 to determine any matter relating to its official  
14 duties. Each member of the state commission is  
15 entitled to receive a forty dollar per diem and shall  
16 be reimbursed for actual and necessary expenses.

17 3. The members of the state commission shall be  
18 elected to a term of three years. If a vacancy occurs  
19 on the state commission, the department shall call  
20 a congressional district convention only of those  
21 county commissioners who would elect a member to fill  
22 that vacancy.

23 4. The department may employ professional technical  
24 and clerical assistance to carry out the state  
25 commission's duties. The state commission shall be  
26 administratively attached to the department which  
27 shall provide support services to the state com-  
28 mission.

29 5. Each state agency and agency of a political  
30 subdivision of the state shall cooperate, within time,  
31 personnel, and budgetary limitations, in providing  
32 information, data, surveys, and studies as requested  
33 by the state commission.

34 6. The secretary of agriculture, the director  
35 of the state agricultural extension service, the  
36 director of the state conservation commission, the  
37 director of the Iowa natural resources council, the  
38 executive director of the department of environmental  
39 quality, the director of the office for planning and  
40 programming, the state geologist, the director of  
41 the Iowa development commission, the director of the  
42 department of transportation, the chairman of the  
43 city development board, the chairman of the Iowa state  
44 commerce commission, the director of the department  
45 of soil conservation, and the director of the energy  
46 policy council, or their respective designees, shall  
47 be ex officio nonvoting members of the state  
48 commission.

49 7. The state commission may apply for, receive,  
50 and expend any private or public funds for the purposes

1 of carrying out sections 1 through 28 of this Act.  
2 Sec. 5. NEW SECTION. DUTIES OF THE STATE  
3 COMMISSION. In addition to other duties provided  
4 by law, the state commission shall:  
5 1. Prepare and recommend to the general assembly  
6 by January 1, 1984, a state land use policy and  
7 guidelines for the guidance and direction of state  
8 agencies, county land preservation policy commissions,  
9 cities, counties, and special districts on matters  
10 relating to land use.  
11 2. Propose other legislation deemed necessary  
12 to implement expressed land use policy objectives.  
13 3. Recommend criteria to the general assembly  
14 by January 1, 1984, for:  
15 a. The designation of state critical areas.  
16 b. The designation of large-scale developments  
17 and key facilities.  
18 c. The appraisal of the policies of state agencies  
19 to determine the impact of state agency actions on  
20 land use policies.  
21 4. Establish:  
22 a. Procedures for the review and approval of  
23 county land use guidelines.  
24 b. Procedures for the review of comprehensive  
25 plans of cities, counties, and special districts.  
26 c. Procedures for the review and approval of state  
27 agency plans and plan modifications that impact on  
28 land use.  
29 d. Procedures for the hearing and determination  
30 of a petition by one state agency against another  
31 state agency concerning activities that conflict with  
32 overall state land use policy.  
33 5. Provide technical and professional assistance  
34 to cities, counties, county commissions, or special  
35 districts upon their request, to resolve conflicts  
36 with the plans of adjacent jurisdictions or regarding  
37 projects involving more than one county.  
38 6. Mediate land use conflicts within a county  
39 upon the request of all the parties concerned.  
40 7. Identify and evaluate on a continuing basis  
41 the land use policy issues in this state.  
42 8. Evaluate the impact of current laws, ordinances,  
43 policies, regulations, and taxes in this state upon  
44 land use decisions.  
45 9. Provide for the periodic monitoring of land  
46 use data to determine changes in land usage, the  
47 comparison of such changes to state and local land  
48 use guidelines, plans, programs, and projections,  
49 and the reporting of the findings to the affected  
50 local governments, state agencies, and the federal

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1 government, upon request.

2 10. Provide information and educational programs  
3 through existing educational institutions.

4 11. Recommend to the general assembly a definition  
5 of "agricultural purposes" as used in section 358A.2.

6 Sec. 6. NEW SECTION. DUTIES OF THE COUNTY  
7 COMMISSION. In addition to other duties provided  
8 by law, a county commission shall:

9 1. Develop and review at least every three years  
10 a land use policy based upon the state policy and  
11 guidelines for the county and its cities.

12 2. Review, evaluate, and coordinate at least every  
13 three years all comprehensive plans, ordinances, or  
14 regulations for land use, existing or proposed by  
15 the county, special districts, and cities within the  
16 county for consistency with county and state land  
17 use policy.

18 3. Adopt guidelines based on state guidelines  
19 for the preparation or revision of comprehensive plans  
20 for:

21 a. Protection of agricultural land.

22 b. Solid waste disposal and recycling, sewage  
23 collection and treatment, and water supply and  
24 distribution.

25 c. Siting and development of industrial,  
26 commercial, agricultural, educational, cultural,  
27 residential, and recreational facilities and areas.

28 d. Designation, development, or use of local  
29 critical areas.

30 e. Coordinated countywide transportation system  
31 which includes elements of a statewide transportation  
32 plan.

33 4. Determine the regulations to apply to an area  
34 subject to extraterritorial zoning when the city and  
35 the county are unable to agree.

36 Sec. 7. NEW SECTION. TEMPORARY EMERGENCY POWER  
37 OF THE COUNTY COMMISSION. When prior to the adoption  
38 of comprehensive plans, ordinances, and regulations  
39 as required by sections 1 through 9 of this Act, the  
40 county commission determines that there is in progress  
41 or proposed an activity that threatens the ability  
42 to preserve local critical areas, to preserve  
43 agricultural land, and to promote efficient urban  
44 development patterns, the county commission shall  
45 immediately take action by giving notice to the board  
46 of supervisors or the city council of each city  
47 involved of the pertinent facts and dangers with  
48 respect to the threatening activity. If the county  
49 board of supervisors or the city council does not  
50 remedy the situation within sixty days, the county

1 commission may, upon one week's written notice to  
2 the affected city council or board of supervisors,  
3 and the person involved in the activity, hold a public  
4 hearing on the matter. If, after the hearing, the  
5 county commission determines that the activity does  
6 constitute a danger, the county commission may issue  
7 a written cease and desist order to the person in  
8 control of the activity. If the activity is continued,  
9 the county attorney, at the request of the county  
10 commission, shall initiate civil proceedings in the  
11 name of the county to enjoin that person from the  
12 activity. A legal action taken under this section  
13 shall be given priority over all other matters pending  
14 in the district court. The court may uphold, modify,  
15 or overrule the order of the county commission.

16 Sec. 8. NEW SECTION. PRESERVATION OF AGRICULTURAL  
17 LAND. Upon the adoption of the state land use policy  
18 and guidelines and the adoption of the county land  
19 use guidelines by the county commission, the county  
20 and each city in the county shall:

21 1. Review soil surveys and land capability  
22 information and identify the more productive and  
23 suitable agricultural land in their jurisdiction.

24 2. Review the projected need for land for  
25 nonagricultural uses in their jurisdiction.

26 3. Adopt ordinances pursuant to chapter 358A or  
27 414 respectively which will direct the growth of  
28 nonagricultural land uses to the less productive and  
29 suitable agricultural land within their jurisdiction,  
30 encourage the development of nonagricultural uses  
31 within the boundaries of cities rather than in the  
32 unincorporated areas of the county, encourage that  
33 urban development be contiguous to existing urban  
34 uses where necessary services can be provided or  
35 extended, and provide an orderly transition from rural  
36 to urban uses.

37 Ordinances adopted pursuant to this section may  
38 establish zones for exclusive agricultural and  
39 associated uses or minimum acreages for residential  
40 dwellings or other means to effect the objectives  
41 of this section.

42 Sec. 9. NEW SECTION. CRITICAL AREAS, KEY  
43 FACILITIES AND LARGE-SCALE DEVELOPMENTS.

44 1. The state commission shall prepare and recommend  
45 to the general assembly criteria for the designation  
46 of critical areas by the state commission and  
47 guidelines for the preservation and protection of  
48 state and local critical areas including nominating  
49 procedures, planning requirements, and preservation,  
50 protection, and restoration techniques.

1        2. The state commission shall prepare and recommend  
2 to the general assembly criteria for the designation  
3 of key facilities and large-scale developments and  
4 a procedure for their regulation. The procedure  
5 recommended shall include a determination of the need  
6 for the project and environmental impact statement  
7 regarding the effects upon agricultural and natural  
8 land and shall emphasize consultation with local  
9 agencies.

10        Sec. 10. NEW SECTION. AGRICULTURAL DISTRICTS.

11        1. A county may establish agricultural districts  
12 by adopting ordinances under chapter 358A. The  
13 ordinances must be consistent with the county land  
14 use recommendations that have been adopted by the  
15 county commission under section 6 of this Act.

16        2. To qualify as an agricultural district under  
17 this chapter, the ordinances must limit the use of  
18 the land in agricultural districts to farm operations  
19 and meet the following minimum standards:

20        a. The only residences allowed as permitted uses  
21 are those constructed for occupation by a person,  
22 or a family having at least one member, whose primary  
23 occupation consists of farm operations on the parcel  
24 or is a parent or child of the operator of the farm.  
25 Preexisting residences located in agricultural  
26 districts which do not conform to this paragraph may  
27 be continued in residential use.

28        b. For the purposes of farm consolidation and  
29 if permitted by local regulation, farm residences  
30 or structures which existed prior to the adoption  
31 of the ordinance may be separated from a larger farm  
32 parcel.

33        c. A structure or improvement shall not be built  
34 on the land unless consistent with farm operations.

35        Sec. 11. NEW SECTION. CREATION OF AGRICULTURAL  
36 AREAS. An owner of farmland may submit a proposal  
37 to the county commission for the creation of an  
38 agricultural area within the county. An agricultural  
39 area, at its creation, shall include at least five  
40 hundred acres of farmland, however, a smaller area  
41 may be created if the farmland is adjacent to an agri-  
42 cultural district. The proposal shall include a  
43 description of the proposed area, including its  
44 boundaries. The territory shall be as compact and  
45 as nearly adjacent as feasible. An area created under  
46 this chapter is initially established for a period  
47 of ten years. Land shall not be included in an  
48 agricultural area without the consent of the owner.  
49 Agricultural areas shall not exist within the corporate  
50 limits of a city. Agricultural areas may be created

1 in a county which has adopted zoning ordinances.

2     Sec. 12. NEW SECTION. COUNTY AGRICULTURAL AREAS  
3 COMMITTEE. Upon receipt of a petition for the creation  
4 of an agricultural area within the county, the county  
5 board shall establish a county agricultural areas  
6 committee if such a committee has not already been  
7 established for the county. The county committee  
8 shall consist of four active farmers, three of whom  
9 are actively engaged in both crop and livestock  
10 farming, and a member of the county board. The  
11 committee shall select one of its members to serve  
12 as chairperson of the committee. Members of the com-  
13 mittee are appointed by and serve at the pleasure  
14 of the county board. The members shall serve without  
15 compensation, but the board may authorize reimbursement  
16 of each member's actual and necessary expenses incurred  
17 in the performance of official duties. The committee  
18 shall advise the commission in relation to the proposed  
19 establishment, modification, and termination of  
20 agricultural areas. The committee shall advise the  
21 county commission relating to the desirability of  
22 such action, the nature of farming and farm resources  
23 within the proposed area, and the relation of farming  
24 in the area to farming in the county.

25     Sec. 13. NEW SECTION. DUTIES OF COUNTY COMMISSION.

26     1. Upon the receipt of a proposal for an  
27 agricultural area, the county commission shall provide  
28 notice of the proposal by publishing a notice in a  
29 newspaper having general circulation within the  
30 proposed area or, if no such newspaper has a general  
31 circulation within the proposed area then in a  
32 newspaper having general circulation within the county  
33 and by posting the notice in five conspicuous places  
34 within the proposed area. A copy of the notice shall  
35 be sent to the county or regional planning commission,  
36 if any, for review or comment within thirty days.

37 The comment shall be made to the county commission.  
38 The notice required to be published or posted under  
39 this section shall contain the following information:

40     a. A statement that a proposal for an agricultural  
41 area has been filed with the commission pursuant to  
42 this chapter.

43     b. A statement that the proposal will be on file  
44 open to public inspection at the county auditor's  
45 office.

46     c. A statement that a landowner owning lands  
47 adjacent to or partially encompassed by the proposed  
48 area may propose a modification of the area to include  
49 or exclude those lands, within thirty days of the  
50 date of publication of notice. The proposal shall

1 be made on forms prescribed by the county commission.

2 d. A statement that any proposed modification  
3 must be filed with the county commission within thirty  
4 days after the publication of the notice and will  
5 be on file open to public inspection at the county  
6 auditor's office.

7 e. A statement that at the termination of the  
8 thirty-day period, the proposal and proposed  
9 modifications will be submitted to the county committee  
10 which will hold a public hearing on the proposal,  
11 proposed modifications, and recommendations of the  
12 county committee.

13 f. A statement of the time, date, and place of  
14 the county committee's public hearing.

15 2. The county commission shall receive any  
16 proposals for modifications of the proposal within  
17 thirty days after the publication of the notice.

18 3. The county commission shall, upon the  
19 termination of the thirty-day period, refer the  
20 proposal and proposed modifications to the county  
21 committee, which shall, within forty-five days, report  
22 to the commission its recommendations concerning the  
23 proposal and proposed modifications.

24 Sec. 14. NEW SECTION. PUBLIC HEARING REQUIRED.  
25 The county committee shall hold a public hearing on  
26 a proposal for the creation of an agricultural area.  
27 The hearing shall be held at a place within the  
28 proposed area or a place readily accessible to the  
29 proposed area. The public hearing shall concern the  
30 original proposal, any modifications proposed during  
31 the thirty-day review period, and the recommendations  
32 proposed by the county committee and any planning  
33 commissions.

34 Sec. 15. NEW SECTION. FACTORS FOR CONSIDERATION  
35 IN FORMATION OF AGRICULTURAL AREAS. The following  
36 factors shall be considered by county commissions,  
37 county committees, or planning commissions, with  
38 respect to the formation of an agricultural area:

39 1. The existence of active farming within the  
40 proposed area.

41 2. The presence of farmlands within the proposed  
42 area that are not now in active farming.

43 3. The nature and extent of land uses other than  
44 active farming within the proposed area.

45 4. County developmental patterns and needs.

46 5. Any other matter which is relevant.

47 Sec. 16. NEW SECTION. NOTICE TO, AND OBJECTIONS  
48 BY, CITIES. If the proposed agricultural area in-  
49 cludes real estate within a two-mile radius from the  
50 corporate limits of a city, the county commission

1 shall notify the city council of the affected city  
2 of this proposed area. The council may object to  
3 the proposal by proposing a modification as provided  
4 in section 11 of this Act.

5 Sec. 17. NEW SECTION. ADOPTION BY COUNTY  
6 COMMISSION. After receiving the reports of the county  
7 committee and other comments, and after the public  
8 hearing, the county commission shall adopt the proposal  
9 or any modification of the proposal it deems  
10 appropriate, unless to do so would be inconsistent  
11 with the purposes of this chapter. The proposal as  
12 adopted should include, to the extent feasible,  
13 adjacent farmlands and exclude, to the extent feasible,  
14 nonfarmland. The county commission shall act to adopt  
15 or reject the proposal, or a modification of it not  
16 later than forty-five days from the date the proposal  
17 was returned by the county committee.

18 An agricultural area shall be subject to the same  
19 use restrictions provided in section 10, subsection  
20 2, of this Act for agricultural districts.

21 Sec. 18. NEW SECTION. REQUIREMENT THAT DESCRIPTION  
22 OF AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR  
23 AND COUNTY RECORDER. Upon the creation of an  
24 agricultural area, its description shall be filed  
25 by the county commission with the county auditor and  
26 placed on record in the office of the county recorder.

27 Sec. 19. NEW SECTION. PETITION FOR WITHDRAWAL.  
28 After three years from the date of the creation of  
29 an agricultural area, a person may submit a petition  
30 to the county commission requesting the withdrawal  
31 of land from the agricultural area located within  
32 that county. The petition must contain:

33 1. A statement indicating the proposed alternative  
34 use of the land.

35 2. An explanation of the necessity for changing  
36 the current use.

37 3. An explanation why land outside the agricultural  
38 area is not suitable for the proposed use.

39 Sec. 20. NEW SECTION. PROCEDURES FOR CONSIDERATION  
40 OF PETITION FOR WITHDRAWAL.

41 1. Within five days after the receipt of a petition  
42 for withdrawal of land from an agricultural area,  
43 the county commission shall provide notice of the  
44 petition by publishing and posting a notice as provided  
45 in section 13 of this Act. Copies of the notice shall  
46 also be given to owners of land in or immediately  
47 adjacent to the agricultural area. The notice shall  
48 contain the following information:

49 a. A statement that a petition for withdrawal  
50 of land from an agricultural area has been filed with

1 the county commission pursuant to this chapter.

2 b. A statement that the petition will be on file  
3 open to public inspection at the county auditor's  
4 office.

5 c. A brief, narrative description of the location  
6 of the affected land.

7 d. A statement of the proposed nonagricultural  
8 use of the land.

9 e. A statement that the petition will be referred  
10 to the county committee and to the regional and county  
11 planning commissions, if any, for review and comment.

12 f. A statement that a public hearing will be held  
13 within sixty days on the petition and on the  
14 recommendations of the county committee and of the  
15 regional and county planning commissions, if any,  
16 at a time and place stated in the notice.

17 2. Within five days after the receipt of a petition  
18 for withdrawal of land from an agricultural area,  
19 the county commission shall refer the petition to  
20 the county committee, which shall, within thirty days  
21 of its receipt of the petition, report to the county  
22 commission its recommendations.

23 3. Within five days after the receipt of a petition  
24 for withdrawal of land from an agricultural area,  
25 the county commission shall refer the petition to  
26 the regional and county planning commissions, if any,  
27 which shall, within thirty days of their receipt of  
28 the petition, report to the county commission their  
29 recommendations concerning the potential effect of  
30 the withdrawal of land from an agricultural area upon  
31 the development patterns and needs of the county and  
32 upon the county's planning objectives.

33 Sec. 21. NEW SECTION. PROCEDURES FOR PUBLIC  
34 HEARINGS ON PETITIONS FOR WITHDRAWAL. The county  
35 committee shall hold a public hearing within sixty  
36 days of the receipt of a petition for withdrawal of  
37 land from an agricultural area. The hearing shall  
38 be held at a location readily accessible to the public  
39 and proximate to the affected land and shall be  
40 preceded by at least ten days notice published in  
41 a newspaper of general circulation in the county.  
42 The public hearing shall concern the petition and  
43 the recommendations of the county committee and of  
44 the regional and county planning commissions, if any.  
45 The county committee may supplement or modify its  
46 recommendations after the hearing.

47 Sec. 22. NEW SECTION. WITHDRAWAL OF LAND FROM  
48 AN AGRICULTURAL AREA.

49 1. Within ninety days after the receipt of a  
50 petition for withdrawal of land from an agricultural

1 area, the county commission shall accept or reject  
2 the petition in a written decision. The county  
3 commission's decision shall take into account the  
4 review and comment of the county committee and the  
5 regional and county planning commissions, if any,  
6 and the public hearings held concerning the petition.

7 2. The county commission shall consider the factors  
8 included in section 15 of this Act in making its  
9 decision. Analysis of the factors must be included  
10 in the county commission's written decision.

11 3. A person affected by a decision of the county  
12 commission on a petition for withdrawal of land from  
13 an agricultural area may obtain judicial review by  
14 filing a petition for review within thirty-five days  
15 after the decision with the district court of the  
16 county.

17 Sec. 23. NEW SECTION. REVIEW OF AGRICULTURAL  
18 AREAS BY COUNTY COMMISSION. The county commission  
19 shall review any agricultural area created under this  
20 chapter ten years after the date of its creation and  
21 every ten years thereafter. In conducting a review,  
22 the county commission shall ask for the recommendations  
23 of the county committee, and shall, at least one  
24 hundred twenty days prior to that anniversary date,  
25 require the county committee to hold a public hearing  
26 at a place within the area or other readily accessible  
27 place upon notice being given in a newspaper having  
28 general circulation within the area or if there is  
29 no such newspaper, then in a newspaper having general  
30 circulation within the county, and individual notice  
31 in writing to the persons owning land within the area,  
32 and to any county or regional planning commission.  
33 The county commission after receiving the reports  
34 of the county committee and after the public hearing,  
35 may terminate the area at the end of a ten-year period  
36 by filing a notice of termination with the county  
37 auditor, or the county commission may modify the area  
38 in the same manner as provided in section 13 of this  
39 Act. If the county commission does not act, the area  
40 shall continue as originally constituted.

41 Sec. 24. NEW SECTION. PETITION FOR DISSOLUTION.  
42 Ten years after the date of creation of an agricultural  
43 area, owners of land within the area may petition  
44 the county commission at any time to dissolve the  
45 area. The petition must be submitted in writing to  
46 the county commission. If the petition contains  
47 signatures of at least two-thirds of the landowners,  
48 the area shall be dissolved.

49 Sec. 25. NEW SECTION. LIMITATION ON POWER OF  
50 CERTAIN PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT

1 ASSESSMENTS OR SPECIAL ASSESSMENTS. A political  
2 subdivision or benefited district providing public  
3 services such as sewer, water, or lights or for nonfarm  
4 drainage shall not impose benefit assessments or  
5 special assessments on land used for primarily  
6 agricultural production within an agricultural area  
7 or in an agricultural district on the basis of  
8 frontage, acreage, or value, unless the benefit  
9 assessments or special assessments were imposed prior  
10 to the formation of the agricultural area or  
11 agricultural district, or unless the service is  
12 provided to the landowner on the same basis as others  
13 having the service.

14 Sec. 26. NEW SECTION. INCENTIVES FOR AGRICULTURAL  
15 LAND PRESERVATION.

16 1. NUISANCE RESTRICTION. A farm operation located  
17 in an agricultural area or an agricultural district  
18 shall not be found to be a nuisance regardless of  
19 the established date of operation or expansion of  
20 the agricultural activities of the farm operation.  
21 This subsection does not apply if the nuisance results  
22 from an activity which is in violation of an applicable  
23 statute, rule, or ordinance. For a feedlot as defined  
24 in chapter 172D, the applicability of rules and  
25 ordinances subject to that chapter shall be as provided  
26 in that chapter. This section does not apply to  
27 actions or proceedings arising from injury or damage  
28 to persons or property caused by the farm operation  
29 before the creation of the agricultural area or  
30 agricultural district. This subsection does not  
31 affect or defeat the right of a person to recover  
32 damages for an injury or damage sustained by the  
33 person because of the pollution or change in condition  
34 of the waters of a stream, the overflowing of the  
35 person's land, or the excessive soil erosion onto  
36 another person's land.

37 2. WATER PRIORITY. In the application for a  
38 permit to divert, store, or withdraw water and in  
39 the allocation of available water resources under  
40 a water permit system, the Iowa natural resources  
41 council shall give priority to the use of water  
42 resources by farm operations, exclusive of irrigation,  
43 located in an agricultural area or an agricultural  
44 district.

45 3. CONDEMNATION LIMITATION. The power of eminent  
46 domain shall not be exercised by the state, its  
47 political subdivisions, a school corporation, a public  
48 authority, a public district or any other public body  
49 upon farmland in an agricultural area or an  
50 agricultural district without the consent of the

1 county board.

2 4. ANNEXATION. A city shall not annex land that  
3 is in an agricultural district or an agricultural  
4 area.

5 Sec. 27. NEW SECTION. LOCAL GOVERNMENT AUTHORITY.  
6 A city, county, or other unit of local government  
7 shall not exercise any of its powers to enact local  
8 laws, ordinances, or any other rules and regulations  
9 within an agricultural district or agricultural area  
10 in a manner which would unreasonably restrict or  
11 regulate farm structures or farm operations within  
12 the district or area in contravention of the purposes  
13 and policies of this chapter unless such governmental  
14 action bears an immediate and compelling relationship  
15 to the public health or safety.

16 Sec. 28. NEW SECTION. STATE REGULATIONS. A rule  
17 adopted by a state agency after the effective date  
18 of this Act which would restrict or regulate farm  
19 structures or farm operations shall not become  
20 effective as applied to farm structures or farm  
21 operations within an agricultural district or  
22 agricultural area unless prior to the adoption of  
23 the rule the agency finds both of the following:

24 1. That the activity to be regulated within the  
25 district or area has a substantial deleterious effect  
26 outside of the district or area.

27 2. That the need for the application of the rule  
28 within the district or area outweighs the policies  
29 of this chapter, which include the encouragement of  
30 exclusively agricultural activities within the district  
31 or area at a level of intensity that would not be  
32 tolerated outside the district or area.

33 In addition to the right of an interested person  
34 granted in chapter 17A to request the agency to issue  
35 a concise statement of the principal reasons for and  
36 against the rule it adopted, a resident or owner of  
37 land in an agricultural district or area may request  
38 the agency to include in that concise statement the  
39 findings required for application within an  
40 agricultural district or area and the principal reasons  
41 used by the agency in making the findings.

42 Sec. 29. Section 358A.1, Code 1981, is amended  
43 by striking the section and inserting in lieu thereof  
44 the following:

45 358A.1 COUNTY PLANNING AND ZONING COMMISSION.  
46 Each county shall establish a planning and zoning  
47 commission by January 1, 1983. The county planning  
48 and zoning commission shall prepare a comprehensive  
49 plan satisfying the guidelines established by the  
50 state land preservation commission. Each county,

1 after consulting with the county land preservation  
2 commission, shall adopt such a comprehensive plan  
3 by January 1, 1987. Each county shall adopt zoning  
4 ordinances by January 1, 1988. Zoning, subdivision,  
5 or other regulations adopted pursuant to this chapter  
6 or chapter 409 and any amendments or revisions shall  
7 be designed to implement the comprehensive plan and  
8 shall be consistent with the comprehensive plan.

9 Sec. 30. Section 358A.2, Code 1981 Supplement,  
10 is amended to read as follows:

11 358A.2 FARMS EXEMPT. No ordinance adopted under  
12 this chapter applies to land, farm houses, farm barns,  
13 farm outbuildings or other buildings or structures  
14 which are primarily adapted, by reason of nature and  
15 area, for use for agricultural purposes, while so  
16 used. However, the ordinances may apply to any struc-  
17 ture, building, dam, obstruction, deposit or excavation  
18 in or on the flood plains of any river or stream.  
19 Ordinances may also apply in agricultural districts  
20 and agricultural areas to the extent required to  
21 implement sections 10 and 17 of this Act.

22 Sec. 31. Section 358A.3, Code 1981, is amended  
23 to read as follows:

24 358A.3 POWERS. ~~Subject to the provisions of~~  
25 ~~sections 358A.1 and section 358A.2,~~ the board of  
26 supervisors of any county ~~is hereby empowered to~~ may  
27 regulate and restrict the height, number of structures,  
28 and size of buildings and other structures, the  
29 percentage of lot that may be occupied, the size of  
30 yards, courts and other open spaces, the density of  
31 population, and the location and use of buildings,  
32 structures, and land for trade, industry, residence  
33 or other purposes, and ~~to~~ may regulate, restrict and  
34 prohibit the use for residential purposes of tents,  
35 trailers and portable or potentially portable  
36 structures; provided that such powers shall be  
37 exercised only with reference to land and structures  
38 located within the county but lying outside of the  
39 corporate limits of any a city or the jurisdiction  
40 exercised by a city under section 414.23. The board  
41 of supervisors of any county may prescribe and charge  
42 a reasonable building permit fee, and upon receipt  
43 of an application containing all required information,  
44 in due form and properly executed, showing that the  
45 proposed structure will comply with all applicable  
46 regulations of the political subdivision in which  
47 it is to be located and upon payment of the required  
48 permit fee, the board of supervisors shall, within  
49 seven days, issue a permit to the applicant.

50 Sec. 32. Section 358A.5, unnumbered paragraph

1 1, Code 1981 Supplement, is amended to read as follows:  
2 ~~Sueh~~ The regulations shall be made in accordance  
3 with a comprehensive plan and designed to preserve  
4 the availability and productivity of agricultural  
5 land; to discourage urban sprawl and encourage  
6 efficient urban development patterns; to lessen  
7 congestion in the street or highway; to secure safety  
8 from fire, flood, panic, and other dangers; to protect  
9 health and the general welfare; to provide adequate  
10 light and air; to prevent the overcrowding of land;  
11 to avoid undue concentration of population; to promote  
12 the conservation of energy resources; to promote  
13 reasonable access to solar energy; and to facilitate  
14 the adequate provision of transportation, water,  
15 sewerage, schools, parks and other public requirements.  
16 However, provisions of this section relating to the  
17 objectives of energy conservation and access to solar  
18 energy shall not be construed as voiding any zoning  
19 regulation existing on July 1, 1981, or to require  
20 zoning in a county that did not have zoning prior  
21 to July 1, 1981.

22 Sec. 33. Section 358A.7, Code 1981, is amended  
23 to read as follows:

24 358A.7 CHANGES AND AMENDMENTS. ~~Sueh~~ The  
25 regulations, restrictions, and boundaries may, ~~from~~  
26 ~~time-to-time,~~ be amended, supplemented, changed,  
27 modified, or repealed. In case, however, of a protest  
28 against ~~sueh~~ a change signed by the owners of twenty  
29 percent or more either of the area included in ~~sueh~~  
30 the proposed change, or of the area immediately  
31 adjacent thereto and within five hundred feet of the  
32 boundaries thereof, ~~sueh~~ the amendment shall not  
33 become effective except by the favorable vote of at  
34 least sixty percent of all of the members of the board  
35 of supervisors. The provisions of section 358A.6  
36 relative to public hearings and official notice shall  
37 apply equally to all changes or amendments. If the  
38 amendment conflicts with the comprehensive plan, the  
39 board of supervisors shall amend the plan prior to  
40 amending the regulations, restrictions, or boundaries.

41 Sec. 34. Section 358A.8, Code 1981, is amended  
42 to read as follows:

43 358A.8 COMMISSION APPOINTED. In order to avail  
44 itself of the powers conferred by this chapter, the  
45 board of supervisors shall appoint a commission, a  
46 majority of whose members shall reside within the  
47 county but outside the corporate limits of any city,  
48 to be known as the county planning and zoning  
49 commission, to recommend the boundaries of the various  
50 original districts, and appropriate regulations and

1 restrictions to be enforced therein. A majority of  
2 the commission shall be persons representing the  
3 public at large and shall not be involved in the  
4 business of purchasing, developing, or selling real  
5 estate. Such ~~The commission shall, with due diligence,~~  
6 prepare a preliminary report and hold public hearings  
7 thereon before submitting its final report; and the  
8 board of supervisors shall not hold its public hearings  
9 or take action until it has received the final report  
10 of such the commission. After the adoption of such  
11 regulations, restrictions, and boundaries of districts,  
12 the zoning commission may, from time to time, recommend  
13 to the board of supervisors amendments, supplements,  
14 changes or modifications. At least every three years  
15 the commission shall review the regulations,  
16 restrictions, and boundaries of districts. The zoning  
17 commission, with the approval of the board of  
18 supervisors, may contract with professional  
19 consultants, regional planning commissions, the Iowa  
20 development commission, or the federal government,  
21 for local planning assistance.

22 A board of supervisors may designate the county  
23 land preservation commission to perform the duties  
24 of the planning and zoning commission in lieu of  
25 appointing a county planning and zoning commission.  
26 If a designation is made, the county land preservation  
27 commission has all the powers and duties of a county  
28 planning and zoning commission under this chapter.

29 Sec. 35. Section 358A.25, Code 1981, is amended  
30 to read as follows:

31 358A.25 PLUMBING CODE ENFORCED. Subject to the  
32 provisions of sections 358A.1 and section 358A.2,  
33 the board of supervisors of any county is further  
34 authorized to may adopt regulations to provide that  
35 every dwelling, whether new or hereafter erected  
36 within the county but outside the corporate limits  
37 of any city which shall develop develops a private  
38 water supply or install installs a pressure water  
39 system or install sanitary house drains, shall comply  
40 with the recommendations of the state department of  
41 health on minimum requirements as set out in the state  
42 plumbing code in regard to such that development or  
43 installation. Any such regulation may be enforced  
44 in the same manner as any other regulation adopted  
45 under this chapter.

46 Sec. 36. Section 368.11, unnumbered paragraph  
47 3, Code 1981, is amended to read as follows:

48 The petition must include substantially the  
49 following information as applicable:

50 1. A general statement of the proposal.

- 1 2. A map of the territory, city or cities involved.
- 2 3. Assessed valuation of platted and unplatted
- 3 land.
- 4 4. Names of property owners.
- 5 5. Population density.
- 6 6. Description of topography.
- 7 7. Plans for disposal of assets and assumption
- 8 of liabilities.
- 9 8. Description of existing municipal services,
- 10 including but not limited to water supply, sewage
- 11 disposal, and fire and police protection.
- 12 9. Plans for agreements with any existing special
- 13 service districts.
- 14 10. In a case of annexation or incorporation,
- 15 the petition must state that none of the territory
- 16 is within a city, the amount and classification of
- 17 any agricultural land proposed to be annexed, the
- 18 need for the annexation of the area, and an evaluation
- 19 of alternative areas for annexation.
- 20 11. In a case of incorporation or consolidation,
- 21 the petition must state the name of the proposed city.
- 22 12. Plans shall include a formal agreement between
- 23 affected municipal corporations and counties for the
- 24 maintenance, improvement and traffic control of any
- 25 shared roads involved in an incorporation or boundary
- 26 adjustment.

27 Sec. 37. Section 414.1, Code 1981, is amended  
28 to read as follows:

29 414.1 BUILDING RESTRICTIONS--POWERS GRANTED.

30 1. For the purpose of promoting the health, safety,  
31 morals, or the general welfare of the community or  
32 for the purpose of preserving historically significant  
33 areas of the community, ~~any-city-is-hereby-empowered~~  
34 to each city, except as provided in subsection 3,  
35 shall establish a planning and zoning commission and  
36 regulate and restrict the height, number of stories,  
37 and size of buildings and other structures, the  
38 percentage of lot that may be occupied, the size of  
39 yards, courts, and other open spaces, the density  
40 of population, and the location and use of buildings,  
41 structures, and land for trade, industry, residence,  
42 or other purposes.

43 2. Each city shall establish a city planning and  
44 zoning commission by January 1, 1983, which shall  
45 prepare a comprehensive plan satisfying the guidelines  
46 established by the state land preservation commission.  
47 Each city shall adopt such a comprehensive plan by  
48 January 1, 1987. Each city, after consultation with  
49 the county land preservation commission, shall adopt  
50 zoning ordinances by January 1, 1988. Zoning,

1 subdivision, or other regulations adopted pursuant  
2 to this chapter or chapter 409 and any amendments  
3 or revisions shall be designed to implement the  
4 comprehensive plan and shall be consistent with the  
5 comprehensive plan. If notice is given to the county  
6 before January 1, 1985, a city may elect to be included  
7 in the comprehensive plan of the county and adopt  
8 the applicable part of that plan for its use.

9 3. A city may elect not to have a planning and  
10 zoning commission, prepare a comprehensive plan, and  
11 adopt ordinances under this chapter. If the election  
12 is made by the city, the limitation of section 358A.3  
13 shall not apply and the county shall have zoning  
14 jurisdiction as provided in chapter 358A within the  
15 limits of the city. Property owners affected by the  
16 county zoning regulations in the city have the same  
17 rights of hearing, protest, and appeal as those within  
18 the unincorporated area of the county. A city which  
19 has made this election may reverse that decision by  
20 establishing a planning and zoning commission and  
21 adopting ordinances under this chapter after giving  
22 notice to the county board of supervisors. Upon the  
23 ordinances becoming effective, the county shall cease  
24 to have jurisdiction in the city. After notice has  
25 been given to the board of supervisors and until the  
26 ordinances become effective the county shall not  
27 change the ordinances effective in that city without  
28 the city's approval.

29 Sec. 38. Section 414.3, unnumbered paragraph 1,  
30 Code 1981, as amended by Acts of the Sixty-ninth  
31 General Assembly, 1981 Session, chapter 125, section  
32 2, is amended to read as follows:

33 ~~Such~~ The regulations shall be made in accordance  
34 with a comprehensive plan and designed to preserve  
35 the availability and productivity of agricultural  
36 land; to discourage urban sprawl and encourage  
37 efficient urban development patterns; to lessen  
38 congestion in the street; to secure safety from fire,  
39 flood, panic, and other dangers; to promote health  
40 and the general welfare; to provide adequate light  
41 and air; to prevent the overcrowding of land; to avoid  
42 undue concentration of population; to promote the  
43 conservation of energy resources; to promote reasonable  
44 access to solar energy; and to facilitate the adequate  
45 provision of transportation, water, sewerage, schools,  
46 parks, and other public requirements. However, provi-  
47 sions of this section relating to the objectives of  
48 energy conservation and access to solar energy shall  
49 do not be construed as voiding void any zoning  
50 regulation existing on the-effective-date-of-this

1 Aet July 1, 1981, or to require zoning in a city that  
2 did not have zoning prior to ~~the-effective-date-of~~  
3 ~~this-Aet~~ July 1, 1981.

4 Sec. 39. Section 414.5, Code 1981, is amended  
5 to read as follows:

6 414.5 CHANGES--HEARING--NOTICE. ~~Sueh~~ The  
7 regulations, restrictions, and boundaries ~~may, from~~  
8 ~~time-to-time,~~ be amended, supplemented, changed,  
9 modified, or repealed. In case, however, of a protest  
10 against ~~sueh~~ a change signed by the owners of twenty  
11 percent or more either of the area of the lots included  
12 in ~~sueh~~ the proposed change, or of those immediately  
13 adjacent in the rear thereof extending the depth of  
14 one lot or not to exceed two hundred feet therefrom,  
15 or of those directly opposite thereto, extending the  
16 depth of one lot or not to exceed two hundred feet  
17 from the street frontage of ~~sueh~~ the opposite lots,  
18 ~~sueh~~ an amendment shall not become effective except  
19 by the favorable vote of at least three-fourths of  
20 all the members of the council. The provisions of  
21 section 414.4 relative to public hearings and official  
22 notice ~~shall~~ apply equally to all changes or  
23 amendments. If the amendment conflicts with the  
24 comprehensive plan, the council shall amend the plan  
25 before amending the regulations, restrictions, or  
26 boundaries.

27 Sec. 40. Section 414.6, Code 1981, is amended  
28 to read as follows:

29 414.6 PLANNING AND ZONING COMMISSION. In order  
30 to avail itself of the powers conferred by this  
31 chapter, the council shall appoint a commission, to  
32 be known as the planning and zoning commission, to  
33 recommend the boundaries of the various original  
34 districts, and appropriate regulations and restrictions  
35 to be enforced therein. Where a city plan commission  
36 already exists, it may be appointed as the zoning  
37 commission. A majority of the commission shall be  
38 persons representing the public at large and shall  
39 not be involved in the business of purchasing,  
40 developing, or selling real estate. ~~Sueh~~ The  
41 commission shall, ~~with due diligence,~~ prepare a  
42 preliminary report and hold public hearings thereon  
43 before submitting its final report; and ~~sueh~~ the  
44 council shall not hold its public hearings or take  
45 action until it has received the final report of ~~sueh~~  
46 the commission. After the adoption of ~~sueh~~  
47 regulations, restrictions, and boundaries of districts,  
48 the zoning commission may, ~~from time-to-time,~~ recommend  
49 to the council amendments, supplements, changes, or  
50 modifications. At least every three years the

1 commission shall review the regulations, restrictions,  
2 and boundaries of districts.

3 Sec. 41. Section 414.23, Code 1981, is amended  
4 by striking the section and inserting in lieu thereof  
5 the following:

6 414.23 EXTENDING BEYOND CITY LIMITS. The powers  
7 granted by this chapter may be extended by ordinance  
8 by any city to the unincorporated area two miles  
9 beyond the limits of the city. The ordinance shall  
10 describe in general terms the area to be included.  
11 The exemption from regulation granted by section  
12 358A.2 to property used for agricultural purposes  
13 applies to the unincorporated area. If the limits  
14 of the city are at any place less than four miles  
15 distant from the limits of any other city which extends  
16 its zoning jurisdiction under this section, the powers  
17 granted in this section shall extend to a line  
18 equidistant between the limits of the cities.

19 Ordinances or amendments adopted by a city under  
20 this chapter shall not become effective for the  
21 unincorporated area until approved by the county board  
22 of supervisors. If the city and the county board  
23 of supervisors are unable to agree on the zoning  
24 regulations for the unincorporated area within sixty  
25 days after presentation to the county board of  
26 supervisors, the parties shall submit the matter  
27 to the county land preservation commission which shall  
28 determine the regulation for the area.

29 Property owners affected by such zoning regulations  
30 have the same rights of hearing, protest, and appeal  
31 as those within the municipality exercising this  
32 power.

33 Sec. 42. Chapter 472, Code 1981, is amended by  
34 adding the following new section:

35 NEW SECTION. Prior to instituting proceedings  
36 for condemnation the applicant shall submit a copy  
37 of the application to the county or city planning  
38 and zoning commission having jurisdiction over the  
39 property sought to be condemned.

40 Sec. 43. INITIAL TERMS. The initial terms of  
41 the members of the county commission shall be terms  
42 of one, two, and three years. At the first meeting  
43 of the county commission the members appointed by  
44 the board of supervisors, the members appointed by  
45 the district soil conservation commissioners, and  
46 the members appointed by the mayors and councilpersons  
47 shall separately determine among themselves by lot  
48 which of the members shall have an initial term of  
49 one, two, or three years. If one city has appointed  
50 three members, those members shall separately determine

H-5688  
Page 25

1 by lot which of those members shall have an initial  
2 term of one, two, or three years. The county com-  
3 missions shall be established by and the terms of  
4 their members shall commence on January 1, 1983.

5 Prior to April 1, 1983, the department of soil  
6 conservation shall hold the congressional district  
7 conventions. Of the initial terms of office of the  
8 members of the state commissioner, one member from  
9 each congressional district convention shall have  
10 a term of two years and two members shall have terms  
11 of four years. The member who shall have a two-year  
12 initial term shall be determined by lot among the  
13 three members at the congressional district convention.  
14 The terms of the members of the state commission shall  
15 commence on April 1, 1983.

16 Sec. 44. Chapter 93A, Code 1981, is repealed."  
17 2. Title page, by striking the title and inserting  
18 in lieu thereof the following: "An Act to establish  
19 a land preservation policy and organizations,  
20 procedures and incentives to implement that policy."

BY COCHRAN of Webster

STUELAND of Clinton  
DIEMER of Black Hawk  
HALL of Linn  
ROSENBERG of Story

LLOYD-JONES of Johnson  
BRANSTAD of Winnebago  
DIELEMAN of Marion

H-5688 FILED  
APRIL 2, 1982

*placed out of order 4/13 (p. 1397)*

H-5698

1 Amend Senate File 2218 as amended, passed and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 5, by inserting after line 1 the following:  
 4 "5. A county which has county zoning on the  
 5 effective date of this Act may petition the state  
 6 council for exemption from the requirements of sections  
 7 5 through 7 of this Act under the procedures of this  
 8 subsection. By October 1, 1982 the county board of  
 9 supervisors shall submit its comprehensive plan and  
 10 ordinances to the state council. By April 1, 1983  
 11 the state council shall determine whether the plan  
 12 and ordinances will achieve the purposes of this Act  
 13 as effectively as compliance with sections 5 through  
 14 7 of this Act and grant or deny the exemption. A  
 15 county is exempt from the requirement of establishing  
 16 a county commission while the petition is pending.  
 17 A county granted the exemption shall annually submit  
 18 a report to the state council of the land use and  
 19 zoning ordinance changes during the year."

H-5698 FILED  
 April 5, 1982

*Placed out of  
 order 4/13*

BY SCHNEKLOTH of Scott  
 KREWSON of Polk CONLON of Muscatine  
 DIEMER of Black Hawk SMITH of Scott  
 ARNOULD of Scott OXLEY of Linn  
 JOHNSON of Linn HUMMEL of Benton  
 HALL of Linn STUELAND of Clinton  
 JOHNSON of Woodbury CHIODO of Polk  
 FEY of Scott CLEMENTS of Scott  
*Mullins 4/7* TRUCANO of Polk

SENATE FILE 2218

H-5708

1 Amend Senate File 2218 as amended, passed and  
 2 reprinted by the Senate as follows:  
 3 1. Page 14, by inserting after line 19 the  
 4 following:  
 5 "Sec. 22. The state shall reimburse the counties  
 6 for the reasonable cost of preparing county land use  
 7 inventories under section 6 of this Act. The county  
 8 commission shall submit an itemized statement to the  
 9 state council of its costs in preparing the inventory  
 10 by September 1, 1983. The state council shall approve  
 11 an amount for reimbursement that it deems reasonable  
 12 and certify that amount to the state comptroller for  
 13 the issuance of the warrant to that county. An amount  
 14 sufficient to pay the warrants authorized under this  
 15 section is appropriated from funds not otherwise  
 16 appropriated in the general fund of the state."  
 17 2. Amend the title, line 2, by inserting after  
 18 the word "organizations," the words "making an  
 19 appropriation for reimbursement of the cost of  
 20 preparing inventories,".  
 21 3. By renumbering the sections to conform with  
 22 this amendment.

BY DAVITT of Warren  
 LLOYD-JONES of Johnson  
 DIELEMAN of Marion  
 AVENSON of Fayette  
 JAY of Appanoose  
 COCHRAN of Webster

*Placed out of order 4/13*  
 H-5708 FILED  
 APRIL 5, 1982

SENATE FILE 2218

H-5704

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:

3 1. Page 7, by striking lines 2 through 6 and  
4 inserting in lieu thereof the following: "use plan,  
5 or inform the county board and the state council that  
6 under existing circumstances the county commission  
7 finds no need for a land use plan.

8 In determining the need for a county land use plan,  
9 the county commission shall consider and make a finding  
10 on each of the following issues and transmit their  
11 findings on these issues to the county board and the  
12 state council with their recommendation on a county  
13 land use plan:

14 a. The preservation of prime agricultural lands  
15 for agricultural production.

16 b. Methods of preserving and providing for  
17 recreational areas, forests, wetlands, streams, lakes  
18 and aquifers.

19 c. Provisions for housing, commercial, industrial,  
20 transportation and recreational needs.

21 d. Methods of implementing the plan, if adopted,  
22 including a formal countywide system to allow variances  
23 from the county plan that incorporates the examination  
24 of alternative land uses and a public hearing on such  
25 alternatives.

26 e. The voluntary formation of agricultural areas  
27 by owners of farmland.

28 If a plan is developed, the commission shall send  
29 a copy of the plan to the state council.

30 Upon receipt of a plan, the county board".

31 2. Page 12, by striking lines 3 through 25 and  
32 inserting in lieu thereof the following:

33 "Sec. 17. NEW SECTION. STATE REGULATIONS. An  
34 owner of farmland in an agricultural district or area  
35 may at any time request a concise statement from an  
36 agency of the state regarding the principal reasons  
37 for and against a rule it adopted regarding farm  
38 operations or the use of land within an agricultural  
39 district or area."

H-5704 FILED

BY SMALLEY of Polk

APRIL 5, 1982

BENNETT of Ida

*Placed out of order 4/13*

SENATE FILE 2218

H-5714

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 3, by inserting after line 1 the following:  
4 "Sec. 4. NEW SECTION. EXEMPTION. Any city having  
5 a population of seventy-five thousand or more shall  
6 be exempt from all the provisions of this chapter."  
7 2. Page 3, line 12, by striking the words "city  
8 of ten" and inserting in lieu thereof the words "city  
9 of one hundred".  
10 3. Page 3, line 23, by striking the words "state  
11 employees" and inserting in lieu thereof the words  
12 "state or municipal employees".  
13 4. Page 3, line 27, by inserting after the word  
14 "state" the words "or municipal".  
15 5. Page 4, line 13, by striking the word "may"  
16 and inserting in lieu thereof the word "shall".  
17 6. Page 5, by striking lines 30 through 32.  
18 7. Page 8, by inserting after line 26 the  
19 following:  
20 "f. Publicly-owned parks."  
21 8. Page 11, by striking lines 8 through 11 and  
22 inserting in lieu thereof the words "district on the  
23 basis of frontage, acreage or value unless the service  
24 is provided to the landowner".

H-5714 FILED

BY JOHNSON of Linn

APRIL 6, 1982

SCHROEDER of Pottawattamie

*Placed out of order 4/13*

SENATE FILE 2218

H-5716

1 Amend Senate File 2218, as amended, passed, and  
2 reprinted by the senate, as follows:  
3 1. Page 11, line 17, by inserting after the  
4 word "nuisance" the words "to property located within  
5 an agricultural district, or to persons on such  
6 property,".

H-5716 FILED APRIL 6, 1982

BY CONLON of Muscatine

*Placed out of order 4/13*

SENATE FILE 2218

H-5715

- 1 Amend amendment H-5688 to Senate File 2218, as  
2 amended, passed, and reprinted by the senate, as  
3 follows:  
4 1. Page 9, line 32, by inserting after the word  
5 "county," the words "eliminate requirements that  
6 development within city limits use more land than is  
7 absolutely necessary for the protection of the public,".  
8 2. Page 16, line 18, by inserting after the words  
9 "a nuisance" the words "to property within an  
10 agricultural district or area, or to persons located  
11 on that property,".  
12 3. Page 16, line 23, by striking the words "or  
13 ordinance" and by inserting in lieu thereof the words  
14 "ordinance, or common law duty".  
15 4. Page 16, by striking lines 45 through 50.  
16 5. Page 17, by striking line 1.  
17 6. Page 17, line 16, by striking the words "A  
18 rule".  
19 7. Page 17, by striking lines 17 through 32.

H-5715 FILED APRIL 6, 1982 BY CONLON of Muscatine  
*Placed out of order 4/13*

SENATE FILE 2218

H-5713

- 1 Amend amendment H-5667 to Senate File 2218 as  
2 amended, passed and reprinted by the Senate as follows:  
3 1. Page 2, by striking lines 32 and 33.

H-5713 FILED BY JOHNSON of Linn  
APRIL 6, 1982 SCHROEDER of Pottawattamie  
*4/25 4/13 (p. 1289)*

SEANTE FILE 2218

H-5717

- 1 Amend Senate File 2218, as amended, passed, and  
2 reprinted by the senate, as follows:  
3 1. Page 11, line 20, by inserting after the word  
4 "negligent" the words ", reckless or intentionally  
5 wrongful".

H-5717 FILED APRIL 6, 1982 BY CONLON of Muscatine  
*Placed out of order 4/13*

SENATE FILE 2218

H-5764

- 1 Amend Senate File 2218 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. By striking all after the enacting clause and
- 4 inserting in lieu thereof the following:
- 5 "Section 1. Section 358A.1, Code 1981, is amended
- 6 to read as follows:
- 7 358A.1 WHERE APPLICABLE. The provisions of this
- 8 chapter shall be ~~applicable to any~~ implemented by
- 9 ~~every~~ county of the state ~~at the option of the board~~
- 10 ~~of supervisors of any such county."~~
- 11 2. Amend the title by striking lines 1 through
- 12 4 and inserting in lieu thereof the words "An Act
- 13 to require county zoning."

H-5764 FILED APRIL 7, 1982 BY SWARTZ of Marshall  
*Placed out of order 4/13* CARPENTER of Polk

SENATE FILE 2218

H-5765

- 1 Amend Senate File 2218 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 3, line 11, by striking the word "Two"
- 4 and inserting in lieu thereof the word "Four".
- 5 2. Page 3, line 12, by striking the words "and
- 6 one" and inserting in lieu thereof the word ", one".
- 7 3. Page 3, line 13, by inserting after the word
- 8 "population" the words "and two members of county
- 9 boards of supervisors".

H-5765 FILED APRIL 7, 1982 BY PELLETT of Cass  
*Placed out of order 4/13*

SENATE FILE 2218

H-5766

- 1 Amend amendment H-5667 to Senate File 2218 as
- 2 amended, passed and reprinted by the Senate as follows:
- 3 1. Page 2, by striking lines 32 and 33.

BY JOHNSON of Linn  
 SCHROEDER of Pottawattamie CHIODO of Polk  
 BYERLY of Polk HANSEN of O'Brien  
 WELSH of Dubuque HALVORSON of Clayton  
 JAY of Appanoose PAVICH of Pottawattamie  
 RENKEN of Grundy

H-5766 FILED  
 APRIL 7, 1982

*Adopted 4/13 (p. 1389)  
 Placed out of order 4/13 (1392)*

SENATE FILE 2218

H-5778

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 8, by inserting after line 35 the  
4 following:  
5 "3. Within a county designated as a standard  
6 metropolitan statistical area by the United States  
7 bureau of the census, an agricultural district shall  
8 not be established within the area in which a city  
9 has the authority to approve the platting of  
10 subdivisions under section 409.14 without the approval  
11 of the city council."

BY JOHNSON of Linn  
SMITH of Scott  
KREWSON of Polk  
O'KANE of Woodbury

H-5778 FILED  
APRIL 7, 1982

*Placed out of order 4/13*

SENATE FILE 2218

H-5777

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 2, by inserting after line 4 the following:  
4 "6. "County land use plan" means a comprehensive  
5 plan as described in section 358A.5 for the  
6 unincorporated areas of the county."  
7 2. Page 5, line 11, by inserting after the word  
8 "inventories" the words "of the unincorporated areas  
9 of the counties".  
10 3. Page 6, line 34, by inserting after the word  
11 "plans" the words "for the unincorporated areas of  
12 the counties".  
13 4. Page 7, line 2, by inserting after the word  
14 "plan" the words "for the unincorporated area of the  
15 county".

BY JOHNSON of Linn  
SMITH of Scott  
KREWSON of Polk  
O'KANE of Woodbury

H-5777 FILED  
APRIL 7, 1982

*Placed out of order 4/13*

SENATE FILE 2218

H-5733

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 7, by striking lines 8 through 11 and  
4 inserting in lieu thereof the following: "or may  
5 reject or adopt the plan."  
6 2. Page 7, by striking line 17 through page 8,  
7 line 3, and inserting in lieu thereof the following:  
8 "8. If the plan is approved by the county board,  
9 a copy shall be provided to the state council and  
10 it shall be the land use policy of the county and  
11 shall be administered and enforced by the county.  
12 The county commission shall review the county plan  
13 periodically for the purpose of proposing amendments  
14 to it the commission deems appropriate. If the  
15 commission proposes amendments to the plan, it shall  
16 forward the proposal to the county board which may  
17 rerefer the amendments to the commission for  
18 modification or reject or adopt the amendments."

BY MULLINS of Kossuth

HANSON of Delaware	McKEAN of Jones
DODERER of Johnson	KREWSON of Polk
LLOYD-JONES of Johnson	SMALLEY of Polk
HALL of Linn	CLARK of Cerro Gordo
NORLAND of Worth	ROSENBERG of Story
HUMMEL of Benton	POFFENBERGER of Dallas
EGENES of Story	PELTON of Clinton

H-5733 FILED APRIL 6, 1982

*Placed out of order 4/13*

SENATE FILE 2218

H-5729

1 Amend Senate File 2218, as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 11, by striking lines 14 and 15 and  
4 inserting in lieu thereof the following: "PRESERVATION.  
5 A farm operation located in".  
6 2. By striking page 11, line 30, through page  
7 12, line 2.  
8 3. Page 13, lines 7 and 8, by striking the words  
9 "discourage urban sprawl and".  
10 4. Page 13, lines 27 and 28, by striking the  
11 words "discourage urban sprawl and".

H-5729 FILED APRIL 6, 1982 BY JOHNSON of Linn

*Placed out of order 4/13*

SENATE FILE 2218

H-5721

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 12, by striking lines 3 through 25 and  
4 inserting in lieu thereof the following:  
5 "Sec. 17. NEW SECTION. STATE REGULATIONS. A  
6 rule adopted by a state agency after the effective  
7 date of this Act which would restrict or regulate  
8 farm structures or farm operations may contain less  
9 restrictive standards for farm structures or farm  
10 operations inside an agricultural district or agri-  
11 cultural area than for farm structures or farm opera-  
12 tions outside such district or area. A rule contain-  
13 ing such a discrimination shall not for this reason  
14 be found or held to be unreasonable, arbitrary,  
15 capricious, beyond the authority delegated to the  
16 agency, or characterized by an abuse of discretion or  
17 clearly unwarranted exercise of discretion."

H-5721 FILED APRIL 6, 1982 BY BENNETT of Ida  
*Placed out of order 4/13*

SENATE FILE 2218

H-5728

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 9, line 12, by inserting after the word  
4 "city" the words "and if an area or a part of an area  
5 is annexed, that area is dissolved or the part  
6 withdrawn from the area".

H-5728 FILED APRIL 6, 1982 BY JOHNSON of Linn  
*Placed out of order 4/13*

SENATE FILE 2218

H-5732

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 1, line 3, by striking the figure "20"  
4 and inserting in lieu thereof the figure "17".

H-5732 FILED APRIL 6, 1982 BY BENNETT of Ida  
*Placed out of order 4/13*

SENATE FILE 2218

1 Amend H-5667 to Senate File 2218 as follows:

2 1. By striking page 1, line 3 through page 2,  
3 line 33 and inserting in lieu thereof the following:

4 "1. By striking everything after the enacting  
5 clause and inserting in lieu thereof the following:

6 "Section 1. NEW SECTION. LEGISLATIVE POLICY AND  
7 PURPOSE. It is the intent of the general assembly  
8 and the policy of this state to provide for the orderly  
9 use and development of land and related natural  
10 resources in Iowa for residential, commercial,  
11 industrial, and recreational purposes. This  
12 development shall be implemented according to  
13 comprehensive land preservation and use plans  
14 promulgated by the county land preservation and use  
15 commission in each county of this state, and enforced  
16 by the adoption of the plans by the county board of  
17 supervisors as the county comprehensive zoning  
18 ordinance.

19 It is the policy of this state that the  
20 comprehensive land preservation and use plans and  
21 zoning ordinances adopted in each county shall act  
22 to preserve the availability and productivity of  
23 agricultural land, to protect the soil from wind and  
24 water erosion, to protect natural and historic re-  
25 sources and fragile ecosystems of this state to include  
26 forests, wetlands, rivers, streams, and lakes and  
27 their shorelines, aquifers, prairies, and recreational  
28 areas, to preserve private property rights, to promote  
29 the efficient use and conservation of energy resources,  
30 and to promote the creation and maintenance of wildlife  
31 habitat.

32 This legislative policy shall be in addition to  
33 the objectives stated in sections 358A.5 and 414.3.  
34 County zoning commissions established under section  
35 358A.8 shall be abolished on December 31, 1982.  
36 Members of the county zoning commissions are eligible  
37 for appointment to the county land preservation and  
38 use commission if they meet the requirements of section  
39 2 of this Act.

40 Sec. 2. NEW SECTION. COUNTY LAND PRESERVATION  
41 AND USE COMMISSIONS ESTABLISHED.

42 1. There is established in each county a county  
43 land preservation and use commission which shall be  
44 composed of the following members:

45 a. One member appointed by and from the county  
46 agricultural extension council.

47 b. Two members appointed by the district soil  
48 conservation commissioners, one of whom must be a  
49 member of the district soil conservation commission  
50 and one must be a person who is not a commissioner,

1 but is actively operating a farm in the county.

2 c. One member appointed by the board of supervisors  
3 from the residents of the county who may be a member  
4 of the board.

5 d. One member appointed by and from a convention  
6 of the mayors and councilpersons of the cities of  
7 the county. If a participating city contains fifty  
8 percent or more of the total population of the  
9 participating cities, that city may appoint the member  
10 appointed under this paragraph.

11 However, if a city contains more than fifty percent  
12 of the population of a county which has a population  
13 exceeding fifty thousand persons, that city shall  
14 not participate in the convention of mayors and  
15 councilpersons and the members appointed under  
16 paragraph d shall be one member appointed by and from  
17 the mayor and councilpersons of that city and one  
18 member appointed by and from the convention of mayors  
19 and councilpersons and the member appointed under  
20 paragraph c shall be a resident of the county engaged  
21 in actual farming operations appointed by the board  
22 of supervisors.

23 2. The county commission shall meet and organize  
24 by the election of a chairperson and vice chairperson  
25 from among its members. A majority of the members  
26 of the county commission constitutes a quorum.  
27 Concurrence of a quorum is required to determine any  
28 matter relating to its official duties.

29 3. The state agricultural extension service shall  
30 assist county commissions with technical,  
31 informational, and clerical assistance.

32 4. A vacancy in the county commission shall be  
33 filled in the same manner as the appointment of the  
34 member whose position is vacant. The term of a county  
35 commissioner is four years. However, in the initial  
36 appointments to the county commission, the members  
37 appointed under paragraphs a and b of subsection 1  
38 shall be appointed to terms of two years. Members  
39 may be appointed to succeed themselves.

40 Sec. 3. NEW SECTION. COUNTY LAND USE INVENTORY.  
41 Each county land preservation and use commission shall  
42 compile a county land use inventory using the  
43 information compiled under Acts of the Sixty-seventh  
44 General Assembly, 1977 Session, chapter 53, and other  
45 pertinent land use information available from county  
46 or state agencies. The state department of agri-  
47 culture, office of planning and programming, department  
48 of soil conservation, state conservation commission,  
49 Iowa natural resources council, department of  
50 environmental quality, geological survey, state

1 agricultural extension service, and the Iowa  
2 development commission shall provide to each county  
3 land preservation and use commission any pertinent  
4 land use information available to assist in the  
5 compiling of the county land use inventories.

6 Sec. 4. NEW SECTION. COMPREHENSIVE COUNTY LAND  
7 PRESERVATION AND USE PLAN. Each county land  
8 preservation and use commission shall create a primary  
9 comprehensive county land preservation and use plan  
10 by September 1, 1984. The primary plan shall be  
11 published in at least one newspaper of general  
12 circulation within the county to ensure broad public  
13 awareness of its contents, and shall include a  
14 comprehensive county map showing the effects of the  
15 proposed primary plan. The publication shall also  
16 include the date, time, and place for at least three  
17 public hearings on the primary plan to be held in  
18 various locations in the county by the county land  
19 preservation and use commission during the month of  
20 September, 1984. A final comprehensive county land  
21 preservation plan shall be completed and adopted by  
22 the county land preservation and use commission no  
23 later than December 31, 1984, and the plan shall be  
24 submitted to the county board of supervisors during  
25 the first official meeting of the county board in  
26 January of 1985.

27 Sec. 5. NEW SECTION. IMPLEMENTATION OF  
28 COMPREHENSIVE COUNTY LAND PRESERVATION AND USE PLAN.  
29 The county boards of supervisors shall adopt a  
30 comprehensive county zoning ordinance to implement  
31 the final comprehensive county land preservation and  
32 use plan no later than July 1, 1985. The county board  
33 of supervisors may amend the final comprehensive plan  
34 only upon the approval of a majority of the members  
35 of the county land preservation and use commission.  
36 A variance to the comprehensive county zoning ordinance  
37 adopted under this section shall be effective only  
38 upon the approval of a majority of the members of  
39 the county land preservation and use commission and  
40 of the county board of supervisors.

41 Sec. 6. NEW SECTION. SCHEDULE OF PROCEDURES.

42 1. The county land preservation and use commissions  
43 shall be appointed and be organized by December 31,  
44 1982.

45 2. The county land preservation and use commissions  
46 shall compile the county land use inventory by July  
47 1, 1983.

48 3. The county land preservation and use commission  
49 shall complete a primary comprehensive land  
50 preservation and use plan by September 1, 1984.

1 4. The county land preservation and use commission  
2 shall complete and adopt a final comprehensive land  
3 preservation and use plan by December 31, 1984.

4 5. The county board of supervisors shall adopt  
5 the final county land preservation and use plan as  
6 the comprehensive county zoning ordinance by July  
7 1, 1985.

8 Sec. 7. NEW SECTION. AGRICULTURAL AREAS. Owners  
9 of agricultural land utilized for the production of  
10 crops and livestock may submit a proposal to the  
11 county land preservation and use commission for the  
12 creation of an agricultural area within the county.  
13 The proposal shall include a legal description and  
14 the boundaries of the proposed area, and the area  
15 shall be as compact and as nearly adjacent as feasible.  
16 Land shall not be included in an agricultural area  
17 without the written consent of the owner. Agricultural  
18 areas shall not exist within the corporate limits  
19 of a city. The county land preservation and use  
20 commission may accept the proposal and include the  
21 agricultural area in the comprehensive county land  
22 preservation and use plan if the agricultural area  
23 assists in the implementation of the policy established  
24 in section 1 of this Act. An owner of agricultural  
25 land may petition the county land preservation and  
26 use commission for inclusion into or withdrawal from  
27 an agricultural area after the final comprehensive  
28 land preservation and use plan is adopted by the  
29 county board of supervisors.

30 Sec. 8. NEW SECTION. NUISANCE RESTRICTION.  
31 A farm operation located in an agricultural area shall  
32 not be found to be a nuisance regardless of the  
33 established date of operation or expansion of the  
34 agricultural activities of the farm operation. The  
35 subsection does not apply if the nuisance results  
36 from the negligent operation of the farm. This section  
37 does not apply to actions or proceedings arising from  
38 injury or damage to person or property caused by the  
39 farm operation before the creation of the agricultural  
40 area or agricultural district. This subsection does  
41 not affect or defeat the right of a person to recover  
42 damages for injury or damage sustained by the person  
43 because of the pollution or change in condition of  
44 the waters of a stream, the overflowing of the person's  
45 land, or excessive soil erosion onto another person's  
46 land.

47 Sec. 9. NEW SECTION. WATER USE PRIORITY. In  
48 the application for a permit to divert, store, or  
49 withdraw water and in the allocation of available  
50 water resources under a water permit system, the Iowa

1 natural resources council shall give priority to the  
2 use of water resources by farm operations, exclusive  
3 of irrigation, located in an agricultural area over  
4 all other uses except the competing uses of water  
5 for ordinary household purposes.

6 Sec. 10. NEW SECTION. ENFORCEMENT. If a county  
7 land preservation and use commission or a county board  
8 of supervisors fails to meet the requirements of this  
9 Act, the county attorney or an interested citizen  
10 in the affected county or the attorney general of  
11 Iowa may seek judicial review and enforcement of this  
12 Act.

13 Sec. 11. NEW SECTION. STATE AGENCIES. All state  
14 agencies, boards, commissions, and departments which  
15 own and utilize land in this state shall be subject  
16 to the policy established in section 1, unnumbered  
17 paragraph 2 of this Act, and a rule adopted under  
18 chapter 17A or activity taken by a state agency,  
19 board, commission, or department shall not conflict  
20 with the state land preservation and use policy  
21 established by this Act.

22 If after the effective date of this Act a proposed  
23 or adopted rule or activity by a state agency, board,  
24 commission, or department conflicts with the policy  
25 established in this Act, the attorney general of Iowa  
26 may seek judicial review and enforcement of this Act.

27 If after July 1, 1985 a proposed or adopted rule  
28 or activity by a state agency, board, commission,  
29 or department conflicts with the final comprehensive  
30 county land preservation and use plan or the county  
31 zoning ordinance of a county, the county attorney  
32 or an interested citizen in the affected county may  
33 seek judicial review and enforcement of the comprehen-  
34 sive county plan and zoning ordinance.

35 Sec. 12. Section 358A.5, unnumbered paragraph  
36 1, Code 1981 Supplement, is amended to read as follows:

37 ~~Such~~ The regulations shall be made in accordance  
38 with a comprehensive plan and designed to preserve  
39 the availability and productivity of agricultural  
40 land and protect the soil from wind and water erosion;  
41 to lessen congestion in the street or highway; to  
42 secure safety from fire, flood, panic, and other  
43 dangers; to protect health and the general welfare;  
44 to provide adequate light and air; to prevent the  
45 overcrowding of land; to avoid undue concentration  
46 of population; to promote the conservation of energy  
47 resources; to promote reasonable access to solar  
48 energy; to facilitate the adequate provision of  
49 transportation, water, sewerage, schools, parks and  
50 other public requirements. However, provisions of

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Page Six

1 this section relating to the objectives of energy  
2 conservation and access to solar energy shall not  
3 be construed as voiding any zoning regulation existing  
4 on July 1, 1981, ~~or to require zoning in a county~~  
5 ~~that did not have zoning prior to July 1, 1981.~~

6 Sec. 13. Section 414.3, unnumbered paragraph 1,  
7 Code 1981, as amended by Acts of the Sixty-ninth  
8 General Assembly, 1981 Session, chapter 125, section  
9 2, is amended to read as follows:

10 ~~Such~~ The regulations shall be made in accordance  
11 with a comprehensive plan and designed to preserve  
12 the availability and productivity of agricultural  
13 land and protect the soil from wind and water erosion;  
14 to lessen congestion in the street; to secure safety  
15 from fire, flood, panic, and other dangers; to promote  
16 health and the general welfare; to provide adequate  
17 light and air; to prevent the overcrowding of land;  
18 to avoid undue concentration of population; to promote  
19 the conservation of energy resources; to promote  
20 reasonable access to solar energy; to facilitate the  
21 adequate provision of transportation, water, sewerage,  
22 schools, parks, and other public requirements.

23 However, provisions of this section relating to the  
24 objectives of energy conservation and access to solar  
25 energy shall not be construed as voiding any zoning  
26 regulation existing on the effective date of this  
27 Act, ~~or to require zoning in a city that did not have~~  
28 ~~zoning prior to the effective date of this Act.~~

29 Sec. 14. This Act shall not invalidate any part  
30 of a zoning ordinance which is in effect on the  
31 effective date of this Act, but this Act requires  
32 that each county adopt a comprehensive zoning ordinance  
33 by July 1, 1985 in accordance with sections 5 and 6 of this  
34 Act."

35 2. Amend the title, line 2, by striking the word  
36 "agricultural".

37 3. Amend the title, line 3, by striking the word  
38 "use" and inserting in lieu thereof the words  
39 "comprehensive county zoning".

H-5781 FILED APRIL 7, 1982

BY PELTON of Clinton

*Adopted 4/13 (p 1396)*

*Motion to reconsider 4/14*  
*" placed out of order 4/15*

H-5815

1 Amend Senate File 2218, as amended, passed and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 10, line 8, by striking the word  
 4 "shall" and inserting in lieu thereof the word  
 5 "may".

H-5815 FILED APRIL 13, 1982

OUT OF ORDER (p. 1398)

BY COCHRAN of Webster

H-5816

SENATE FILE 2218

1 Amend Senate File 2218, as amended, passed  
 2 and reprinted by the Senate, as follows:  
 3 1. Page 9, by inserting after line 1 the  
 4 following:  
 5 "Agricultural areas may be established within a  
 6 county by adopting ordinances under section 358A.4  
 7 which are consistent with an adopted comprehensive  
 8 plan."

H-5816 FILED APRIL 13, 1982

OUT OF ORDER (p. 1398)

BY COCHRAN of Webster

SENATE FILE 2218

H-5817

1 Amend Senate File 2218, as amended, passed and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 10, by striking lines 22 through 35  
 4 and inserting in lieu thereof the following:  
 5 "Sec. 14. NEW SECTION. WITHDRAWAL. At any  
 6 time after three years from the date of creation  
 7 of an agricultural area, an owner may petition for  
 8 withdrawal from an agricultural area by filing  
 9 with the county committee a petition for withdrawal  
 10 containing a legal description of the land to be  
 11 withdrawn. Within fifteen days of receipt of a  
 12 petition for withdrawal and upon verification that  
 13 the land to be withdrawn has been in an agricultural  
 14 area for three years, the county committee shall  
 15 provide notice of the petition by publishing notice  
 16 in a newspaper of general circulation in the county.  
 17 The county committee shall provide a copy of the  
 18 petition to the county commission. Within forty-five  
 19 days after receipt, the committee shall hold a public  
 20 hearing on the petition.  
 21 Within sixty days after receipt, the committee  
 22 shall make a recommendation to the county board.  
 23 Within forty-five days after receiving the  
 24 recommendation of the county committee, the county  
 25 board shall accept or reject the petition in a  
 26 written decision, taking into consideration the  
 27 purposes of this chapter or any county land use plan  
 28 adopted pursuant to section 7 of this Act.  
 29 If the petition is accepted, the board shall cause  
 30 the description of that agricultural area filed with  
 31 the county auditor and recorded with the county  
 32 recorder to be modified to reflect the withdrawal.  
 33 Withdrawal shall be effective on the date of  
 34 recording. The agricultural area from which the  
 35 land is withdrawn shall continue in existence even if  
 36 smaller than five hundred acres after withdrawal."

H-5817 FILED APRIL 13, 1982

OUT OF ORDER (p. 1398)

BY COCHRAN of Webster

SENATE FILE 2218

H-5780

1 Amend H-5688 to Senate File 2218 as amended, passed,  
2 and reprinted by the Senate as follows:  
3 1. Page 17, by striking line 42 through page 18,  
4 line 8.  
5 2. Page 21, by striking lines 33 through 35 and  
6 inserting in lieu thereof the following: "areas of  
7 the community, any city may ~~is-hereby-empowered-to~~".  
8 3. Page 21, by striking lines 43 through page  
9 22, line 8.  
10 4. Page 22, by striking lines 9 through 11 and  
11 inserting in lieu thereof the following:  
12 "2. A city may elect to be subject to zoning by  
13 the county instead of exercising its powers under  
14 this chapter. If, after notifying the county, the  
15 election".

H-5780 FILED  
APRIL 7, 1982

BY DIELEMAN of Marion  
BAXTER of Des Moines

*Placed out of order 4/13*

SENATE FILE 2218

H-5779

1 Amend Senate File 2218 as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 10, by inserting after line 35 the  
4 following:  
5 "Sec. 15. NEW SECTION. METROPOLITAN AREAS.  
6 Within a county designated as a standard metropolitan  
7 statistical area by the United States bureau of the  
8 census, an agricultural area shall not be created  
9 or land withdrawn from an agricultural area within  
10 the area in which a city has authority to approve  
11 the platting of subdivisions under section 409.14  
12 without the approval of that city council. The county  
13 committee shall submit any proposal for creation of  
14 an agricultural area or notice of withdrawal subject  
15 to this section to the city council before recording  
16 the creation or withdrawal. If the city council  
17 disapproves of the creation or withdrawal, the creation  
18 or withdrawal shall not become effective."

BY JOHNSON of Linn  
SMITH of Scott  
KREWSON of Polk  
O'KANE of Woodbury

H-5779 FILED  
APRIL 7, 1982

*Placed out of order 4/13*

House Amendment to Senate File 2218

S-5636

1 Amend Senate File 2218 as amended, passed and  
2 reprinted as follows:

3 1. By striking everything after the enacting  
4 clause and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. LEGISLATIVE POLICY AND  
6 PURPOSE. It is the intent of the general assembly  
7 and the policy of this state to provide for the orderly  
8 use and development of land and related natural  
9 resources in Iowa for residential, commercial,  
10 industrial, and recreational purposes. This  
11 development shall be implemented according to  
12 comprehensive land preservation and use plans  
13 promulgated by the county land preservation and use  
14 commission in each county of this state, and enforced  
15 by the adoption of the plans by the county board of  
16 supervisors as the county comprehensive zoning  
17 ordinance.

18 It is the policy of this state that the  
19 comprehensive land preservation and use plans and  
20 zoning ordinances adopted in each county shall act  
21 to preserve the availability and productivity of  
22 agricultural land, to protect the soil from wind and  
23 water erosion, to protect natural and historic re-  
24 sources and fragile ecosystems of this state to include  
25 forests, wetlands, rivers, streams, and lakes and  
26 their shorelines, aquifers, prairies, and recreational  
27 areas, to preserve private property rights, to promote  
28 the efficient use and conservation of energy resources,  
29 and to promote the creation and maintenance of wildlife  
30 habitat.

31 This legislative policy shall be in addition to  
32 the objectives stated in sections 358A.5 and 414.3.  
33 County zoning commissions established under section  
34 358A.8 shall be abolished on December 31, 1982.  
35 Members of the county zoning commissions are eligible  
36 for appointment to the county land preservation and  
37 use commission if they meet the requirements of section  
38 2 of this Act.

39 Sec. 2. NEW SECTION. COUNTY LAND PRESERVATION  
40 AND USE COMMISSIONS ESTABLISHED.

41 1. There is established in each county a county  
42 land preservation and use commission which shall be  
43 composed of the following members:

44 a. One member appointed by and from the county  
45 agricultural extension council.

46 b. Two members appointed by the district soil  
47 conservation commissioners, one of whom must be a  
48 member of the district soil conservation commission  
49 and one must be a person who is not a commissioner,  
50 but is actively operating a farm in the county.

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Page 2

1 c. One member appointed by the board of supervisors  
2 from the residents of the county who may be a member  
3 of the board.

4 d. One member appointed by and from a convention  
5 of the mayors and councilpersons of the cities of  
6 the county. If a participating city contains fifty  
7 percent or more of the total population of the  
8 participating cities, that city may appoint the member  
9 appointed under this paragraph.

10 However, if a city contains more than fifty percent  
11 of the population of a county which has a population  
12 exceeding fifty thousand persons, that city shall  
13 not participate in the convention of mayors and  
14 councilpersons and the members appointed under  
15 paragraph d shall be one member appointed by and from  
16 the mayor and councilpersons of that city and one  
17 member appointed by and from the convention of mayors  
18 and councilpersons and the member appointed under  
19 paragraph c shall be a resident of the county engaged  
20 in actual farming operations appointed by the board  
21 of supervisors.

22 2. The county commission shall meet and organize  
23 by the election of a chairperson and vice chairperson  
24 from among its members. A majority of the members  
25 of the county commission constitutes a quorum.  
26 Concurrence of a quorum is required to determine any  
27 matter relating to its official duties.

28 3. The state agricultural extension service shall  
29 assist county commissions with technical,  
30 informational, and clerical assistance.

31 4. A vacancy in the county commission shall be  
32 filled in the same manner as the appointment of the  
33 member whose position is vacant. The term of a county  
34 commissioner is four years. However, in the initial  
35 appointments to the county commission, the members  
36 appointed under paragraphs a and b of subsection 1  
37 shall be appointed to terms of two years. Members  
38 may be appointed to succeed themselves.

39 Sec. 3. NEW SECTION. COUNTY LAND USE INVENTORY.  
40 Each county land preservation and use commission shall  
41 compile a county land use inventory using the  
42 information compiled under Acts of the Sixty-seventh  
43 General Assembly, 1977 Session, chapter 53, and other  
44 pertinent land use information available from county  
45 or state agencies. The state department of agri-  
46 culture, office of planning and programming, department  
47 of soil conservation, state conservation commission,  
48 Iowa natural resources council, department of  
49 environmental quality, geological survey, state  
50 agricultural extension service, and the Iowa

1 development commission shall provide to each county  
2 land preservation and use commission any pertinent  
3 land use information available to assist in the  
4 compiling of the county land use inventories.

5     Sec. 4. NEW SECTION. COMPREHENSIVE COUNTY LAND  
6 PRESERVATION AND USE PLAN. Each county land  
7 preservation and use commission shall create a primary  
8 comprehensive county land preservation and use plan  
9 by September 1, 1984. The primary plan shall be  
10 published in at least one newspaper of general  
11 circulation within the county to ensure broad public  
12 awareness of its contents, and shall include a  
13 comprehensive county map showing the effects of the  
14 proposed primary plan. The publication shall also  
15 include the date, time, and place for at least three  
16 public hearings on the primary plan to be held in  
17 various locations in the county by the county land  
18 preservation and use commission during the month of  
19 September, 1984. A final comprehensive county land  
20 preservation plan shall be completed and adopted by  
21 the county land preservation and use commission no  
22 later than December 31, 1984, and the plan shall be  
23 submitted to the county board of supervisors during  
24 the first official meeting of the county board in  
25 January of 1985.

26     Sec. 5. NEW SECTION. IMPLEMENTATION OF  
27 COMPREHENSIVE COUNTY LAND PRESERVATION AND USE PLAN.  
28 The county boards of supervisors shall adopt a  
29 comprehensive county zoning ordinance to implement  
30 the final comprehensive county land preservation and  
31 use plan no later than July 1, 1985. The county board  
32 of supervisors may amend the final comprehensive plan  
33 only upon the approval of a majority of the members  
34 of the county land preservation and use commission.  
35 A variance to the comprehensive county zoning ordinance  
36 adopted under this section shall be effective only  
37 upon the approval of a majority of the members of  
38 the county land preservation and use commission and  
39 of the county board of supervisors.

40     Sec. 6. NEW SECTION. SCHEDULE OF PROCEDURES.

41     1. The county land preservation and use commissions  
42 shall be appointed and be organized by December 31,  
43 1982.

44     2. The county land preservation and use commissions  
45 shall compile the county land use inventory by July  
46 1, 1983.

47     3. The county land preservation and use commission  
48 shall complete a primary comprehensive land  
49 preservation and use plan by September 1, 1984.

50     4. The county land preservation and use commission

1 shall complete and adopt a final comprehensive land  
2 preservation and use plan by December 31, 1984.

3 5. The county board of supervisors shall adopt  
4 the final county land preservation and use plan as  
5 the comprehensive county zoning ordinance by July  
6 1, 1985.

7 Sec. 7. NEW SECTION. AGRICULTURAL AREAS. Owners  
8 of agricultural land utilized for the production of  
9 crops and livestock may submit a proposal to the  
10 county land preservation and use commission for the  
11 creation of an agricultural area within the county.  
12 The proposal shall include a legal description and  
13 the boundaries of the proposed area, and the area  
14 shall be as compact and as nearly adjacent as feasible.  
15 Land shall not be included in an agricultural area  
16 without the written consent of the owner. Agricultural  
17 areas shall not exist within the corporate limits  
18 of a city. The county land preservation and use  
19 commission may accept the proposal and include the  
20 agricultural area in the comprehensive county land  
21 preservation and use plan if the agricultural area  
22 assists in the implementation of the policy established  
23 in section 1 of this Act. An owner of agricultural  
24 land may petition the county land preservation and  
25 use commission for inclusion into or withdrawal from  
26 an agricultural area after the final comprehensive  
27 land preservation and use plan is adopted by the  
28 county board of supervisors.

29 Sec. 8. NEW SECTION. NUISANCE RESTRICTION.  
30 A farm operation located in an agricultural area shall  
31 not be found to be a nuisance regardless of the  
32 established date of operation or expansion of the  
33 agricultural activities of the farm operation. The  
34 subsection does not apply if the nuisance results  
35 from the negligent operation of the farm. This section  
36 does not apply to actions or proceedings arising from  
37 injury or damage to person or property caused by the  
38 farm operation before the creation of the agricultural  
39 area or agricultural district. This subsection does  
40 not affect or defeat the right of a person to recover  
41 damages for injury or damage sustained by the person  
42 because of the pollution or change in condition of  
43 the waters of a stream, the overflowing of the person's  
44 land, or excessive soil erosion onto another person's  
45 land.

46 Sec. 9. NEW SECTION. WATER USE PRIORITY. In  
47 the application for a permit to divert, store, or  
48 withdraw water and in the allocation of available  
49 water resources under a water permit system, the Iowa  
50 natural resources council shall give priority to the

1 use of water resources by farm operations, exclusive  
2 of irrigation, located in an agricultural area over  
3 all other uses except the competing uses of water  
4 for ordinary household purposes.

5 Sec. 10. NEW SECTION. ENFORCEMENT. If a county  
6 land preservation and use commission or a county board  
7 of supervisors fails to meet the requirements of this  
8 Act, the county attorney or an interested citizen  
9 in the affected county or the attorney general of  
10 Iowa may seek judicial review and enforcement of this  
11 Act.

12 Sec. 11. NEW SECTION. STATE AGENCIES. All state  
13 agencies, boards, commissions, and departments which  
14 own and utilize land in this state shall be subject  
15 to the policy established in section 1, unnumbered  
16 paragraph 2 of this Act, and a rule adopted under  
17 chapter 17A or activity taken by a state agency,  
18 board, commission, or department shall not conflict  
19 with the state land preservation and use policy  
20 established by this Act.

21 If after the effective date of this Act a proposed  
22 or adopted rule or activity by a state agency, board,  
23 commission, or department conflicts with the policy  
24 established in this Act, the attorney general of Iowa  
25 may seek judicial review and enforcement of this Act.

26 If after July 1, 1985 a proposed or adopted rule  
27 or activity by a state agency, board, commission,  
28 or department conflicts with the final comprehensive  
29 county land preservation and use plan or the county  
30 zoning ordinance of a county, the county attorney  
31 or an interested citizen in the affected county may  
32 seek judicial review and enforcement of the comprehen-  
33 sive county plan and zoning ordinance.

34 Sec. 12. Section 358A.5, unnumbered paragraph  
35 1, Code 1981 Supplement, is amended to read as follows:

36 ~~Sueh~~ The regulations shall be made in accordance  
37 with a comprehensive plan and designed to preserve  
38 the availability and productivity of agricultural  
39 land and protect the soil from wind and water erosion;  
40 to lessen congestion in the street or highway; to  
41 secure safety from fire, flood, panic, and other  
42 dangers; to protect health and the general welfare;  
43 to provide adequate light and air; to prevent the  
44 overcrowding of land; to avoid undue concentration  
45 of population; to promote the conservation of energy  
46 resources; to promote reasonable access to solar  
47 energy; to facilitate the adequate provision of  
48 transportation, water, sewerage, schools, parks and  
49 other public requirements. However, provisions of  
50 this section relating to the objectives of energy

S-5636  
PAGE 6

1 conservation and access to solar energy shall not  
2 be construed as voiding any zoning regulation existing  
3 on July 1, 1981, ~~or to require zoning in a county~~  
4 ~~that did not have zoning prior to July 1, 1981.~~

5 Sec. 13. Section 414.3, unnumbered paragraph 1,  
6 Code 1981, as amended by Acts of the Sixty-ninth  
7 General Assembly, 1981 Session, chapter 125, section  
8 2, is amended to read as follows:

9 ~~Such~~ The regulations shall be made in accordance  
10 with a comprehensive plan and designed to preserve  
11 the availability and productivity of agricultural  
12 land and protect the soil from wind and water erosion;  
13 to lessen congestion in the street; to secure safety  
14 from fire, flood, panic, and other dangers; to promote  
15 health and the general welfare; to provide adequate  
16 light and air; to prevent the overcrowding of land;  
17 to avoid undue concentration of population; to promote  
18 the conservation of energy resources; to promote  
19 reasonable access to solar energy; to facilitate the  
20 adequate provision of transportation, water, sewerage,  
21 schools, parks, and other public requirements.

22 However, provisions of this section relating to the  
23 objectives of energy conservation and access to solar  
24 energy shall not be construed as voiding any zoning  
25 regulation existing on the effective date of this  
26 Act, ~~or to require zoning in a city that did not have~~  
27 ~~zoning prior to the effective date of this Act.~~

28 Sec. 14. This Act shall not invalidate any part  
29 of a zoning ordinance which is in effect on the  
30 effective date of this Act, but this Act requires  
31 that each county adopt a comprehensive zoning ordinance  
32 by July 1, 1985 in accordance with sections 5 and  
33 6 of this Act."

34 2. Amend the title, line 2, by striking the word  
35 "agricultural".

36 3. Amend the title, line 3, by striking the word  
37 "use" and inserting in lieu thereof the words  
38 "comprehensive county zoning".

S-5636 FILED

APRIL 19, 1982

RECEIVED FROM THE HOUSE

*Senate refused to concur 4/20 (p. 1299)*

*House amended 4/20 (p. 1582)*

REPORT OF THE FIRST CONFERENCE  
COMMITTEE ON SENATE FILE 2218

To the President of the Senate and the Speaker of the House of Representatives.

We, the undersigned members of the conference committee appointed to consider the differences between the House of Representatives and the Senate on Senate File 2218, a bill for an Act relating to the uses of land in this state by requiring inventories by county organizations, authorizing agricultural use ordinances and agricultural areas, and providing for the restriction of certain proceedings and assessments respectfully make the following report:

1. That the House recede from its amendment S-5636 to Senate File 2218 as amended, passed and reprinted by the Senate.

2. That Senate File 2218 as amended, passed and reprinted by the Senate be amended as follows:

1. By striking everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. Chapter 93A, Code 1981, is amended by striking the chapter and inserting in lieu thereof sections 2 through 14 of this Act.

Sec. 2. NEW SECTION. PURPOSE. It is the intent of the general assembly and the policy of this state to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes, preserve private property rights, protect natural and historic resources and fragile ecosystems of this state including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and recreational areas to promote the efficient use and

conservation of energy resources, to promote the creation and maintenance of wildlife habitat, to consider the protection of soil from wind and water erosion and preserve the availability and use of agricultural land for agricultural production, through processes that emphasize the participation of citizens and local governments.

The general assembly recognizes the importance of preserving the state's finite supply of agricultural land. Conversion of farmland to urban development, and other nonfarm uses, reduces future food production capabilities and may ultimately undermine agriculture as a major economic activity in Iowa.

It is the intent of the general assembly to provide local citizens and local governments the means by which agricultural land may be protected from nonagricultural development pressures. This may be accomplished by the creation of county land preservation and use plans and policies, adoption of an agricultural land preservation ordinance, or establishment of agricultural areas in which substantial agricultural activities are encouraged, so that land inside these areas or subject to those ordinances is conserved for the production of food, fiber, and livestock, thus assuring the preservation of agriculture as a major factor in the economy of this state.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Agricultural area" means an area meeting the qualifications of section 7 of this Act and designated under section 8 of this Act.
2. "County board" means the county board of supervisors.
3. "County commission" means the county land preservation and use commission.
4. "Farm" means the land, buildings, and machinery used in the commercial production of farm products.
5. "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 marketing of products at roadside stands or farm markets, the creation of noise, odor, dust, 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.

6. "Farm products" means those plants and animals and their products which are useful to people and includes but is not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey, and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur.

7. "Nuisance" means a public or private nuisance as defined either by statute, administrative rule, ordinance, or the common law.

8. "Nuisance action or proceeding" means an action, claim, or proceeding, whether brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

9. "Farmland" means those parcels of land suitable for the production of farm products.

Sec. 4. NEW SECTION. COUNTY LAND PRESERVATION AND USE COMMISSIONS ESTABLISHED:

1. In each county a county land preservation and use commission is created composed of the following members:

a. One member appointed by and from the county agricultural extension council.

b. Two members appointed by the district soil conservation commissioners, one of whom must be a member of the district soil conservation board of commissioners and one must be a

person who is not a commissioner, but is actively operating a farm in the county.

c. One member appointed by the board of supervisors from the residents of the county who may be a member of the board.

d. One member appointed by and from a convention of the mayors and councilpersons of the cities of the county. If a participating city contains fifty percent or more of the total population of the participating cities, that city may appoint the member appointed under this paragraph.

However, if a city contains more than fifty percent of the population of a county which has a population exceeding fifty thousand persons, that city shall not participate in the convention of mayors and councilpersons and the members appointed under paragraph d shall be one member appointed by and from the mayor and councilpersons of that city and one member appointed by and from the convention of mayors and councilpersons and the member appointed under paragraph c shall be a resident of the county engaged in actual farming operations appointed by the board of supervisors.

2. The county commission shall meet and organize by the election of a chairperson and vice chairperson from among its members by October 1, 1982. A majority of the members of the county commission constitutes a quorum. Concurrence of a quorum is required to determine any matter relating to its official duties.

3. The state agricultural extension service shall provide county commissions with technical, informational, and clerical assistance.

4. A vacancy in the county commission shall be filled in the same manner as the appointment of the member whose position is vacant. The term of a county commissioner is four years. However, in the initial appointments to the county commission, the members appointed under paragraphs

a and b of subsection 1 shall be appointed to terms of two years. Members may be appointed to succeed themselves.

Sec. 5. NEW SECTION. COUNTY INVENTORIES.

1. Each county commission shall compile a county land use inventory of the unincorporated areas of the county by January 1, 1984. The county inventories shall where adequate data is available contain at least the following:

a. The land available and used for agricultural purposes by soil suitability classifications or land capability classification, whichever is available.

b. The lands used for public facilities, which may include parks, recreation areas, schools, government buildings and historical sites.

c. The lands used for private open spaces, which may include woodlands, wetlands and water bodies.

d. The land used for each of the following uses: commercial, industrial including mineral extraction, residential and transportation.

e. The lands which have been converted from agricultural use to residential use, commercial or industrial use, or public facilities since 1960.

2. In addition to that provided under subsection 1, the county inventory shall also contain the land inside the boundaries of a city which is taxed as agricultural land.

3. The information required by subsection 1 shall be provided both in narrative and map form. The county commission shall provide a cartographic display which contrasts the county's present land use with the land use in the county in 1960 based on the best available information. The display need only show the areas in agriculture, private open spaces, public facilities, commercial, industrial, residential and transportation uses.

4. The state department of agriculture, office for planning

and programming, department of soil conservation, state conservation commission, Iowa natural resources council, department of environmental quality, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

Sec. 6. NEW SECTION. COUNTY LAND PRESERVATION AND USE PLAN.

1. By September 1, 1984, after at least one public hearing, a county commission shall propose to the county board a county land use plan for the unincorporated areas in the county, or it shall transmit to the county board the county land use inventory completed pursuant to section 5 of this Act together with a set of written findings on the following factors considered by the county commission:

a. Methods of preserving agricultural lands for agricultural production.

b. Methods of preserving and providing for recreational areas, forests, wetlands, streams, lakes and aquifers.

c. Methods of providing for housing, commercial, industrial, transportational and recreational needs.

d. Methods to promote the efficient use and conservation of energy resources.

e. Methods to promote the creation and maintenance of wildlife habitat.

f. Methods of implementing the plan, if adopted, including a formal countywide system to allow variances from the county plan that incorporates the examination of alternative land uses and a public hearing on such alternatives.

g. Methods of encouraging the voluntary formation of agricultural areas by the owners of farmland.

h. Methods of considering the platting of subdivisions

and its effect upon the availability of farmland.

2. Upon receipt of the inventory and findings, the county board may direct the county commission to prepare a county land use plan for the consideration of the county board.

3. Upon receipt of a plan, the county board may rerefer the plan to the county commission for modification, reject the plan or adopt the plan either as originally submitted or as modified.

If the plan is approved by the county board, it shall be the land use policy of the county and shall be administered and enforced by the county in the unincorporated areas. The county commission shall review the county plan periodically for the purpose of considering amendments to it. If the commission proposes amendments to the plan, it shall forward the proposal to the county board which may rerefer the amendments to the commission for modification or reject or adopt the amendments.

4. Within thirty days after the completion of the county land use inventory compiled pursuant to section 5 of this Act or any county land use plan or set of written findings completed pursuant to section 6 of this Act, the county commission shall transmit one copy of each to the interagency resource council.

Sec. 7. NEW SECTION. CREATION OF AGRICULTURAL AREAS.

An owner of farmland may submit a proposal to the county board for the creation of an agricultural area within the county. An agricultural area, at its creation, shall include at least five hundred acres of farmland, however, a smaller area may be created if the farmland is adjacent to farmland subject to an agricultural land preservation ordinance pursuant to section 15 of this Act. The proposal shall include a description of the proposed area, including its boundaries. The territory shall be as compact and as nearly adjacent as

feasible. Land shall not be included in an agricultural area without the consent of the owner. Agricultural areas shall not exist within the corporate limits of the city. Agricultural areas may be created in a county which has adopted zoning ordinances. Except as provided in this section, the use of the land in agricultural areas is limited to farm operations.

1. The following shall be permitted in an agricultural area:

a. Residences constructed for occupation by a person engaged in farming or in a family farm operation.

Nonconforming preexisting residences may be continued in residential use.

b. Property of a telephone company, city utility as defined in section 390.1, public utility as defined in section 476.1, or pipeline company as defined in section 479.2.

2. The county board of supervisors may permit any use not listed in subsection 1 in an agricultural area only if it finds all of the following:

a. The use is not inconsistent with the purposes set forth in section 2 of this Act.

b. The use does not interfere seriously with farm operations within the area.

c. The use does not materially alter the stability of the overall land use pattern in the area.

Sec. 8. NEW SECTION. DUTIES OF COUNTY BOARD.

1. Within thirty days of receipt of a proposal for an agricultural area which meets the statutory requirements, the county board shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five days after receipt, the county board shall hold a public hearing on the proposal.

2. Within sixty days after receipt, the county board shall

adopt the proposal or any modification of the proposal it deems appropriate, unless to do so would be inconsistent with the purposes of this chapter.

Sec. 9. NEW SECTION. REQUIREMENT THAT DESCRIPTION OF AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR AND COUNTY RECORDER. Upon the creation of an agricultural area, its description shall be filed by the county board with the county auditor and placed on record in the office of the county recorder.

Sec. 10. NEW SECTION. WITHDRAWAL. At any time after three years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the county board a request for withdrawal containing a legal description of the land to be withdrawn and a statement of the reasons for the withdrawal. The county board shall, within sixty days of receipt of the request, approve or deny the request for withdrawal. At any time after six years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the county board a notice of withdrawal containing a legal description of the land to be withdrawn.

The board shall cause the description of that agricultural area filed with the county auditor and recorded with the county recorder to be modified to reflect any withdrawal. Withdrawal shall be effective on the date of recording. The agricultural area from which the land is withdrawn shall continue in existence even if smaller than five hundred acres after withdrawal.

Sec. 11. NEW SECTION. LIMITATION ON POWER OF CERTAIN PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT ASSESSMENTS OR SPECIAL ASSESSMENTS. A political subdivision or a benefited district providing public services such as sewer, water, or lights or for nonfarm drainage shall not impose benefit assessments

or special assessments on land used primarily for agricultural production within an agricultural area on the basis of frontage, acreage, or value, unless the benefit assessments or special assessments were imposed prior to the formation of the agricultural area, or unless the service is provided to the landowner on the same basis as others having the service.

Sec. 12. NEW SECTION. INCENTIVES FOR AGRICULTURAL LAND PRESERVATION.

1. NUISANCE RESTRICTION. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. The subsection does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection does not apply to actions or proceedings arising from injury or damage to person or property caused by the farm or farm operation before the creation of the agricultural area. This subsection does not affect or defeat the right of a person to recover damages for injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land.

2. WATER PRIORITY. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the Iowa natural resources council shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

Sec. 13. NEW SECTION. STATE REGULATION. In order to accomplish the purposes set forth in section 2 of this Act,

a rule adopted by a state agency after the effective date of this Act which would restrict or regulate farms or farm operations may contain standards which are less restrictive for farms or farm operations inside an agricultural area than for farms or farm operations outside such an area. A rule containing such a discrimination shall not for the fact of such discrimination alone be found or held to be unreasonable, arbitrary, capricious, beyond the authority delegated to the agency, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Sec. 14. NEW SECTION. STATE INTERAGENCY RESOURCE COUNCIL. The state interagency resource council shall:

1. Serve as a center to gather information from various resources and agencies and disseminating this information to the county commissions.

2. Receive the county inventories and compile a statewide summary of the information contained in the inventories and submit the summary to the general assembly.

3. Distribute information beneficial to the county commissions for preparing the county plan.

4. Disseminate beneficial information or procedures developed by one or more counties to other counties.

5. Receive and maintain a record of individual county plans.

Sec. 15. Chapter 358A, Code 1981, is amended by adding the following new section:

NEW SECTION. AGRICULTURAL LAND PRESERVATION ORDINANCE. If a county adopts an agricultural land preservation ordinance under this chapter which subjects farmland to the same use restrictions provided in section 7 of this Act for agricultural areas, sections 11 through 13 and section 19 of this Act shall apply to farms and farm operations which are subject to the agricultural land preservation ordinance.

Sec. 16. Section 358A.2, Code 1981 Supplement, is amended to read as follows:

358A.2 FARMS EXEMPT. No Except to the extent required to implement section 15 of this Act, no ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used. However, the ordinances may apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream.

Sec. 17. Section 358A.5, unnumbered paragraph 1, Code 1981 Supplement, is amended to read as follows:

~~Such~~ The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street or highway; to secure safety from fire, flood, panic, and other dangers; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy shall not be construed as voiding any zoning regulation existing on July 1, 1981, or to require zoning in a county that did not have zoning prior to July 1, 1981.

Sec. 18. Section 414.3, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 125, section 2, is amended to read as follows:

~~Such~~ The regulations shall be made in accordance with a

comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy shall do not be construed as voiding void any zoning regulation existing on ~~the effective date of this Act~~ July 1, 1981, or to require zoning in a city that did not have zoning prior to the ~~effective date of this Act~~ July 1, 1981.

Sec. 19. Section 472.3, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in chapter 93A, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture soil conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

Sec. 20. This Act does not invalidate any part of a zoning ordinance which is in effect on the effective date of this Act, or require the adoption of a zoning ordinance by any subdivision of the state."

2. Amend the title, by striking lines 3 and 4 and inserting in lieu thereof the following: "land preservation ordinances, county land use plans and agricultural areas and providing for certain preferences and restrictions on certain proceedings and assessments.

ON THE PART OF THE SENATE:

ON THE PART OF THE HOUSE:

\_\_\_\_\_  
DALE L. TIEDEN, Chairperson

\_\_\_\_\_  
WAYNE BENNETT, Chairperson

\_\_\_\_\_  
FORREST V. SCHWENGELS

\_\_\_\_\_  
DALE M. COCHRAN

\_\_\_\_\_  
TOM SLATER

\_\_\_\_\_  
PHILIP A. DAVITT

\_\_\_\_\_  
BASS VAN GILST

\_\_\_\_\_  
WENDELL C. PELLETT

\_\_\_\_\_  
ARNE WALDSTEIN

\_\_\_\_\_  
JOHN PELTON

*Senate adopted 4/24 (p. 1477)  
House adopted 4/24 (p. 1874)*

SENATE FILE 2218

AN ACT

RELATING TO THE USES OF LAND IN THIS STATE BY REQUIRING INVENTORIES BY COUNTY ORGANIZATIONS, AUTHORIZING AGRICULTURAL LAND PRESERVATION ORDINANCES, COUNTY LAND USE PLANS AND AGRICULTURAL AREAS AND PROVIDING FOR CERTAIN PREFERENCES AND RESTRICTIONS ON CERTAIN PROCEEDINGS AND ASSESSMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 93A, Code 1981, is amended by striking the chapter and inserting in lieu thereof sections 2 through 14 of this Act.

Sec. 2. NEW SECTION. PURPOSE. It is the intent of the general assembly and the policy of this state to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes, preserve private property rights, protect natural and historic resources and fragile ecosystems of this state including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and recreational areas to promote the efficient use and conservation of energy resources, to promote the creation and maintenance of wildlife habitat, to consider the protection of soil from wind and water erosion and preserve the availability and use of agricultural land for agricultural production, through processes that emphasize the participation of citizens and local governments.

The general assembly recognizes the importance of preserving the state's finite supply of agricultural land. Conversion of farmland to urban development, and other nonfarm uses,

reduces future food production capabilities and may ultimately undermine agriculture as a major economic activity in Iowa.

It is the intent of the general assembly to provide local citizens and local governments the means by which agricultural land may be protected from nonagricultural development pressures. This may be accomplished by the creation of county land preservation and use plans and policies, adoption of an agricultural land preservation ordinance, or establishment of agricultural areas in which substantial agricultural activities are encouraged, so that land inside these areas or subject to those ordinances is conserved for the production of food, fiber, and livestock, thus assuring the preservation of agriculture as a major factor in the economy of this state.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Agricultural area" means an area meeting the qualifications of section 7 of this Act and designated under section 8 of this Act.
2. "County board" means the county board of supervisors.
3. "County commission" means the county land preservation and use commission.
4. "Farm" means the land, buildings, and machinery used in the commercial production of farm products.
5. "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 marketing of products at roadside stands or farm markets, the creation of noise, odor, dust, 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.
6. "Farm products" means those plants and animals and their products which are useful to people and includes but is not limited to forages and sod crops, grains and feed

crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey, and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur.

7. "Nuisance" means a public or private nuisance as defined either by statute, administrative rule, ordinance, or the common law.

8. "Nuisance action or proceeding" means an action, claim, or proceeding, whether brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

9. "Farmland" means those parcels of land suitable for the production of farm products.

Sec. 4. NEW SECTION. COUNTY LAND PRESERVATION AND USE COMMISSIONS ESTABLISHED.

1. In each county a county land preservation and use commission is created composed of the following members:

a. One member appointed by and from the county agricultural extension council.

b. Two members appointed by the district soil conservation commissioners, one of whom must be a member of the district soil conservation board of commissioners and one must be a person who is not a commissioner, but is actively operating a farm in the county.

c. One member appointed by the board of supervisors from the residents of the county who may be a member of the board.

d. One member appointed by and from a convention of the mayors and councilpersons of the cities of the county. If a participating city contains fifty percent or more of the total population of the participating cities, that city may appoint the member appointed under this paragraph.

However, if a city contains more than fifty percent of the population of a county which has a population exceeding fifty thousand persons, that city shall not participate in the convention of mayors and councilpersons and the members

appointed under paragraph d shall be one member appointed by and from the mayor and councilpersons of that city and one member appointed by and from the convention of mayors and councilpersons and the member appointed under paragraph c shall be a resident of the county engaged in actual farming operations appointed by the board of supervisors.

2. The county commission shall meet and organize by the election of a chairperson and vice chairperson from among its members by October 1, 1982. A majority of the members of the county commission constitutes a quorum. Concurrence of a quorum is required to determine any matter relating to its official duties.

3. The state agricultural extension service shall provide county commissions with technical, informational, and clerical assistance.

4. A vacancy in the county commission shall be filled in the same manner as the appointment of the member whose position is vacant. The term of a county commissioner is four years. However, in the initial appointments to the county commission, the members appointed under paragraphs a and b of subsection 1 shall be appointed to terms of two years. Members may be appointed to succeed themselves.

Sec. 5. NEW SECTION. COUNTY INVENTORIES.

1. Each county commission shall compile a county land use inventory of the unincorporated areas of the county by January 1, 1984. The county inventories shall where adequate data is available contain at least the following:

a. The land available and used for agricultural purposes by soil suitability classifications or land capability classification, whichever is available.

b. The lands used for public facilities, which may include parks, recreation areas, schools, government buildings and historical sites.

c. The lands used for private open spaces, which may include woodlands, wetlands and water bodies.

d. The land used for each of the following uses: commercial, industrial including mineral extraction, residential and transportation.

e. The lands which have been converted from agricultural use to residential use, commercial or industrial use, or public facilities since 1960.

2. In addition to that provided under subsection 1, the county inventory shall also contain the land inside the boundaries of a city which is taxed as agricultural land.

3. The information required by subsection 1 shall be provided both in narrative and map form. The county commission shall provide a cartographic display which contrasts the county's present land use with the land use in the county in 1960 based on the best available information. The display need only show the areas in agriculture, private open spaces, public facilities, commercial, industrial, residential and transportation uses.

4. The state department of agriculture, office for planning and programming, department of soil conservation, state conservation commission, Iowa natural resources council, department of environmental quality, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

Sec. 6. NEW SECTION. COUNTY LAND PRESERVATION AND USE PLAN.

1. By September 1, 1984, after at least one public hearing, a county commission shall propose to the county board a county land use plan for the unincorporated areas in the county, or it shall transmit to the county board the county land use inventory completed pursuant to section 5 of this Act together with a set of written findings on the following factors considered by the county commission:

a. Methods of preserving agricultural lands for agricultural production.

b. Methods of preserving and providing for recreational areas, forests, wetlands, streams, lakes and aquifers.

c. Methods of providing for housing, commercial, industrial, transportational and recreational needs.

d. Methods to promote the efficient use and conservation of energy resources.

e. Methods to promote the creation and maintenance of wildlife habitat.

f. Methods of implementing the plan, if adopted, including a formal countywide system to allow variances from the county plan that incorporates the examination of alternative land uses and a public hearing on such alternatives.

g. Methods of encouraging the voluntary formation of agricultural areas by the owners of farmland.

h. Methods of considering the platting of subdivisions and its effect upon the availability of farmland.

2. Upon receipt of the inventory and findings, the county board may direct the county commission to prepare a county land use plan for the consideration of the county board.

3. Upon receipt of a plan, the county board may rerefer the plan to the county commission for modification, reject the plan or adopt the plan either as originally submitted or as modified.

If the plan is approved by the county board, it shall be the land use policy of the county and shall be administered and enforced by the county in the unincorporated areas. The county commission shall review the county plan periodically for the purpose of considering amendments to it. If the commission proposes amendments to the plan, it shall forward the proposal to the county board which may rerefer the amendments to the commission for modification or reject or adopt the amendments.

4. Within thirty days after the completion of the county land use inventory compiled pursuant to section 5 of this Act or any county land use plan or set of written findings completed pursuant to section 6 of this Act, the county commission shall transmit one copy of each to the interagency resource council.

Sec. 7. NEW SECTION. CREATION OF AGRICULTURAL AREAS.

An owner of farmland may submit a proposal to the county board for the creation of an agricultural area within the county. An agricultural area, at its creation, shall include at least five hundred acres of farmland, however, a smaller area may be created if the farmland is adjacent to farmland subject to an agricultural land preservation ordinance pursuant to section 15 of this Act. The proposal shall include a description of the proposed area, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible. Land shall not be included in an agricultural area without the consent of the owner. Agricultural areas shall not exist within the corporate limits of the city. Agricultural areas may be created in a county which has adopted zoning ordinances. Except as provided in this section, the use of the land in agricultural areas is limited to farm operations.

1. The following shall be permitted in an agricultural area:

a. Residences constructed for occupation by a person engaged in farming or in a family farm operation. Nonconforming preexisting residences may be continued in residential use.

b. Property of a telephone company, city utility as defined in section 390.1, public utility as defined in section 476.1, or pipeline company as defined in section 479.2.

2. The county board of supervisors may permit any use not listed in subsection 1 in an agricultural area only if it finds all of the following:

a. The use is not inconsistent with the purposes set forth in section 2 of this Act.

b. The use does not interfere seriously with farm operations within the area.

c. The use does not materially alter the stability of the overall land use pattern in the area.

Sec. 8. NEW SECTION. DUTIES OF COUNTY BOARD.

1. Within thirty days of receipt of a proposal for an agricultural area which meets the statutory requirements, the county board shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five days after receipt, the county board shall hold a public hearing on the proposal.

2. Within sixty days after receipt, the county board shall adopt the proposal or any modification of the proposal it deems appropriate, unless to do so would be inconsistent with the purposes of this chapter.

Sec. 9. NEW SECTION. REQUIREMENT THAT DESCRIPTION OF AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR AND COUNTY RECORDER. Upon the creation of an agricultural area, its description shall be filed by the county board with the county auditor and placed on record in the office of the county recorder.

Sec. 10. NEW SECTION. WITHDRAWAL. At any time after three years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the county board a request for withdrawal containing a legal description of the land to be withdrawn and a statement of the reasons for the withdrawal. The county board shall, within sixty days of receipt of the request, approve or deny the request for withdrawal. At any time after six years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the county board a notice of withdrawal containing a legal description of the land to be withdrawn.

The board shall cause the description of that agricultural area filed with the county auditor and recorded with the county recorder to be modified to reflect any withdrawal. Withdrawal shall be effective on the date of recording. The agricultural area from which the land is withdrawn shall continue in existence even if smaller than five hundred acres after withdrawal.

Sec. 11. NEW SECTION. LIMITATION ON POWER OF CERTAIN PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT ASSESSMENTS OR SPECIAL ASSESSMENTS. A political subdivision or a benefited district providing public services such as sewer, water, or lights or for nonfarm drainage shall not impose benefit assessments or special assessments on land used primarily for agricultural production within an agricultural area on the basis of frontage, acreage, or value, unless the benefit assessments or special assessments were imposed prior to the formation of the agricultural area, or unless the service is provided to the landowner on the same basis as others having the service.

Sec. 12. NEW SECTION. INCENTIVES FOR AGRICULTURAL LAND PRESERVATION.

1. NUISANCE RESTRICTION. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. The subsection does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection does not apply to actions or proceedings arising from injury or damage to person or property caused by the farm or farm operation before the creation of the agricultural area. This subsection does not affect or defeat the right of a person to recover damages for injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land.

2. WATER PRIORITY. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the Iowa natural resources council shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

Sec. 13. NEW SECTION. STATE REGULATION. In order to accomplish the purposes set forth in section 2 of this Act, a rule adopted by a state agency after the effective date of this Act which would restrict or regulate farms or farm operations may contain standards which are less restrictive for farms or farm operations inside an agricultural area than for farms or farm operations outside such an area. A rule containing such a discrimination shall not for the fact of such discrimination alone be found or held to be unreasonable, arbitrary, capricious, beyond the authority delegated to the agency, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Sec. 14. NEW SECTION. STATE INTERAGENCY RESOURCE COUNCIL. The state interagency resource council shall:

1. Serve as a center to gather information from various resources and agencies and disseminating this information to the county commissions.
2. Receive the county inventories and compile a statewide summary of the information contained in the inventories and submit the summary to the general assembly.
3. Distribute information beneficial to the county commissions for preparing the county plan.
4. Disseminate beneficial information or procedures developed by one or more counties to other counties.
5. Receive and maintain a record of individual county plans.

Sec. 15. Chapter 358A, Code 1981, is amended by adding the following new section:

NEW SECTION. AGRICULTURAL LAND PRESERVATION ORDINANCE.  
If a county adopts an agricultural land preservation ordinance under this chapter which subjects farmland to the same use restrictions provided in section 7 of this Act for agricultural areas, sections 11 through 13 and section 19 of this Act shall apply to farms and farm operations which are subject to the agricultural land preservation ordinance.

Sec. 16. Section 358A.2, Code 1981 Supplement, is amended to read as follows:

358A.2 FARM EXEMPT. No Except to the extent required to implement section 15 of this Act, no ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used. However, the ordinances may apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream.

Sec. 17. Section 358A.6, unnumbered paragraph 1, Code 1981 Supplement, is amended to read as follows:

Such The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street or highway; to secure safety from fire, flood, panic, and other dangers; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources, to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access

to solar energy shall not be construed as voiding any zoning regulation existing on July 1, 1981, or to require zoning in a county that did not have zoning prior to July 1, 1981.

Sec. 18. Section 414.3, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 125, section 2, is amended to read as follows:

Such The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy ~~shall do not be construed as voiding~~ void any zoning regulation existing ~~on the effective date of this Act July 1, 1981,~~ or to require zoning in a city that did not have zoning prior to the ~~effective date of this Act July 1, 1981.~~

Sec. 19. Section 472.3, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in chapter 93A, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture soil conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

Sec. 20. This Act does not invalidate any part of a zoning ordinance which is in effect on the effective date of this Act, or require the adoption of a zoning ordinance by any subdivision of the state.

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TERRY E. BRANSTAD  
President of the Senate

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DELWYN STROMER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2218, Sixty-ninth General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved May 14, 1982

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ROBERT D. RAY  
Governor