

FINAL REPORT

PRESERVATION OF FAMILY FARMS AND SMALL BUSINESSES INTERIM STUDY COMMITTEE

January 1992

AUTHORIZATION AND APPOINTMENT

The Preservation of Family Farms and Small Businesses Interim Study Committee was established by the Legislative Council, was authorized to hold two days of meetings, and directed to complete its work by December 1, 1991.

STUDY COMMITTEE CHARGE

The charge of the Committee, as provided by the Legislative Council, is as follows:

Examine and recommend structures to encourage economic growth and development in rural Iowa, including but not limited to agriculture and family farm development and a rural small business transfer program, other mechanisms to maintain established businesses and industry, and mechanisms to develop new industries and entrepreneurial initiatives in rural areas.

COMMITTEE MEMBERS

Members serving on the Study Committee included the following:

Senator James Riordan, Co-chairperson
Representative Bill Brand, Co-chairperson
Senator Allen Borlaug
Senator Eugene Fraise
Senator Beverly Hannon

Senator Wilmer Rensink
Representative Dan Fogarty
Representative Glen Jesse
Representative Robert Johnson
Representative Gregory Spenner

COMMITTEE PROCEEDINGS

The Study Committee held meetings on September 26, 1991, and October 28, 1991. The Committee considered the testimony from a number of persons presenting information to the members.

MEETING -- September 26, 1991

The first meeting of the Study Committee was held on September 26, 1991, in the Speaker's Committee Room of the State Capitol. Presentations were made by a number of interested persons.

Ms. Nancy Thompson, Center for Rural Affairs, Walthill, Nebraska, explained the purpose of the Center is to provide research, education, policy analysis and advocacy, and strategic services to assist beginning farmers. Ms. Thompson described the Land Link Program administered by the Center which utilizes a computerized clearinghouse that matches beginning farmers with landowners, and provides professional farm management services for landowners, and licensed brokerage services for sellers and beginning farmers.

Dr. Paul Lasley, Professor of Sociology at Iowa State University, presented evidence regarding trends in agriculture. According to Dr. Lasley, the number of farms in the state is decreasing, the average size of farms is increasing, the average age of farmers is increasing, and the number of farmers seeking off-farm employment is increasing. He warned the Committee that trends suggest a growing dichotomy between large profitable and small marginally profitable operations.

Mr. Scott Hartsook, Managing Attorney for the Legal Services Corporation of Iowa, addressed the Committee regarding agricultural debt and legal assistance for farmers. Mr. Hartsook spoke about staff reductions affecting the agency, and the increasing number of farmers facing financial hardships. He also spoke about needed changes in debtor-creditor law regarding liens by agricultural suppliers and

establishing exemptions from garnishment of income earned by farmers and small business persons.

Mr. Mike Thompson, Executive Director of the Farmer-Creditor Mediation Service, addressed the Committee regarding budget reductions affecting his office and the increased need for mediation. Mr. Thompson stressed that mediation saves money and should be expanded into other areas.

Ms. Denise O'Brien, Manager of Rolling Acres Farm, provided a brief background regarding her involvement in a poultry cooperative, and obstacles to success, including high transportation costs, the lack of capital, and the lack of technical assistance. She recommended that rural economic development should focus on assisting communities rather than targeting large corporate concerns.

Ms. Kathy Berry, Division Administrator for the Bureau of County and Rural Development of the Iowa Department of Economic Development, stressed the importance of agricultural enterprises to the success of Iowa's economy. She noted that cooperative arrangements are a means to ensure growth in Iowa's livestock production capacity and improve its competitive position. She noted that recordkeeping and marketing are becoming increasingly complex. She emphasized the role of local communities and economic development groups in encouraging development.

Mr. Wayne Newton, General Manager of the Benton and Eastern Iowa Farm Feeders Cooperative, provided a history of the cooperative, and described how the cooperative provides technical support and services to beef producers. Mr. Newton discussed barriers to entry into livestock production, and emphasized the importance of keeping beef production in the hands of average farmers and in encouraging the retention of value-added industries in the state.

Mr. Lyle Scheelhaase, Director of the Middle America Network, stated that most cooperative ventures are undercapitalized and need strong local support. He noted that acres subject to contract under the federal Conservation Reserve Program will be eligible for production within a few years. He recommended that the state encourage the production of livestock on this land.

Dr. Neil Harl, Professor of Economics at Iowa State University, testified regarding risk aversion and concentration of wealth in agriculture, especially among older farmers. Dr. Harl discussed the growing consolidation of Iowa agricultural land. He also discussed how tax laws favor the transfer of agricultural land by inheritance rather than by in life transfer.

MEETING -- October 28, 1991

The second and final meeting of the Study Committee was held on October 28, 1991, in Senate Room 22 of the State Capitol. Presentations were made by a number of interested persons.

The Committee heard testimony from a panel of persons representing the Department of Revenue and Finance, including Ms. Susan Voss, Mr. Edward Henderson, and Mr. Carl Castelda. The Committee was presented information regarding Iowa's tax laws and the advantage of transferring property after death. The Committee heard presentations regarding the capital gains deduction. The panel also discussed the Agricultural Land Tax Credit and the Family Farm Tax Credit.

Mr. William H. Greiner, Executive Director of the Agricultural Development Authority, described programs administered by the Authority intended to assist beginning farmers. Mr. Greiner explained important characteristics of the state's Beginning Farmer Loan Program. According to Mr. Greiner, the purpose of the program is to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers. The Authority, under the program, may make mortgages or secured loans, including mortgages or secured loans issued, guaranteed, or otherwise secured by the federal government, a state agency, or a private mortgage insurer. Mr. Greiner explained that the program is supported by the issuance of bonds which are not subject to federal income tax. He noted that the exemption is scheduled to expire in 1991, unless action is taken by the United States Congress.

Mr. Thomas Gronstal, President of the Iowa Bankers Association, and Mr. Dick Anderson, First National Bank of Creston, presented information regarding the availability of credit to assist farmers, including livestock producers. Mr. Gronstal recommended changes in statutory provisions, including tax and corporate farming laws. Mr. Gronstal discussed with members the lack of capital dedicated to supporting production operation in southern Iowa. Mr. Anderson discussed problems in structuring loans under the state's Capital Access Program. Mr. Anderson discussed the lack of female customers obtaining business loans from his bank.

Mr. Joseph Weisshaar, a board member of the Iowa Farm Unity Coalition, discussed current trends in rural agriculture and business. Mr. Weisshaar made a number of recommendations relating to the preservation of family farm agriculture and small business-based communities. He encouraged the Committee to take action to preserve rural services, adopt tax incentives to support intergenerational transfers, provide a first lien for suppliers, and support small enterprises.

Mr. Randy Allman, Executive Director of the Iowa Grain and Feed Association, and Dr. Roger Ginder, Professor and Extension Economist from Iowa State University, discussed the condition of agricultural businesses. According to Dr. Ginder, agribusiness firms in Iowa are subject to increasing financial stress due to low profit margins received from grain moved through elevators, low storage prices, and fierce competition. He stated that these businesses will have to inject capital into operations or cease to conduct business. Mr. Allman discussed the reductions of grain purchased for storage by the federal government. Both men stated that these businesses may face insolvency due to requirements to remedy environmental contamination caused by past performance of these businesses in distributing agricultural chemicals. Mr. Allman recommended that state law be amended to allow grain elevators to borrow capital from the Bank of Cooperatives.

MATERIALS

The Study Committee considered a number of materials submitted to the members which are on file with and available upon request to the Legislative Service Bureau, including the following:

1. Iowa Farm and Rural Life Poll 1991 Summary Report, Iowa State University.
2. Iowa Census (Principal Occupation, Days Worked Off the Farm and Age of Farm Operators in Iowa's Counties: 1982 and 1987), Iowa State University.
3. Iowa Census (Changes in the Characteristics of Iowa's Farm Operators: 1978-1987), Iowa State University.
4. Iowa Farm Trends, Iowa State University.
5. An Overview of the Changing Structure of Iowa Agriculture, Dr. Paul Lasley, Iowa State University.
6. Estate Planning (Planning for Tomorrow), Neil E. Harl, Iowa State University.
7. Organizing the Farm Business, Neil E. Harl, Iowa State University.
8. The Farm Corporation (What It Is, How It Works, How It Is Taxed), Neil E. Harl, Iowa State University.

9. Public Policy Considerations Regarding Land Transfers in Iowa, Neil E. Harl, Iowa State University.
10. Capital Gains Fact Sheet, Department of Revenue and Finance.
11. Tax Reform Memo Update 9/25/91 Abolish Sales Tax. End Property Tax on Buildings. Cut Income Tax, Economic Justice Advocates.
12. State & Federal Taxes & the Transfer of Agricultural Capital Assets, Legislative Service Bureau.
13. Introduction to Community Economic Development in Rural Areas, Ms. Institute on Women & Economic Development.
14. Beginning Farmer Loan Program, Iowa Department of Agriculture and Land Stewardship.
15. Land Link, Special Report, Center for Rural Affairs.
16. Beginning Farmer and Ranger Credit Act Introduced in Congress, Center for Rural Affairs Newsletter (June 1991).

RECOMMENDATIONS

The Study Committee discussed testimony and information presented for consideration. The Committee approved two measures:

1. The Committee approved bill draft LSB 5127IC, relating to the transfer of rural enterprises. The bill creates two programs designed to facilitate the transfer of rural enterprises including commercial businesses and farms. Under the first program, the Treasurer of State is required to deposit moneys available under the Linked Investment for Tomorrow Act as provided in section 12.31 et seq. in financial institutions which are required to lend money for purchasers of existing rural retail businesses. The second program is designed to assist beginning farmers in the acquisition of agricultural property and beginning entrepreneurs in the acquisition of commercial property by establishing a system to match beginning family farmers and beginning entrepreneurs with the owners of agricultural or commercial property seeking to transfer such property.

2. The Committee approved a resolution directed to Iowa's Congressional delegation, supporting the Beginning Farmer Program as an important initiative financed through the issuance of private activity bonds (sometimes referred to as

Preservation of Family Farms and Small Businesses Interim Study Committee

Final Report - January 1992

Page 7

"Aggie Bonds") which are exempt from state and federal tax. The resolution requests that Iowa's Congressional delegation work toward extending the expiration date of a federal statute which repeals the federal tax exemption on December 31, 1991.

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1 WHEREAS, one major cause of this condition has been
2 recurrent shortages of funds in private channels and
3 the interest cost of borrowing, which have made the
4 sale and purchase of agricultural land to beginning
5 farmers a virtual impossibility in many parts of this
6 state; and

7 WHEREAS, studies conducted by Iowa State University
8 indicate that only 5 percent of Iowa farmers are under
9 age 30, that the average age of farmers is 53 years,
10 and that nearly 40 percent of farmers are 55 years old
11 or older; and

12 WHEREAS, the state of Iowa has established a
13 Beginning Farmer Loan Program which has been vital to
14 the effort to attract more young people into farming
15 by providing that the Iowa Agricultural Development
16 Authority may assist in cooperating with lending
17 institutions to provide financing to beginning farmers
18 for the acquisition of agricultural land,
19 improvements, and agricultural property; and

20 WHEREAS, since the closing of the first loan in
21 1981, a total of 1,146 loans have been closed
22 amounting to \$96,030,909 in loans with no obligation
23 by the state or the federal government to repay loans
24 in default; and

25 WHEREAS, the Beginning Farmer Loan Program is
26 supported by small issue private activity bonds
27 ("Aggie Bonds") which are exempt from federal income
28 tax; and

29 WHEREAS, section 144 of the federal Internal
30 Revenue Code of 1986 provides for the expiration of

1 this federal tax exemption vital to the future of the
2 Beginning Farmer Loan Program; and

3 WHEREAS, in order to support the program as a
4 dependable source of low-income financing for
5 beginning farmers, the expiration date should be
6 extended for five additional years, NOW THEREFORE,

7 BE IT RESOLVED BY THE PRESERVATION OF FAMILY FARMS
8 AND SMALL BUSINESS STUDY COMMITTEE OF THE SEVENTY-
9 FOURTH IOWA GENERAL ASSEMBLY, That Iowa's
10 Congressional Delegation do everything possible to
11 support efforts to extend the expiration date in
12 section 144 of the federal Internal Revenue Code of
13 1986 to December 31, 1996, including support of
14 legislation such as H.R. 1186 extending the treatment
15 of qualified issue bonds through 1996; and

16 BE IT FURTHER RESOLVED, That copies of this
17 resolution be submitted to Iowa's Congressional
18 Delegation.

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SENATE/HOUSE FILE _____
BY (RECOMMENDED BY PRESERVATION OF
FAMILY FARMS AND SMALL
BUSINESSES STUDY COMMITTEE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transfer of rural enterprises.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 12.40 RURAL SMALL BUSINESS
2 TRANSFER LINKED INVESTMENT LOAN PROGRAM.

3 1. The treasurer of state shall adopt rules consistent
4 with this division to implement a rural small business
5 transfer linked investment loan program to further the
6 following purposes:

7 a. To promote the business prosperity and economic
8 welfare of Iowa through promoting the prosperity and economic
9 welfare of rural Iowa.

10 b. To maintain and expand existing employment
11 opportunities and the provision of retail goods on a local
12 level in small rural communities by assisting in the transfer
13 of ownership of retail-oriented businesses where, in the
14 absence of sufficient financial assistance, the businesses may
15 close.

16 2. Upon the placement of linked investment moneys with a
17 lending institution, the institution is required to lend money
18 to a person pursuant to rules adopted by the treasurer of
19 state for the transfer of an existing rural retail business,
20 including but not limited to a grocery store, motor vehicle
21 service station, fuel oil supplier, hardware business,
22 equipment or auto dealership, lumber yard, grain warehouse,
23 agricultural supply facility, pharmacy, or physician's,
24 dentist's or attorney's practice. The rural retail business
25 must be an ongoing enterprise located in an incorporated or
26 unincorporated rural area which includes a city, as defined in
27 section 362.2, with a population of three thousand or less and
28 which is not contiguous with a city having a population of
29 more than three thousand. A rural retail business eligible to
30 be transferred under this program does not include a rural
31 retail business which derives its primary source of revenue
32 from the sale of alcoholic liquor, wine, or beer.

33 3. The transfer of the rural retail business must be by
34 purchase or long-term lease. The purchase or lease must be
35 for a portion of the business which is essential to its

1 continued viability, including real estate where the business
2 is located, fixtures attached to the real estate, equipment
3 relied upon by the business, and inventory for sale by the
4 business.

5 4. The lending institution shall apply all usual lending
6 standards to determine the creditworthiness of each eligible
7 borrower. The lending institution shall forward to the
8 treasurer of state all information or any certification
9 relating to the loan required and in a manner prescribed by
10 this division and rules which shall be adopted by the
11 treasurer of state.

12 5. The maximum loan amount that a borrower may receive
13 under this program shall not be more than fifty thousand
14 dollars.

15 6. Not more than one-third of the amount of the percentage
16 authorized in section 12.34 may be used for purposes of
17 supporting this program.

18 Sec. 2. Section 22.7, Code 1991, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 29. Information contained in the rural
21 enterprise data system provided in section 28.170 to the
22 extent required by rules adopted by the rural enterprise data
23 system coordinator pursuant to section 28.170.

24 Sec. 3. NEW SECTION. 28.170 RURAL ENTERPRISE DATA
25 SYSTEM.

26 1. As used in this section, unless the context otherwise
27 requires:

28 a. "Agricultural land" means land suitable for farming as
29 defined in section 172C.1.

30 b. "Agricultural property" means property which is
31 essential to the viability of a farm, including agricultural
32 land and improvements or fixtures attached to the land, and
33 depreciable property including equipment related to farming.

34 c. "Beginning entrepreneur" means a person who seeks to
35 obtain an interest in a business, if the person also seeks to

1 manage the day-to-day affairs of the business, and the person
2 does not currently manage the day-to-day affairs of another
3 commercial enterprise in which the person has invested five
4 thousand dollars or more.

5 d. "Beginning family farmer" means a natural person, or a
6 person who is organized as a partnership under chapter 544 or
7 as a family farm corporation, family farm limited partnership,
8 or family trust, as defined in section 172C.1, and who
9 currently holds title to less than one hundred acres of
10 agricultural land.

11 e. "Business" means an ongoing business enterprise located
12 in an incorporated or unincorporated rural area which includes
13 a city, as defined in section 362.2, with a population of
14 three thousand or less and which is not contiguous with a city
15 having a population of more than three thousand, offering
16 products or services on a retail basis, including but not
17 limited to the following: grocery store; motor vehicle
18 service station; fuel oil supplier; hardware business;
19 equipment or auto dealership; lumber yard; grain warehouse;
20 agricultural supply facility; pharmacy; or a physician's,
21 dentist's, or attorney's practice. A business does not
22 include an establishment which derives its primary source of
23 revenue from the sale of alcoholic liquor, wine, or beer.

24 f. "Commercial property" means property which is essential
25 to the viability of a business, including real estate where
26 the business is located, fixtures attached to the real estate,
27 equipment relied upon by the business, and inventory for sale
28 by the business.

29 g. "Farming" means farming as defined in section 172C.1.

30 2. a. The rural enterprise data system coordinator shall
31 assist beginning family farmers in the acquisition of
32 agricultural property and beginning entrepreneurs in the
33 acquisition of commercial property, by administering a rural
34 enterprise data system designed to facilitate the transfer of
35 agricultural and commercial property in this state by matching

1 beginning farmers and beginning entrepreneurs with the owners
2 of farming or business enterprises for purposes of
3 transferring such enterprises.

4 b. The coordinator may either administer the program
5 directly or through a contract with a qualified organization.
6 The organization must be chartered in this state and employ
7 persons familiar with the delivery of services, information
8 systems, and the transfer of agricultural or commercial
9 property. If the coordinator elects to administer the rural
10 enterprise data system through a contract, the contract must
11 be awarded before October 15, 1992. The contract may be
12 terminated by the coordinator upon written notice and for good
13 cause. If the coordinator elects to administer the rural
14 enterprise data system through a new contract, the new
15 contract must be awarded within ninety days following
16 termination or expiration of the previous contract.

17 3. The rural enterprise data system shall consist of an
18 information base containing information regarding the owners
19 of farms and businesses, agricultural and commercial property,
20 and beginning farmers and beginning entrepreneurs, including
21 but not limited to the following:

22 a. A description of essential agricultural or commercial
23 property subject to transfer, including the location of land
24 where the farming or business enterprise is located.

25 b. The name and address of owners of the agricultural or
26 commercial property subject to transfer.

27 c. The name and address of beginning family farmers or
28 beginning entrepreneurs seeking agricultural or commercial
29 property.

30 d. A description of the type of farming or business to be
31 conducted by the beginning family farmer or beginning
32 entrepreneur.

33 The system is not required to include any information which
34 does not further its general purpose, including information
35 relating to property only tangentially related to a farming or

1 business enterprise or to agricultural or commercial property
2 which has small value or utility. Information contained in
3 the system shall be released pursuant to rules adopted by the
4 coordinator. The information shall be confidential to the
5 extent provided in the rules.

6 4. a. In order to participate in the system, a person
7 seeking to obtain an interest in agricultural land must
8 acquire the land for purposes of managing day-to-day farming
9 operations. The person shall not participate in the system,
10 unless the beginning family farmer agrees that land subject to
11 acquisition shall be governed by a farm unit soil conservation
12 plan and a conservation agreement as provided in chapter 467A,
13 regardless of the availability of public cost-sharing funds.

14 b. The rural enterprise data system coordinator or the
15 organization with which the coordinator contracts shall be
16 notified by the beginning family farmer or beginning
17 entrepreneur of any transfer of the farm or business within
18 one year following acquisition.

19 The coordinator or organization may bar a person from
20 participating in the system if the person has not acquired
21 property in good faith under this section.

22 5. The coordinator shall adopt rules pursuant to chapter
23 17A to implement this section and provide for the
24 administration of the rural enterprise data system. If the
25 coordinator awards a contract to an organization under this
26 section, the organization shall submit proposals for rules to
27 the coordinator for approval. The rules shall provide for a
28 fee or schedule of fees required to be paid in order to
29 participate in the system. A person shall not be charged more
30 than one hundred dollars for participating in the system.

31 EXPLANATION

32 This bill relates to the transfer of rural enterprises,
33 including commercial businesses and farms. The bill creates
34 two programs designed to facilitate the transfer of these
35 enterprises.

1 The first program is referred to as the rural small
2 business transfer linked investment loan program. The
3 treasurer of state is required to establish a program using
4 moneys available through the "Linked Investments for Tomorrow
5 Act" as provided in section 12.31 et seq. The bill provides
6 that upon the placement of linked investment moneys with a
7 lending institution, the institution is required to lend money
8 to a person pursuant to rules adopted by the treasurer of
9 state for the transfer of an existing rural retail business.
10 The transfer must be by purchase or long-term lease. The
11 purchase or lease must be for a portion of the business which
12 is essential to its continued viability. The maximum loan
13 amount that a borrower may receive under this program shall
14 not be more than \$50,000. Not more than one-third of moneys
15 available under the Linked Investments for Tomorrow Act may be
16 used to support the program.

17 The second program is referred to as the rural enterprise
18 data system. The bill requires a rural enterprise data system
19 coordinator to assist beginning farmers in the acquisition of
20 agricultural property and beginning entrepreneurs in the
21 acquisition of commercial property, by administering an
22 information system designed to facilitate the transfer of
23 agricultural and commercial property by matching beginning
24 family farmers and beginning entrepreneurs with the owners of
25 agricultural or commercial property. The bill provides that
26 the coordinator may either administer the program directly or
27 through a contract with a qualified organization. The bill
28 requires that a beginning family farmer agree that land
29 subject to acquisition shall be governed by management
30 practices relating to soil and water conservation. The bill
31 provides for the confidentiality of information and the
32 establishment of fees charged to persons participating in the
33 system.

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