Final Report of the
Drainage Laws Study Committee

Senate Concurrent Resolution 41 of the Sixty-first General Assembly requested that the Legislative Research Committee conduct a study to determine what revisions were needed in Iowa's drainage laws in order to make them less cumbersome and more relevant to present-day conditions. The Legislative Research Committee was also requested to establish a study committee to conduct the study, and to include as advisory members of the Study Committee drainage attorneys and engineers, members of county boards of supervisors, farm landowners or tenants, and a representative of cities and towns.

Accordingly, the Drainage Laws Study Committee was established in October, 1965, and Representative Elroy Maule of Onawa was designated as Chairman. Senator Lucas J. De Koster of Hull was elected Vice Chairman at the Study Committee's organizational meeting. Other legislators serving on the 1965-67 Drainage Laws Study Committee were Senators Robert R. Dodds of Danville, Delbert W. Floy of Thornton, Seeley G. Lodwick of Wever, and Donald W. Murray of Bancroft, and Representatives Henry W. Busch of Waverly, Dale M. Cochran of Eagle Grove, Marvin S. Shirley of Minburn, and William P. Winkelman of Lohrville. In the summer of 1966, upon the resignation from the Legislature of Representative Maule, the Legislative Research Committee designated Senator George E. O'Malley of Des Moines to act as Study Committee Chairman for the balance of the 1965-67 interim.

Advisory members of the Study Committee were Mr. Sewell Allen, Onawa, attorney; Mr. C. Arthur Elliott, Jefferson, Greene County Engineer; Mr. E. A. Fredericks, Hansell, Franklin County Supervisor; Mr. Edwin A. Hicklin, Wapello, attorney; Mr. Marvin O. Kruse, Spencer, engineer; Mr. A. R. Rehnstrom, Linn Grove, Buena Vista County Supervisor; Mr. H. Andrew Schill, Fort Dodge, attorney; Mr. Ralph H. Wallace, Mason City, engineer; and Mr. B. L. Willis, Lake City, attorney. Mr. Fredericks and Mr. Rehnstrom were considered qualified to represent the views of farm landowners as well as those of county boards of supervisors (several of the legislators on the Study Committee are also farmers). Mr. Willis was requested by the League of Iowa Municipalities to represent cities and towns on the Study Committee. Each of the attorneys and engineers who served on the Study Committee has had considerable experience in drainage matters.

By early 1966, it was already becoming apparent that more than one interim would be required to complete a thorough study of the problems, some rather technical and complex, relating to Iowa's drainage laws. Senate Concurrent Resolution 61 of the Sixty-second General Assembly directed that the study be continued during the 1967-69 interim. Representative Cochran was designated Chairman of the 1967-69 Drainage Laws Study Committee. Senator De Koster continued as a member of the Study Committee, but requested that he not be reelected Vice Chairman. He was succeeded in that position by Senator Arthur A. Neu of Carroll, who was named to the 1967-69 Study Committee together with Senators Stanley M. Heaberlin of Pleasantville, Franklin S. Main of Lamoni, and James F. Schaben of Dunlap. Representatives Busch and Winkelman continued as members of the Study Committee, and Representatives Milton Distelhorst and Edwin A. Hicklin (who had been elected to the House of Representatives while serving as an advisory member of the Study Committee) were appointed to the 1967-69 Study Committee. Representative Busch subsequently found it necessary to resign from the Study Committee, and was succeeded by Representative Dale L. Tieden of Garnavillo. All advisory members, other than Representative Hicklin, who had previously served were reappointed for the 1967-69 interim. However, Mr. Fredericks was unable to continue on the Study Committee.

STUDY PROCEDURE

The Drainage Laws Study Committee's initial meeting was held on October 12, 1965. It was decided to begin the study of Iowa drainage laws by holding a number of regional hearings, at which county officials, engineers, attorneys, landowners, soil conservation and natural re-

sources officials and employees, drainage and levee district officers, and any other interested parties were invited to appear. Persons attending the hearings were invited to discuss problems they believed should be considered by the Study Committee, and present suggestions for specific changes which should be made in Iowa's drainage laws.

Regional hearings were held simultaneously at five points, Atlantic, Cherokee, Fort Dodge, Ottumwa, and Waterloo, on November 3, 1965, with one or more members of the Study Committee in attendance at each hearing. A list of the problems identified and suggestions presented at the five hearings was compiled, and became the basis for much of the Committee's subsequent work.

Beginning in December, 1965, and continuing through much of 1966, the Study Committee held a series of meetings at which the problems identified and suggestions presented at the regional hearings were reviewed and considered. Representatives of various state and federal agencies having responsibilities relevant to drainage appeared before the Committee, as well as individual attorneys and engineers with experience in drainage work, and professors of law and engineering from both Iowa State University in Ames and The University of Iowa in Iowa City.

Gradually, the Study Committee members began to view the numerous suggestions and problems as falling into two basic categories:

1. Amendments to various existing statutes governing or relating to drainage and levee districts, to clarify and update these statutes.

2. New legislation to overcome the troublesome problems associated with drainage districts which are common outlets (see explanation on page 35 of this report), and to develop a coordinated approach to such related matters as drainage, flood control, and soil erosion control within the entire area drained by a single stream or a major stream and its tributaries. This coordinated approach to control and disposition of water in a stream or interconnected group of streams is referred to in this report as the "watershed concept."

Upon resumption of the Drainage Laws Study in the fall of 1967, the Study Committee arranged to visit and inspect the Little Sioux Intercounty Drainage District, in western Monona and extreme northwestern Harrison Counties, believed to be the only example in Iowa of a coordinated regional approach to drainage, flood control, and soil erosion control. Detailed explanations of the project were received from the U.S. Army Corps of Engineers, the Soil Conservation Service, and officers and employees of the District, and Study Committee members made both an aerial inspection of the District and a surface tour of the improvements along the Little Sioux River.

The Study Committee decided to conduct its work during the balance of the 1967-69 interim by assigning first priority to consideration of amendments to existing drainage and related statutes. It was agreed that as soon as recommendations to the 1969 Legislature for amendments to existing statutes could be formulated and made final, the Study Committee would turn its attention to the watershed concept during the balance of the interim.

Technical Subcommittee

In order to draw upon the considerable experience in drainage and related matters possessed by advisory members of the Study Committee, a six-member Technical Subcommittee was appointed by Study Committee Chairman Cochran to undertake the actual drafting of legislative proposals. Representative Cochran also acted as Chairman of the Subcommittee, and appointed as its members Representative Hicklin, Mr. Allen, and Mr. Schill, attorneys, and Mr. Kruse and Mr. Wallace, engineers. Bills drafted by members of the Technical Subcommittee were, of course, reviewed, criticized, and in some cases revised by the full Study Committee, before being recommended to the Legislative Research Committee and the Sixty-third General Assembly.

RECOMMENDED AMENDMENTS TO EXISTING DRAINAGE STATUTES

In preparing to draft the amendments to existing drainage statutes, the compiled list of problems identified and suggestions presented at the 1965 regional hearings was again reviewed, and those problems and suggestions which dupli-

cated or were closely related to each other were combined into what were referred to as "problem groups." Those matters which related to the difficulties associated with common outlets were deferred for later consideration in connection with the watershed concept. The full Study Committee determined which of the other problems, suggestions, or problem groups were to be referred to the Technical Subcommittee.

The Technical Subcommittee held three separate meetings covering a total of seven days in December, 1967 and January, 1968, to consider the matters referred to it and draft legislative proposals. These proposals were submitted to the full Committee, and were reviewed, discussed extensively, and in some cases revised before a final vote was taken on each. A few of the Subcommittee's proposals were rejected by the full Study Committee, but most were adopted, either as reported or with revisions, and are found in House File 16, entitled "A Bill For An Act relating to drainage and levee districts."

The Study Committee recommends the enactment of House File 16 by the Sixty-third General Assembly. The bill consists of sixty-eight sections which are organized in chronological order of the section or chapter of the Code to be amended, and the various parts of the bill will be discussed in that general order. However, where two or more amendments are closely related, they are discussed jointly rather than in strict chronological order.

Drainage and Levee District Assessments and Obligations

House File 16 includes a number of sections relating in various ways to fixing and collection of assessments, and the sale of financial obligations of drainage and levee districts.

Sections 1, 15, 17, 24, and 25 of House File 16 are intended to improve the negotiability of interest bearing obligations of drainage and levee districts, and to facilitate the financing of improvements by drainage and levee districts. The basic change made by these sections is to increase the permissible rates of interest on drainage and levee district warrants from four to five percent per year.

Improvements and repairs in drainage and levee districts are financed by assessments against benefited land. Because such assessments are collected in the same manner as property taxes, they are usually not paid for several months after being placed against the benefited land, and in some cases may be paid in installments over a number of years. Therefore it is a common procedure for contractors who have constructed improvements or repairs in drainage and levee districts to receive warrants which are stamped by the county treasurer to indicate that they have not been paid, for lack of funds. Unless the contractor wishes to be in the position of lending his own funds to the drainage or levee district, he must sell the stamped warrants to a bank or other investor.

Stamped warrants of drainage districts are presently being sold at a discount from face value, in some instances, due to their relatively low maximum interest rate of four percent. As a result, drainage and levee districts often receive higher bids on improvements and repairs than would otherwise be submitted, because contractors wish to protect themselves against the difficulty they expect to experience in selling the districts' stamped warrants. In view of the prevailing high interest rates, it is believed that the permissible rate of interest on drainage and levee district warrants should be increased to five percent.

Since counties, cities, and school districts do not rely on issuance of stamped warrants to finance their operations to so great an extent, or for such long periods of time, as do drainage and levee districts, the Study Committee does not propose an increase in the maximum rate of interest which may be paid on the stamped warrants of all political subdivisions of the state. Instead, it is proposed to remove the direct reference to drainage warrants in section 74.2, *Code of Iowa* (1966), and to substitute for that reference a new section to be added to chapter 455 of the Code, making chapter 74 of the Code applicable in all respects, other than permissible rate of interest, to all warrants legally drawn on drainage and levee district funds. These amendments are effected by sections 1 and 25, respectively, of House File 16.

Sections 15, 17, and 24 permit drainage and levee districts to provide for payment of assessments on benefited land in up to twenty equal installments, with interest at not to exceed five percent per year, and to issue warrants, bearing interest at the same rate, which show a specified

maturity date in lieu of being stamped to indicate nonpayment for lack of funds. This additional authority will give drainage and levee districts added flexibility in financing their improvements.

Sections 455.64, 455.81, and 455.91, *Code of Iowa* (1966), provide that under certain circumstances any landowner, against whom drainage or levee district assessments in excess of twenty dollars have been made, may elect or be permitted by the district to pay the assessment in installments. Since it is believed that the twenty dollar figure has become unrealistically low, sections 16, 18, and 19 of House File 16 amend sections 455.64, 455.81, and 455.91, respectively, to increase the twenty dollar minimum for installment payments to one hundred dollars.

Sections 61, 62, and 63 of House File 16 amend sections 466.4, 466.5, and 466.7, respectively, *Code of Iowa* (1966), which relate to certain assessments that may be levied by drainage districts established in connection with construction and maintenance of United States levees along Iowa's border rivers. The purpose of the three amendments is to make clear that the valuations on which such assessments are based include both the land and improvements. The amendments also increase the time for collecting such drainage assessments to a maximum of twenty years, and permit a levy in excess of the present maximum of twelve and one-half mills for certain purposes.

Administration of Drainage Districts

Sections 2 and 3, 37 through 60, inclusive, and 64 through 68, inclusive, of House File 16 relate to the administration of drainage districts. Under present law, the governing body of any drainage or levee district is the county board of supervisors (or, in the case of districts extending into more than one county, the joint boards of supervisors) unless the drainage or levee district takes action to establish its own board of trustees under chapter 462 of the Code. Many levee districts and some drainage districts are governed by boards of trustees, but a great many of the state's drainage districts are too small to make it practicable for them to have their own boards of trustees. Although members of the Study Committee are not unanimous in their thinking on this point, the majority of its members believe that state law should offer to all drainage districts a practicable alternative to administration by county boards of supervisors.

There is certainly no intent to criticize any board or boards of supervisors for their past or present management of drainage districts. One of the concerns of some Study Committee members is that the United States Supreme Court's decision in *Avery v. Midland County, Texas*, apparently will require election of governing boards of political subdivisions, such as county boards of supervisors, on a strict population basis. This may well lead to election, in some counties, of boards of supervisors which are composed largely or entirely of urban residents who may not be well informed about nor greatly concerned with matters such as drainage of agricultural lands. Under such circumstances, the board of supervisors might welcome the opportunity to assign responsibility for administration of drainage districts in the county to an appointive board of three county drainage administrators, which could be established under sections 64 through 68, inclusive, of House File 16.

It should also be recognized that present law may operate to place a county board of supervisors in a position where they must try to represent two somewhat conflicting interests simultaneously. For example, when construction or improvement of a drainage district is proposed, the county board of supervisors in its role as governing body of the drainage district must approve assessments against secondary roads and other county-owned land presumed to be benefited by the construction or improvement of the drainage district. It is in the interest of the landowners of the drainage district that county-owned lands receive an assessment fully reflecting all benefit these lands can fairly be deemed to receive, since the greater the proportion of the cost of the project borne by the county, the less will have to be borne directly by the landowners. However, in their role as governing body of the county generally, the supervisors have a duty to insure that county-owned lands do not bear an undue proportion of the cost of construction or improvement of a drainage district. Thus, the interests of landowners in the drainage district and those of county taxpayers generally conflict to some degree, and the board of supervisors, theoretically, must represent the interests of both groups.

Under sections 64 through 68 of House File 16, any county board of supervisors which elects

to establish a board of county drainage administrators must first "divide the county, along township lines, into three drainage administrator areas of approximately equal territory." The board of county drainage administrators, which would be appointed by the county board of supervisors and thus not subject to the one-man, one-vote rule, would consist of one resident freeholder from each drainage administrator area, and at least two of the appointees must be agricultural landowners. The terms of the drainage administrators would be staggered, one member being appointed each year for a three-year term.

Each member of the board of drainage administrators would be entitled to receive $17.50 per day, plus actual and necessary expenses, for each day devoted to the duties of his office. (House File 16 also includes an amendment to raise the pay of drainage and levee district trustees to the same figure.) The drainage administrators' per diem pay and expenses for any particular day must be paid from the funds of the drainage district on whose business the administrators were engaged on that day. If the administrators handle business of more than one district on the same day they must prorate their claims, but in no case may any administrator receive more than a total of $17.50 per day plus actual and necessary expenses.

When a board of drainage administrators is established in a particular county, it succeeds to all powers, duties, and responsibilities conferred on the board of supervisors of that county by chapters 455 through 467, inclusive (except chapter 455A, relating to the Iowa Natural Resources Council). Establishment of a board of county drainage administrators does not preclude any individual drainage or levee district in the county from establishing or continuing to have its own district board of trustees under chapter 462 of the Code.

Individual Drainage Rights—Sections 37 through 60, inclusive, of House File 16 are a series of amendments to chapter 465, *Code of Iowa* (1966), which transfer to county boards of supervisors and county auditors the present administrative responsibilities and duties of township trustees and township clerks with respect to individual drainage rights. These duties and responsibilities will in turn pass from the county board of supervisors to the board of county drainage administrators in any county where the latter board is established.

In most cases townships are no longer of great importance as political subdivisions of the state, and it is believed that in some instances the offices of township trustee and township clerk are vacant. Statements made at the regional hearings in 1965 indicated some dissatisfaction with the extent and accuracy of records kept by township officers with respect to privately installed tile and other individual drainage matters. Since county officers already have some responsibilities in connection with individual drainage rights, under sections 465.24 through 465.31, inclusive, *Code of Iowa* (1966), it is the Study Committee's recommendation that all responsibilities and duties of township officers which relate to individual drainage rights be transferred to county officers, as a part of the updating of Iowa's drainage laws proposed by this report.

Drainage Districts Within Cities or Towns

Changes which the Study Committee believes are needed in the present statutes governing relationships between drainage districts and cities and towns are made by sections 4, 6, 7, 11, 12, subsection 1 of section 13, and sections 31 through 34, inclusive, of House File 16.

The sections referred to are intended to correct two basic problems. One is the red tape and expense presently involved in the spreading of drainage assessments within the corporate limits of cities and towns. The other is the utilization of drainage districts by cities and towns for purposes other than that for which the districts were originally established.

Under present law, when land within the corporate limits of a city or town is included in the territory benefited by construction of a drainage district or improvements or repairs in an existing drainage district, each individual lot within the city or town must be treated in the same manner as a farm or tract of land in unincorporated areas outside the city or town. Notice must be given to the owner of each lot, the benefit to be derived by each individual lot from construction or improvement of the drainage district must be determined, and an assessment made against each individual lot in accordance with the benefit to be derived by that lot. It was pointed out during the 1965 regional hearings that individual assessments against lots within a city or town frequently amount to no more than a few cents, and the amount of the actual assessment in such cases

is exceeded by the cost of giving notice, determining benefits, and making the assessments against individual lots.

The amendments made by sections 6, 7, 11, 12, and subsection 1 of section 13 of House File 16 provide for notice of the proposed establishment of a drainage district to be given to, and benefits to be determined and assessed against, the city or town as such rather than against individual lots within the city or town. Section 4 of the bill amends section 404.13 of the Code to permit cities and towns to pay assessments for establishment, maintenance, improvement, or repair of drainage districts lying partially within their corporate limits, from the debt service fund, and to adjust the levy for such fund accordingly. Providing for payment of drainage assessments against cities and towns out of the debt service fund avoids further burdening the maximum 30 mill levy which cities and towns are permitted to make for general operating purposes.

Section 31 of House File 16 makes a minor conforming amendment to section 459.6, *Code of Iowa* (1966), also relating to assessment of property within cities and towns by drainage districts.

Control by Cities and Towns—Sections 32, 33, and 34 of House File 16 repeal sections 459.8, 459.9, and 459.10, *Code of Iowa* (1966), and substitute new sections which, in effect, reverse the present law with respect to assumption of control of a drainage district by a city or town.

Present sections 459.8, 459.9, and 459.10 authorize city and town councils to determine whether and when it is in the best interest of the city or town to assume control of any drainage district, twenty-five percent or more of which lies within the corporate limits of the city or town. If the council determines that the city or town should assume control of such a drainage district, and passes a resolution so informing the county board of supervisors, the board of supervisors has no choice but to relinquish control of the drainage district to the city or town, and transfer to the city or town all funds of the drainage district held by the county treasurer. It is thereafter the responsibility of the city or town to maintain the drainage district.

It was pointed out during the 1965 regional hearings that there are instances in Iowa of smaller communities, particularly, making use of drainage district watercourses as outlets for both storm and sanitary sewers. While present section 459.8 specifically permits assumption of control of the drainage district by the city or town under such circumstances, if twenty-five percent or more of the drainage district lies within the city or town, the discretion to initiate such assumption of control lies entirely with the city or town. Often the city or town does not choose to assume responsibility for maintenance of the drainage district, even though such city or town receives the greater benefit from the facilities of the district and places the greater burden on such facilities.

The Study Committee therefore recommends that discretion to initiate transfer of control of a drainage district to a city or town be vested with the county board of supervisors, and that when the board elects to initiate such a transfer the city or town be required to accept control and responsibility for subsequent maintenance of the drainage district, if twenty-five percent or more of the district lies within the corporate limits of the city or town, the district's drains are wholly or partially constructed of sewer tile, and are needed or being used by the city or town for sewer or drainage purposes. Sections 32, 33, and 34 of House File 16 implement this recommendation.

Definition of "Engineer"

Section 5 of House File 16 strikes the present, somewhat outdated, definition of the terms "engineer" and "civil engineer" from section 455.4, *Code of Iowa* (1966), and substitutes the following new definition:

> "The term 'engineer' and the term 'civil engineer,' within the meaning of this chapter and chapters 457, 460, 461, 465, and 466, shall mean a person registered as a professional engineer under the provisions of chapter 114."

It is believed by the Study Committee that all qualified engineers now are registered, or can become registered with a minimum of difficulty.

Acquisition of Land for Certain Purposes

Sections 8 and 22 of House File 16 relate to acquisition of land by drainage or levee districts for certain specified purposes, and to the manner in which land may be acquired for these purposes.

Section 455.29, *Code of Iowa* (1966), presently authorizes purchase or lease, in lieu of condemnation, of land needed for settling basins which are to become part of a drainage improvement. Section 8 of the bill broadens section 455.29 to also authorize purchase, rather than condemnation, of land required for right-of-way for open ditches or other drainage improvements.

Section 455.137, *Code of Iowa* (1966), permits drainage and levee districts, either independently or jointly, to construct water impoundments, either within or outside of the territory of the district, to protect land and drainage structures within the district "at such times as outletting is retarded." In order to better enable drainage and levee districts to protect their lands and structures from siltation and damage due to rapid runoff from higher land, section 22 of House File 16 expands the present authority granted by section 455.137 to include "other flood and erosion control devices" as well as impoundment areas. Section 22 also removes from section 455.137 the restrictive phrase "at such times as outletting is retarded," and adds specific authority for acquisition of necessary lands or easements by eminent domain as well as by purchase, lease, or other agreement, as presently authorized.

Reclassification Before Improvement or Repair

Section 9, subsection 2 of section 13, and section 14 of House File 16 make changes in present procedures prescribed for assessment of benefits for drainage district improvements and repairs, and for giving notice of these assessments. The cost of such improvements and repairs is paid by assessment of the land in the drainage or levee district. The amount to be assessed against each tract of land in the district is determined on the basis of the benefit to be derived by the land from the drainage district improvement or repair, as fixed by three commissioners appointed by the governing board of the district pursuant to section 455.45, *Code of Iowa* (1966).

The process of determining the relative benefits derived from drainage district improvements or repairs by various tracts of land in the district is known as classification. Sections 455.9 and 455.19 of the Code have for the past several years provided a means for having a classification of land in a proposed drainage or levee district made before the district is actually established, so that the final decision on establishment of the district may be made with full knowledge of the probable cost each landowner will incur if the district is established. However, it was pointed out during the 1965 regional hearings that, where a district has previously been established, the letting of a contract for construction of an improvement or repair is required before a reclassification of the land in the district, or the portion of the district involved, is made. Section 9 of House File 16 will remove from section 455.45 the requirement that a contract be let before a reclassification can be made.

Subsection 2 of section 13 and section 14 of House File 16 amend sections 455.51 and 455.52, respectively, of the Code to bring them into conformity with section 455.45 as amended by section 9 of the bill. The effect of the amendments made by subsection 2 of section 13 and section 14 is to permit reference to estimated cost and assessments for improvements or repairs in drainage or levee districts, where a classification has been made prior to actual letting of the contract for the work proposed to be done.

In addition, section 14 will permit a substantial saving in the cost of preparing and giving the notice required by section 455.52, by permitting the notice to state simply that there is available, in the office of the county auditor, the full report of the actual or estimated costs of, and assessments for construction of, improvements or repairs in the drainage district. It is presently necessary to set forth the costs and assessment in full in the notice to landowners, thus requiring a lengthy and detailed notice which is bulky to mail and expensive to publish.

Clarifying Amendment

Section 10 of House File 16 also amends rather extensively a section relating to reclassification, section 455.48, *Code of Iowa* (1966), entitled "Assessment for lateral ditches—reclassification of benefited lands." However, this amendment is entirely for purposes of clarification and does not change the substantive provisions of section 455.48.

Drains or Levees Crossing Highways

Section 455.118 of the Code at one time required county boards of supervisors to move, build, or rebuild bridges, ditches, or drains upon or across secondary roads, when made necessary

by construction or improvement of a drainage district. In 1937 language giving boards of supervisors discretion to perform such work or not, as they see fit, was inserted in this section. The Study Committee recommends that the 1937 amendment be deleted, and that the section be broadened to impose the same requirement upon the Highway Commission with respect to primary or interstate roads. Section 20 of House File 16 implements these recommendations.

Revision of Section 455.135

Section 455.135, *Code of Iowa* (1966), relating to repairs and improvements in drainage and levee districts, is a key part of Iowa's basic drainage law. It is also a very lengthy section, containing 208 lines in the 1966 Code. It has been amended and expanded over the years since its original enactment, and the section as a whole is now somewhat poorly organized.

Section 21 of House File 16 makes a number of changes in section 455.135, primarily for the purpose of clarifying the intent of the section and improving its organization, although some substantive revisions are made. The substantive revisions include:

1. Raising the maximum cost of a repair which may be made by the governing board of the drainage district without a prior hearing, from fifty to seventy-five percent of the original total cost of constructing the district's drains or levees plus the cost of any subsequent improvements in these structures.
2. Raising from $500 to $1,000 the maximum cost of "minor repairs" which may be made by use of county secondary road or weed control equipment, with reimbursement to the secondary road fund or weed fund from the fund of the drainage or levee district for which the work was performed.
3. Making the appointment of an engineer to make appropriate surveys and file a report, prior to final action on any improvements in the drainage or levee district, mandatory rather than permissive.
4. Removing from subsection 4 the specific list of types of work which constitute improvements. (Since the list apparently was not intended to be exclusive, it is believed that it is potentially confusing and adds little or nothing to the meaning of the statute.)
5. Changing the description of an individual who may be hired by the governing board of a drainage or levee district to survey the land in the district for the purpose of determining the precise boundaries of the district's right-of-way, from "an engineer" to the more appropriate term "a land surveyor."

In rearranging section 455.135 for greater clarity, the substance of subsection 7 has been incorporated into subsections 1 and 4, largely in the same phraseology as presently appears in the Code. The last two sentences of subsection 6, as it appears in the 1966 Code, are made a separate subsection numbered as subsection 7.

Much of the language of subsection 8, as it appears in the 1966 Code, is moved to subsection 6 in order to place relevant material in one subsection. The present subsection 9, as amended, is renumbered as subsection 8.

Alternative Method of Assessment

Section 23 of House File 16 would add an entirely new section to the drainage law, which it is proposed to insert in the Code as section 455.197. The purpose of the proposed new section is to provide an alternative method of assessment for use by levee districts, or drainage districts in some cases, under which assessments against each tract of land in the district would be based upon general property tax assessment procedures and valuations, rather than being fixed according to benefits derived by each tract of land as determined by benefit commissioners.

Most of the legislative proposal which appears as section 23 of House File 16 was presented to the Study Committee at the Ottumwa regional hearing in 1965 by Mr. Harvey G. Allbee, Sr., a Muscatine attorney who drafted it together with several other southeastern Iowa attorneys. The draft was eventually referred to the Technical Subcommittee which, after careful consideration, reported it back to the full Study Committee with minor revisions and a favorable recommendation.

Subsections 1 through 6 of section 23 make use of general property assessments in the assessment of benefits for levee district purposes. Subsection 6 provides that in lieu of calling a hearing, as specified in subsections 1 through 5, the governing board of the levee district may call an election and propose the question of providing for the alternative method of classification.

Subsection 7 provides still another alternative method of fixing assessments in levee districts, for use only after the district has been established and its facilities constructed. The levee district may then reclassify upon a flat dollars-per-acre valuation arrived at by dividing the total number of acres in the district into the total amount assessed.

As reported to the full Study Committee by the Technical Subcommittee, the Allbee draft did not apply to drainage districts and did not include the subsection which appears as subsection 8 of section 23 of House File 16. After much consideration and discussion by the full Study Committee, it was decided to insert subsection 8, which permits drainage districts to "adopt methods of assessment for maintenance, repair, and operation of said district uniform as to all land in the district in the same manner and by the same procedures as prescribed in subsections 1 through 7" of section 23. It will be noted that subsection 8 also limits assessments for maintenance, repair, and operation of particular mains and laterals to the lands drained by such mains and laterals, and prohibits the use of assessments based on general property tax valuations for financing of improvements in the drainage system.

Installation of Utility Structures On or Across Drainage Facilities

Section 26 of House File 16 also adds to the present drainage laws an entirely new provision, relating to construction of pipelines, electrical or communication lines, or other utility installations, except railroads, across drainage and levee district facilities. This legislation was drafted by the Technical Subcommittee during the summer of 1968, after it had been brought to the Study Committee's attention that a number of pipelines were then under construction or definitely planned for construction in the near future in Iowa, and that there appeared to be a need for more definite statutory authority for drainage and levee districts to control the construction of utility installations across the districts' facilities.

Subsection 1 of section 26 requires that any person or firm which proposes to construct a utility installation across the facilities of a drainage or levee district must first obtain from the district an easement to cross the district's right-of-way. This requirement gives drainage and levee districts the opportunity to grant the easement on such conditions as they believe necessary to adequately protect their facilities. Subsection 1 also specifies that the party constructing the utility installation shall pay all costs of reconstruction, relocation, modification, or reinstallation of the drainage or levee district's facilities which may be necessary as a result of the utility installation.

Subsection 2 states that, after the utility installation across the drainage or levee district's facility has been completed, the utility installation shall be maintained by the party which constructed it or the successors in interest, and the drainage or levee district facility shall be maintained by the district. If it is subsequently necessary to modify, relocate, or reconstruct the utility installation due to maintenance, improvement, or reconstruction of the drainage or levee district's facility, the expense of the modification, relocation, or reconstruction of the utility installation must be borne by the party which made the installation or its successors in interest.

Railroads are specifically exempted from the provisions of section 26 of House File 16, because procedure at points where railroads cross drainage and levee district facilities is prescribed by sections 455.119 through 455.123, inclusive, *Code of Iowa* (1966).

Legalizing Act

Another new section is added to chapter 455 of the Code by section 27 of House File 16. This is a blanket legalizing act for all proceedings taken prior to July 1, 1968, to establish or reestablish a drainage or levee district, change or enlarge the boundaries of any such district, or make any assessment in any such district, which have not previously been declared invalid by any court and which are not presently the subject of any pending litigation. It is believed this legalizing act will confirm the permanent status of drainage and levee districts and may thereby aid in improving the marketability of the districts' warrants, or other evidence of indebtedness.

Alternative Procedure to Enlarge Districts

The need for a more direct and less burdensome method of adding land to existing drainage or levee districts in cases where all parties involved are in agreement on the proposed expansion, as an alternative to the methods presently prescribed in sections 455.128, 455.129, and 455.130, *Code of Iowa* (1966), was called to the Study Committee's attention during the 1965 regional hearings. Section 28 of House File 16 is intended to add to chapter 455 such an alternative procedure for inclusion of additional land in existing districts.

Section 28 permits the governing boards of drainage and levee districts to enter into written agreements with the owners of land lying outside of the districts, to provide levee or drainage services to such lands on certain conditions specified in the three subsections of section 28, and such additional conditions as the governing board deems necessary. In this manner, it is possible to avoid the necessity of holding formal hearings upon what is in effect an annexation to which all parties agree, and it is also possible to avoid the necessity of immediately placing assessments against the land being added to the district, as is now required by section 455.130, in cases where the governing board of the district involved concludes that the making of such assessments would be inequitable.

Official Records of Intercounty Districts

Section 30 of House File 16 adds two new sections to chapter 457, *Code of Iowa* (1966), relating to intercounty drainage or levee districts. The first of the new sections provides that, although the auditor of each county in which any part of the intercounty drainage or levee district lies shall continue to maintain records of all proceedings of the district, the records in the office of the auditor of the county in which the largest proportion of the district's acreage lies shall be the district's official records. The other new section makes the treasurer of the county in which the largest proportion of the district's acreage lies responsible for the safekeeping, recording, and disbursement of the district's funds.

Miscellaneous Amendments

In addition to the amendments to existing drainage statutes previously discussed, House File 16 makes the following miscellaneous amendments:

1. Section 457.2, *Code of Iowa* (1966), provides that when establishment of an intercounty drainage or levee district is proposed the boards of supervisors of the counties involved shall each appoint one benefit commissioner, and these benefit commissioners shall jointly select a competent engineer who shall also act as a commissioner. In order to expedite the procedure for establishment of intercounty districts, section 29 of House File 16 changes the present procedure slightly, to provide that the joint boards of supervisors shall select the engineer to serve as the additional benefit commissioner.
2. Section 462.12, *Code of Iowa* (1966), requires that, where the weight of a landowner's vote for trustees of a levee or drainage district is determined in proportion to the assessment placed against such owner's land for benefits derived by the land from the district, each owner "shall be entitled to one vote for each ten dollars or fraction thereof of the original assessment *for benefits*." Section 35 of House File 16 strikes the italicized words and inserts in lieu thereof the words "under the current classification." It is believed this change is equitable since a reclassification, made subsequent to establishment of proportionate voting procedure in a district, may substantially alter the proportion of one landowner's assessment as compared to that of another landowner.
3. Section 36 of House File 16 raises the per diem pay received by trustees of levee and drainage districts, and by the trustees' clerk, from $7.00 to $17.50, and continues the present authorization for reimbursement for any necessary expenses.

Also, references in a number of places in the drainage statutes to the secondary road maintenance fund and the secondary road construction fund have been changed to refer simply to the secondary road fund, in accordance with section 309.12, *Code of Iowa* (1966).

CONSERVANCY DISTRICT BILL

In addition to the amendments to existing drainage statutes discussed in the preceding par-

agraphs of this report, the Drainage Laws Study Committee presents for the consideration of the Sixty-third General Assembly House File 17, entitled "A Bill For An Act providing for establishment and administration of conservancy districts." The proposed conservancy districts, six in number, will encompass the entire state of Iowa and are drawn along the natural dividing lines between the watershed areas of Iowa's major river systems, or groups of rivers. (See map on page 36.)

The objectives of House File 17 and the philosophy on which it is based are set forth in section 1, which is a statement of policy. Some explanation of the reasons the Study Committee decided to proceed with the drafting of this bill may be helpful in evaluating it.

> NOTE: Preceding paragraphs of the Drainage Laws Study Committee's report contain a number of specific references to levee districts, as well as joint references to drainage and levee districts. In succeeding paragraphs, however, all references to drainage districts apply equally to levee districts unless otherwise specified.

Background of the Bill

From the beginning of the Drainage Laws Study, it has been pointed out by various individuals and groups, on different occasions, that:

1. Drainage improvements in one portion of the watershed of a river or stream unavoidably affect other parts of the same watershed.
2. There is a close relationship between soil conservation measures in upland areas and drainage measures on adjacent lower-lying land, which is virtually unrecognized in present law.

The effort to give expression in statute to these realities led to the drafting of what became House File 17.

"Common Outlet" and Related Problems—The term "common outlet" is given a rather specific meaning by section 455.142, *Code of Iowa* (1966). In general use, however, the term is often applied somewhat more broadly.

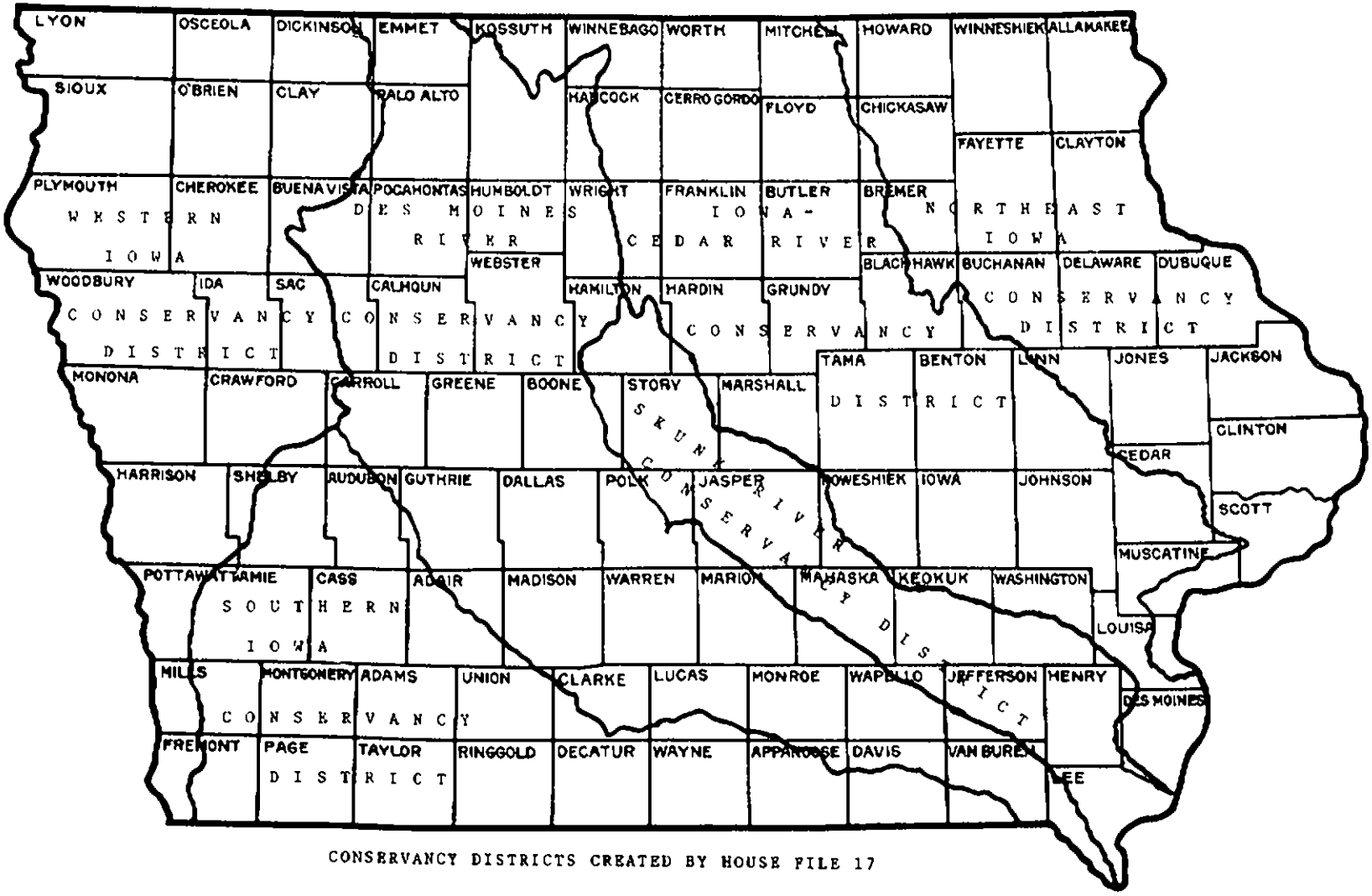
Present Iowa law places little restriction on either the minimum size of a drainage district, or the manner in which the boundaries of the district are drawn with respect to location or confluence of streams to which water drained from the district must eventually flow. The boundaries of many existing drainage districts were determined more by the need perceived by landowners for artificial drainage of a particular area at a particular time than by consideration of how best to fit the district into the topography of the area.

Thus it may happen, for example, that Drainage District A includes in its territory the point where a smaller stream, or an artificial watercourse constructed by the district, flows into a larger stream. Drainage District B lies slightly higher in the same watershed, directly adjacent to District A, and District B's runoff must pass through the smaller stream or artificial watercourse in District A in order to reach the larger stream draining the watershed in which both districts lie. Drainage District C lies still higher in the watershed, and its runoff must pass through both District A and District B to reach the larger stream.

Under present law, District A is a common outlet only with respect to District B. In fact, and in accordance with the more general use of the term "common outlet," the mouth of the small stream or artificial watercourse located in District A is also the outlet to the larger stream for water drained from District C, as well as from any other drainage district which may lie above or at the same level as District C, from which water must flow through District B and into District A to reach the larger stream.

It may also be noted that, under present law, District B is not a common outlet at all, although it must in fact take into account the volume of water which will be passing through it from District C and any other drainage districts which may lie upstream. The more drainage improvements which have been constructed in District C and elsewhere upstream, the greater the volume of water flowing downstream from those districts immediately after a rain or when snow is melting, other things being equal.

Iowa law for many years provided for downstream drainage districts to assess upstream districts for a portion of the cost of maintaining or improving the ditch or drain carrying waters re-



CONSERVANCY DISTRICTS CREATED BY HOUSE FILE 17

ceived from the upstream districts. This law gave rise to considerable litigation, much of it centering on the lack of a generally accepted formula for determining the proportion of the cost of maintaining the common outlet which the respective upstream districts should pay.

In 1965, the Sixty-first General Assembly amended section 455.142 to define a common outlet as one "where two adjacent districts have an outlet common to both of said districts and which districts are also contiguous one to the other." The 1965 amendment, which in effect prevents a drainage district from spreading assessments for maintenance or improvement of the common outlet to any drainage district other than one immediately upstream from the assessing district, was the subject of considerable comment during the 1965 regional hearings by the Drainage Laws Study Committee. The following excerpts from testimony at two of the hearings illustrate the differing points of view of the downstream and upstream drainage districts.

". . . (The 1965 amendment to section 455.142) means, and without specifically attacking this district, that the Farmer's Drainage District in Woodbury County which focuses all its water into one drain, a very improved drain and thence into Monona County and the Monona-Harrison, does not have to contribute one dime to the maintenance of the common outlet. It means that the Little Sioux Intercounty Drainage District which up to date has cost the local taxpayers $1,600,000 or more cannot properly collect from upper districts for the waters they are now draining into the River which is a common outlet.

* * *

The Legislature should recognize that if upstream lands are going to straighten out, and collect, and concentrate their waters faster and in greater quantities, rather than letting them follow the old curved channels, and if they tile the slopes that used to have trees and grasses on them, then they should bear the cost of carrying that water all the way to the main stream of the Missouri River." (Testimony of Patrick J. Morrow, Onawa attorney, at Atlantic regional hearing, November 3, 1965.)

The following excerpt apparently refers to matters arising prior to the effective date of the 1965 amendment to section 455.142.

"For a number of years the Board of Supervisors of Harrison County, acting as Drainage Board for the various districts and sub-districts located within Harrison County, have undertaken certain repair work and improvements to districts and sub-districts located within Harrison County, after which they have attempted to apportion and spread the cost of the repair work and improvements done within their county to the districts and sub-districts located within Crawford County and in some instances, to districts located within Sac County.

* * *

These proposed apportionments and spread of the costs of repair and improvements to the districts located above Harrison County, within Crawford County and Sac County, have been strenuously opposed by both Sac and Crawford County in the past and litigation has resulted in both the District Court and Supreme Court level. This, naturally, has added to the costs which have had to be borne by the land owners within the drainage districts and sub-districts in Crawford County and Sac County.

* * *

In addition . . . there are at least four other and separate objections on file with the Drainage Board of Harrison County to proposed work or work now being done within their district which they have notified the Board of Supervisors of Crawford County and Sac County that they intend to apportion and spread to districts within Crawford and Sac County.

* * *

It is (our) contention . . . that the Districts within Crawford County will receive no benefit by reason of the improvements and repairs made and constructed in the Harrison County Drainage Districts which lie below the Crawford County Districts on the Boyer River and on the Soldier River; that these particular districts located within Harrison County which are on the Boyer River and which do not actually outlet themselves into the Missouri River, are not 'outlet districts;' and that the method or formula employed by the Harrison County Board of Supervisors in determining the apportionment is unfair, unjust and inequitable." (Testimony presented on behalf of Crawford County Board of Supervisors, at Cherokee regional hearing, November 3, 1965.)

While the present situation, with respect to maintenance of common outlets under section 455.142 as amended in 1965, does not seem wholly equitable, the Study Committee concluded that there would be little point in simply repealing the 1965 amendment unless an acceptable formula for apportionment of common outlet maintenance costs could be found. The Study Committee was informed that hydraulic engineers have or can develop a formula which is scientifically sound, but the political acceptability of such a formula may be questionable. It seemed preferable to establish a single legal entity, having jurisdiction of and supported directly by, the entire watershed of one or more major streams, which could assume responsibility for maintenance of the stream or streams to the extent necessary to maintain a proper outlet for the runoff from all parts of the watershed. This is one of the major roles of the conservancy districts under House File 17.

Soil Conservation and Drainage—Drainage districts in Iowa are for the most part located either on generally flat land, such as is found in much of north central Iowa where natural runoff of water is slow and land not artificially drained tends to be marshy, or else on bottom land along rivers and streams. Assessments for drainage are made on a benefit basis, and it has generally been considered that upland areas receive no benefit from artificial drainage because water would, in any case, run off from the upland areas to lower lands.

Soil conservation and erosion control practices on upland areas are nevertheless important to drainage districts, for two reasons. First, erosion control practices by their nature tend to slow the runoff of water, and therefore help to lessen the burden on drainage facilities of lower-lying lands during periods of heavy rainfall or rapid melting of snow. Second, the more rapid the runoff from upland areas, the more silt is apt to be carried down and deposited at lower levels. Aside from the undesirable aspects of loss of topsoil, deposits of silt require more frequent cleanouts of drainage ditches, raise the levels of riverbeds and thereby force the raising of levees to cope with higher flood stages, and create serious problems in many of Iowa's natural and artificial lakes. (Windblown silt may also create or contribute to the foregoing difficulties.)

The second major reason for proposing creation of conservancy districts having jurisdiction over entire watersheds is to coordinate efforts to conserve and control water from the time it reaches the ground as rain or snow, until it reaches either the mouth of one of the tributaries to Iowa's border rivers or the state line. Therefore, it will be necessary for the conservancy districts to take into consideration in some degree wildlife and fish conservation, water recreation, maintenance of water quality, and related matters. The conservancy districts major concerns, however, will be drainage and soil conservation.

Development of House File 17

There was some discussion of the general desirability of some type of regional entity to coordinate drainage and related problems over all or large portions of the watersheds of major streams by persons appearing at the 1965 regional hearings, and at succeeding meetings of the Drainage Laws Study Committee in 1966. Upon resumption of the Study in September of 1967, members of the Study Committee expressed continued interest in the watershed concept and explored the subject at meetings with representatives of Iowa State University College of Engineering and of the Iowa Natural Resources Council, as well as by visiting the Little Sioux Intercounty Drainage District in Monona and Harrison Counties.

After completing work on amendments to existing drainage statutes in March, 1968, the Study Committee turned its full attention to the watershed concept. Hearings were held in Des Moines on April 17-18, at which testimony on the watershed concept was received from the Iowa Geological Survey, Iowa Natural Resources Council, State Conservation Commission, State Soil Conservation Committee, U.S. Soil Conservation Service, and the Water Pollution Control Commission. The Study Committee, after consideration of the information presented at the hearings, referred the watershed concept to the Technical Subcommittee, which drafted House File 17 and submitted it to the full Study Committee on September 24, 1968.

The final decision by the Study Committee to present House File 17 to the Legislative Research Committee was made at a meeting held on October 17, 1968. Only six of the legislators serving on the Study Committee—a bare quorum—were able to attend and therefore, under the Study Committee's rules, the negative vote of a single

legislator would have rejected the bill. Although some members of the Study Committee expressed reservations about some of the provisions of House File 17, all legislators present at the October 17 meeting voted to submit it to the Legislative Research Committee and the Sixty-third General Assembly for their consideration, rather than discard the work and thought which had gone into preparation of the bill.

Purpose of the Conservancy Districts

The conservancy districts created by House File 17 are regional, intermediate level agencies with an active role in carrying into effect the state water resources plan, which section 455A.17, *Code of Iowa* (1966), directs the Iowa Natural Resources Council to prepare. Accordingly, the Natural Resources Council has some control over the policies and actions of the conservancy districts.

The relationship of the conservancy districts to drainage and soil conservation districts, and other political subdivisions is primarily advisory and coordinating, although drainage and soil conservation districts are required to "take notice of" the conservancy districts' plans (see following paragraph) and conform to any rules and regulations duly adopted by the conservancy districts. The boards of directors of the conservancy districts are directed to "encourage, foster, and promote establishment, enlargement, or consolidation of drainage, levee, soil conservation, flood control, and sanitation districts where desirable," but House File 17 does not change in any way the legal procedures which must be followed in establishing such districts.

The first major duty of each of the conservancy district boards of directors, after establishment of the respective districts, is to prepare a district plan in consultation with the Natural Resources Council. Section 19 of House File 17 requires the plan to establish priorities for carrying out projects necessary to achieve the objectives of the bill in the district, to be compatible with the Natural Resources Council's state water resources plan, and to be prepared in accordance with the following policies:

"1. First consideration shall be given to work needed at or near the source of the principal stream or streams in the district, and on or along the tributaries thereto, to the greatest extent practicable.

2. Conservancy district funds shall not be expended for functions or improvements which are:

a. The responsibility of other political subdivisions and are within their abilities, reasonable consideration being given to their other duties and obligations.

b. Constructed or implemented, or planned for construction or implementation, on one or more tracts of privately owned land and primarily benefit those lands rather than other lands in the conservancy district."

After the district plan is approved by the Natural Resources Council, it is the responsibility of the conservancy district directors to carry out the plan "as expeditiously as possible, within the limitations of available financial resources." (Financing of the conservancy districts is discussed later in this report.) The district plan is subject to periodic review, in the light of experience gained or changed conditions, or both.

Section 35 of House File 17 prohibits any conservancy district board of directors from letting a contract for any "internal improvement" (see definition, section 2 of House File 17):

"unless its engineer and the state soil conservation committee shall recommend, and the board shall find, that the proposed internal improvement would be adequately protected against siltation by soil conservation practices existing within the watershed of the internal improvement, or which would be developed as a part of the internal improvement, or that the nature of the internal improvement precludes the probability of damage due to siltation."

When a project called for by the district plan cannot be undertaken because of inadequate soil conservation practices, the board of directors must work with and through the soil conservation district commissioners to try to correct the situation. After adequate soil conservation practices are established and a finding to that effect permits the conservancy district to proceed with an internal improvement, failure to maintain the

necessary soil conservation practices, which results in damage to the internal improvement by siltation, is declared a nuisance and may be abated as such.

In order to attempt to encourage soil conservation practices needed to permit the conservancy district boards of directors to proceed with an internal improvement, the boards of directors are given the same authority as landowners in any soil conservation district to petition for the organization of a subdistrict of the soil conservation district. The petition presented by the conservancy district directors is processed in the same manner as if initiated by the landowners. The only other change in the soil conservation subdistricts law is that "benefits to be derived by the subdistrict from construction of internal improvements contemplated by the plan of the conservancy district in which the subdistrict lies, which . . . cannot be constructed until certification that they would be adequately protected against siltation" may be considered in measuring benefits against costs to the subdistrict, for the purposes of section 467A.22, *Code of Iowa* (1966).

The conservancy districts will not replace or assume control of the present drainage and soil conservation districts or other existing political subdivisions, but will be superimposed on them. The conservancy districts will be in a position to maintain principal streams which carry water from a number of drainage districts, to the extent necessary to insure that necessary outlet capacity is available and that adjacent land is adequately protected, without the necessity of apportioning the cost directly to the respective drainage districts. The conservancy districts will also be able to assist drainage and soil conservation districts to more fully coordinate their efforts to their mutual benefit.

Composition, Administration of Conservancy Districts

The geographic composition of each of the six conservancy districts is described by section 3 of House File 17. It is believed that a precise legal description of the boundaries of each district would be preferable, and this description is being prepared by the Natural Resources Council. If possible, the legal description of the boundaries will be substituted for the present sections 3 and 4 before the time for introduction of House File 17 in the General Assembly, otherwise the descriptions will be presented as amendments replacing sections 3 and 4 after introduction of the bill.

Each conservancy district will be administered by a board of five directors, appointed by the governor with consent of the senate for staggered five-year terms. Directors must be electors and freeholders of the district, residents of different geographical parts of the district, and must be appointed on the basis of qualifications without regard to political affiliation. They will receive thirty dollars per day, up to a maximum of $1200 per year, and reimbursement for actual and necessary expenses.

Careful consideration was given by the Study Committee to the possibilty of electing the directors of each of the conservancy districts. However, it was deemed preferable to have the directors appointed by the governor for two reasons. First, the procedure for holding elections in the conservancy districts, whose boundaries follow topographic features rather than the limits of any other political subdivision, would be cumbersome and expensive. Second, and more important, it is likely that the ruling of the United States Supreme Court in *Avery v. Midland County, Texas* would require the structuring of elected conservancy district boards of directors in such a manner that one or a few of the larger cities in each district could always control the board of directors.

The office of the board of directors must be located in a county seat city or town in the conservancy district, but may be moved from one such city or town to another. Meetings of the board must be held at least quarterly, including an annual meeting in July. Any two directors may require that a meeting be called, on not less than five days notice.

At the initial meeting of a board of directors, a chairman, a vice-chairman, a secretary, and a treasurer are to be elected from among the directors, with one director holding the offices of vice-chairman and treasurer if so desired. Later, when funds from the conservancy district's first tax levy are available, the board must employ a qualified person other than a director as secretary, and may fill the office of treasurer in the same manner if deemed advisable.

Financing of Conservancy Districts

The sources of revenue available to conservancy districts under House File 17 are:

1. Federal funds available to the district, as authorized by state law.

2. Any state funds which the general assembly may appropriate to the districts. (The Study Committee does not contemplate any state appropriation to conservancy districts at present.)

3. Donations and gifts.

4. The proceeds of a uniform levy, on all taxable real and tangible personal property, in the conservancy district, which may not exceed 1/10 mill for administration, nor a total of 1 mill for all purposes, including debt retirement.

The board of directors of each conservancy district is required to annually prepare and publish a budget for the following year. The Natural Resources Council must review, and may require changes in, the budget. The board of directors must hold a hearing on the budget and may reduce the budget after publication, but may not increase it unless the higher budget is republished.

When the conservancy district budget has been adopted by the directors, it is transmitted to the auditors of each county in the conservancy district. The auditor of the county in which the conservancy district office is located must assemble the valuations from the other counties and compute a uniform millage levy over the entire district.

Section 18 of House File 17 makes it a misdemeanor for the officers of any conservancy district to expend, in any year, a greater amount than was budgeted for that year (except as funds budgeted and encumbered in a previous year may be expended upon completion of the project for which the funds were encumbered). Also, no conservancy district may lawfully expend funds, except for per diem and expenses of directors and necessary administrative expenses, until the calendar year after the district's first budget is certified and a levy made for the district. Provision is made for issuance of stamped warrants for essential expenditures incurred before conservancy districts' first tax receipts are available.

A specific bonding procedure for conservancy districts is established by sections 24 through 33, inclusive, of House File 17. This procedure is quite similar to that prescribed in chapters 75 and 76, *Code of Iowa* (1966), except that a vote of the people is not required and any bonds issued must be retired by funds received from the conservancy districts' single levy, which may not exceed 1 mill for all purposes.

The Study Committee considered the possibility of requiring that each proposed bond issue of a conservancy district be approved by the voters of the district, but decided against this procedure due to the difficulty of arranging district-wide elections which is created by the irregular boundaries of the districts. The 9/10 mill limit on levies by conservancy districts for all purposes other than administration, including the payment of principal and interest on bonded indebtedness, is believed a significant restriction on the districts' bonding authority.

Mandatory Soil Conservation Practices

Section 43 of House File 17 adds to chapter 467A of the Code thirteen new sections, giving soil conservation district commissioners permissive authority to establish and enforce mandatory soil conservation practices. While the need to conserve topsoil for future generations might be considered to justify such authority in any case, the immediate reason for including the authority in this bill is the need to control siltation of Iowa's lakes and streams.

Under section 43, soil conservation district commissioners may classify lands in their districts on the basis of tendency to erosion, and require specified soil conservation practices on particular classes of land. (The term "soil conservation practices" is defined in section 2 of House File 17.) In the alternative, the soil conservation district commissioners may simply require that loss of topsoil from particular classes of lands be held within specified limits, and leave the means of erosion control to the judgment of the landowner or operator.

Regulations requiring and governing soil conservation practices, proposed for adoption by

commissioners of any district, must be approved by the State Soil Conservation Commitee and published in a newspaper in the district. The regulations may not be put into effect until after a hearing, the date of which must be at least thirty days after publication of the proposed regulations.

When a complaint that soil erosion is occurring in violation of any soil conservation district's regulations is received and verified, the commissioners may order the landowner or operator to establish the required soil conservation practices. If the landowner or operator fails or refuses to comply with the order within one year, without good reason, the commissioners may have the necessary work performed and the cost assessed to the landowner in the same manner as property taxes.

In cases where failure of the commissioners of a soil conservation district to obtain establishment of needed soil conservation practices is preventing construction of an internal improvement by a conservancy district (because adequate protection against siltation damage cannot be certified, as required by section 35 of House File 17) the conservancy district directors may exercise the same authority as soil conservation district commissioners in bringing such erosion under control.

Review by U. S. Department of Agriculture

State Conservationist Wilson T. Moon, Iowa administrator for the U. S. Soil Conservation Service, which was consulted in the planning, drafting, and review of House File 17, submitted the completed draft of the bill to officials of the U. S. Department of Agriculture in Washington, D. C. The Department has informed Mr. Moon that House File 17 presents no conflicts with statutes and regulations relating to Federal soil conservation programs, and is compatible with the objectives of these programs.