

Report for Congress

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Survey of Recent State Policies to Manage Growth and Protect Open Space

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Summary

Many states have been actively addressing the closely-related issues of sprawl and loss of open space in recent years by working to manage growth and protect remaining open spaces. The mix of issues and levels of activity vary widely from state to state. Many Members of Congress are interested in these state efforts because federal policies and programs have impacts on these issues, both direct and indirect, and both positive and negative. Federal policies and programs with an impact include transportation, housing, the environment, and agriculture, among others, and others have important but less direct effects, such as the federal tax code. Some federal programs provide positive assistance to states that are trying to address these issues, while others may support incompatible activities. Congressional deliberations generally have given limited consideration to how decisions on federal policies might affect sprawl and loss of open space although both have become prominent topics in more states and communities in recent years. Some Members of Congress also may be interested in states as incubators of innovative approaches to public policy that might serve as models for future national policies.

CRS contracted with the Lyndon B. Johnson School of Public Policy at the University of Texas at Austin (LBJ School) to survey every state and compile a catalogue of state efforts that have been initiated or amended since 1990. The LBJ School returned this compilation to a contact in each state for a final review for completeness and accuracy before it was submitted to CRS. This report identifies and compares the recent state efforts and presents some of the reasons for a resurgent interest in addressing this suite of topics in many states. It also discusses the effectiveness of these efforts where evaluations or analyses could be found. It draws not only from the LBJ School survey, but also reviews of literature and other sources. Appendix III is a narrative summary of each state, introducing major programs and activities, drawn from the same sources. The LBJ School also prepared a table summary for each of the 354 programs that it identified.

Through the survey and related information-gathering activities, the LBJ School students determined that the overall level of interest and activity on managing growth and protecting open space is high, that issues vary widely, and that approaches and resources committed to address these issues vary greatly. The state efforts are responses to problems. They are concentrated in states where sprawl and loss of open space have been most pronounced. How states have responded also reflects how responsibilities are spread among state agencies, how they are divided between state and lower units of government, and resource management and land use planning traditions. Places where there has been less economic or population growth in recent years have found little reason to act, according to this survey. Congressional interest reflects the same geographic pattern, as most of the interested Members represent the East Coast, Great Lakes, and West Coast states. This interest is bipartisan and generally reflects what is occurring in the district or state than broader ideologies.

This report will not be updated.

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Survey of Recent State Policies to Manage Growth and Protect Open Space¹

Introduction

This report describes the policy approaches each U.S. state has adopted since 1990 to address the closely-related issues of managing growth in order to minimize sprawl² and protecting remaining open space from being converted to other uses.³ Both issues are addressed by trying to manage the use and allocation of land and resources in socially-beneficial ways. Under the U.S. federal system, land use management is principally an issue addressed by state and local governments. Given that state governments define powers and authority of local governments, this study concentrates on state government legislation, including policies that empower local governments, enhance the power of existing state agencies, strengthen or create new regulations, encourage regional cooperation, and initiate land management studies.

Sprawl and open space loss are of concern to a growing number of both governmental and nongovernmental organizations. While land use planning resonates with most states, this power and responsibility has traditionally been delegated to localities through state laws such as zoning enabling laws and Home Rule authority. Local governments' proximity to the issues of land use, growth management, and open space protection make them the most affected level of government. They are responsible for local infrastructure and service delivery, as well as preserving open space and dealing with blighted inner cities. While some communities have begun to tackle these important land use issues, there is a broad lack of knowledge concerning the issues and costs of unmanaged growth, and many

¹ The LBJ School compiled an inventory of state laws and activities to manage growth and protect open space, based on a survey of every state. This work was conducted under contract with Congressional Research Service as a Policy Research Project (PRP). PRPs are designed to give students a realistic policy research experience and to culminate in a final research product for a client. This PRP involved 18 students from the Master of Public Affairs Program; two professors served as project directors.

² Sprawl is typically characterized by low-density development distant from a city's urban core, and often consists of noncontiguous development or isolated, single-family homes. Typically uncoordinated, this type of development leads to single-usage of land, rather than a more concentrated mix of residential, commercial, and other uses. Many academics, planning professionals and interest groups have presented similar definitions of sprawl.

³ Open space includes three subsets: productive land, environmentally significant areas, and green space. Productive land includes farm and agricultural lands and resource lands such as forests. Environmentally significant areas include wildlife habitats, wetlands, and coastal lands. Green spaces include public open space inside urban areas, such as parks, and large tracts of undeveloped lands outside urban areas.

communities have avoided making the politically and technically challenging commitments required to alter growth patterns.

Historically, the federal government's role in land use was focused primarily on federally owned lands, largely acquired when the western regions were annexed to the United States in the nineteenth century. However, with increasing urbanization and the new societal needs of the twentieth century, the federal government initiated numerous programs that today affect land use patterns in a multitude of ways. Policies in transportation, housing, agriculture, and the environment, among others, play a significant role in how land is developed and used. Some within the federal government have been taking an active interest in how federal policy and programs affect land use and how they can better enable localities and states to manage growth and preserve open space, generally under the moniker "Smart Growth." This interest was raised to the presidential level during the Clinton Administration.

The next two subsections introduce some of the causes of unmanaged growth and open space loss and some of the costs that result. Generalizing about these two topics is a challenge because no two places are identical. In addition, these topics are viewed differently by people based on their perspective and interest. Following these subsections are sections that provide an overview of four topics where federal policies and programs can affect patterns of change, and that compare state perspectives on managing growth and protecting open space using materials collected through the survey, including comparisons of responses from governmental and nongovernmental representatives.⁴ Appendix I describes the research method and process; appendix II describes key terms used in the survey; and appendix III summarizes the laws and activities in each state.⁵

Causes of Unmanaged Growth and Open Space Loss. Urban sprawl and loss of open space result from a variety of factors as well as unintended consequences of public policies. Among the central social and economic factors in the United States are a preference for owning detached single-family homes with yards, almost universal car ownership, and a rising standard of living.

Homeownership is an objective desired by most Americans. When financially feasible, most people will purchase a home. While homeownership itself does not cause sprawl or the loss of open space, the location and concentration of new and existing residential developments largely determine the land use patterns in an area. Developers try to measure the market and build homes that will sell and provide the desired rate of return. When homes and large developments are built distant from urban cores and their denser surrounding areas, sprawl can result.

⁴ The survey contacted only people who administer programs or work in support of them. It did not contact opponents, and therefore did not gather views that could be used to characterize the opposition.

⁵ A separate CRS congressional distribution memo will contain descriptions of each of the 354 identified programs. Each description follows a template that includes entries on: basic information on the administrative code; date of adoption and/or amendment; description of the program and its approach; the source of funding; and evaluations or assessments of the policy.

Virtually universal car ownership has fundamentally changed the patterns of land development in American communities. Car ownership has facilitated residential expansion into once isolated, undeveloped areas. With land prices in these outlying areas lower than in areas closer to the urban core, consumers will consider purchasing land and building homes in these less-dense areas.

The overall rising standard of living, particularly since the end of World War II, has enabled more Americans to attain homeownership. The purchase of a home involves the consideration of factors that typically includes some mix of price, convenience, and safety. With land prices in outlying areas comparatively inexpensive, and factoring in ease of travel and perceived safety, cities have experienced a dispersal of their population to less developed areas. Although the provision of infrastructure is more expensive in outlying and undeveloped areas than in already-developed areas, these costs are likely to be averaged among all residents who are served by the same provider. When costs are averaged, those further from the center city do not incur the true cost of services and infrastructure, thus lowering the cost of living further from the urban core.

Federal, state, and local public policies in areas such as transportation, housing, and land use also can encourage or cause urban sprawl and open space loss. As discussed below, unintended impacts of federal policy affect patterns of urban development. Federal transportation policy is often cited as leading to the expansion of roads and the highway system, opening rural lands and other lower-density areas to development by improving access to center cities. With less-expensive land in lower-density areas, homebuyers are able to buy larger plots of land than they would be able to in higher-density areas. Federal housing policy can influence land use patterns in multiple ways, such as encouraging and rewarding single-family homeownership over denser multifamily housing. These single-family homes are often built away from the city's central core, further proliferating sprawl and the destruction of open space.

Zoning and land use policy have also contributed to sprawl. Zoning rules initially emerged in the early part of the twentieth century as a tool to separate incompatible land uses, protecting urban centers from heavy industry and manufacturing plants. Ultimately, these rules reinforced lower densities throughout communities. Today, some of these rules seem inadequate to address prevalent development issues. In many localities, the original concept of zoning may still apply, although the sharp separation of commercial, industrial, and residential uses may no longer be desired or needed. These rules may prevent practices such as mixed-use development and urban infill, and suppress urban revitalization.

Comprehensive planning, a tool that could be used to manage growth and protect open space, remains nonexistent in many areas, and is inconsistently applied in some places where it is used. Typically, land use policies have supported or allowed growth that results in a reduction in public facility service levels.⁶ At times, they have allowed new public infrastructure to be built in areas where the city does

⁶ Arthur C. Nelson and James B. Duncan. *Growth Management Principles and Practices* (Chicago: American Planning Association, 1995), p. 96.

not desire development. Where land use policies have failed to prevent expansion of sprawl, they have also led to the loss of open space, including agricultural land and important habitat. These policies, while not the only ones that affect the expansion of sprawl, have been large contributors.

Costs of Unmanaged Growth and Open Space Loss. While the benefits of economic growth are obvious, the costs imposed by sprawl are often less so. Loss of open space, agricultural lands, cultural/historical sites, and loss of natural resources including coastal lands are all part of the price of sprawl. Additional costs might include providing expensive infrastructure, trying to improve blighted center cities, and responding to a decrease in some aspects of the quality of life. These costs could be considered when land use and other policies are being formulated. While communities can benefit from growth, many experts believe that it is important that they effectively manage the way they grow if they desire to minimize the costs of sprawl and open space loss.

Green spaces are lost as cities become less compact and expand to undeveloped lands. If this growth takes place in an unconstrained and uncoordinated way, development may be scattered. Agricultural lands may be lost as developers build homes in rural farming areas, subdividing agricultural land. While the impact may not be felt immediately on the entire farming community, as more farmland is purchased, farming may become less viable in the area. Farming practices, especially ones that result in noise and odors, are often perceived as nuisances to the new homeowners, creating conflicts, and if farming is not protected, the resolution of these conflicts can accelerate the rate of at which farmland is converted to other uses.⁷

Cultural/historical sites also may be lost as residents leave center cities. In the same way that general open space is lost, these sites can become slowly consumed by low-density development. Areas deemed important by the community and by society as a whole are often unprotected from the destruction caused by low-density developments. Another cost of sprawl is the loss of natural resources as larger open spaces are either subdivided or converted to other uses. Wildlife habitats may be damaged; wetlands can be degraded or destroyed; forests and other resource lands may be lost, and beach, bay and estuary systems along coasts may become damaged without necessary protection. One review, summarizing numerous other studies, estimated that responding by applying growth management systems can increase environmentally sensitive land savings by 20% or more in some communities.⁸

Sprawl is expensive to support with public investments. The cost of financing roads, schools, water and sewage systems, additional infrastructure, and services per-person in these less dense areas is more than in higher-density areas, where economies of scale can be realized. It has been estimated that capital costs are 25% less, on average, when density is ten units per acre compared to density at five units per acre. While developers provide some of this infrastructure, service, upkeep, and

⁷ Rutgers, Brookings, Parsons Brinckerhoff, ECONorthwest, *The Costs of Sprawl-Revisited* (Washington D.C.: National Academy Press, 1998), pp. 75-76.

⁸ *Ibid.*, pp. 78-79.

replacement of these less-efficient infrastructure systems may add to each taxpayer's burden.⁹

Other costs of urban sprawl can include blighted and decaying downtowns.¹⁰ As more affluent residents and businesses leave for cheaper land and larger plots, center cities must contend with empty storefronts, vacant office space, and inactive streets. Healthy downtown areas are considered by many to be essential to the long-term success of an overall region, but many city governments have been unable to successfully protect their vitality in the face of urban flight.

Degradation of quality of life in rural areas can result from unmanaged growth and open space loss. With many residents living in outlying areas and commuting into town for work, roads and highways have become congested. The inability of the transportation system to meet the needed carrying capacity, especially during morning and evening hours of peak demand, frustrates and delays commuters and costs individuals and society valuable time. The increase in car usage and distance traveled also increases auto-oriented emissions and may lead to decreased air and water quality in a community.¹¹

Loss of a sense of community is another potential cost of sprawl. In lower-density areas, many residents live on larger plots of land that are substantial distances from the nearest neighbor. Combined with a reliance on cars for transportation, this greater distance often leads to less interaction with neighbors. Many also live in new communities that lack tradition and events that bring residents together. Some experts view this combination of sprawl externalities as contributing to a loss of social capital.¹²

Roles and Relationships Among Levels of Government.

Traditionally, land use planning and land use policy have been the responsibility of state and local governments. Before World War II, the federal role in land use planning and management included little beyond managing federally-owned lands, disposing of federal lands, and dealing with land issues on a piecemeal basis in policy areas such as housing and highways. The magnitude and intensity of effects of federal actions on private lands were more limited in an era of smaller and less far-reaching government programs and policies. Following World War II, however, federal laws have increasingly affected policy decisions made by state and local governments. For this reason, this study and survey examined the intergovernmental context of land use planning and management. While it is impossible to identify roles unique to each government level, it is important to understand why different levels of government are involved in land use issues and what types of policy decisions they each make.

⁹ Nelson and Duncan, *Growth Management Principles & Practices*, p. 5.

¹⁰ *Ibid.*, p. 7.

¹¹ Rutgers, Brookings, Parsons Brinckerhoff, ECONorthwest, *The Costs of Sprawl-Revisited*, p. 91.

¹² *Ibid.*, p. 87.

Federal programs and policies that affect land use include environmental regulations, federal spending on infrastructure (highways, for example), and tax incentives for home ownership, among others. State programs and policies can also play many roles in land use by implementing statewide comprehensive plans intended to manage growth and/or protect open space, preserving historic sites, protecting land from future development, and promoting certain forms of development. States authorize the creation of substate political jurisdictions (cities, counties, and special districts) and assign them powers and responsibilities. Local government powers and duties, such as land use planning and regulation, are usually assigned by the state. Relationships between state and local levels are based on either a Dillon's Rule or Home Rule approach, and the approach determines how much independence local governments have to act without state approval.¹³

Local governments generally deal with land development efforts that require land use regulation and the infrastructure issues that accompany new growth. The federal government's role in these matters traditionally has been limited for many reasons. The U.S. Constitution does not mention land use; its only reference to what may be expressly deemed a planning subject occurs in the Bill of Rights, through the Fifth Amendment's injunction against taking land for public purposes without just compensation.¹⁴ Other constraints include the sheer size of the United States and the variation in topography, culture, and economies. Further limiting the role of the national government is the political value placed on both states rights and local government control. Most land use authority resides at the local level through zoning, subdivision, and building code powers, which were assigned by most states to local government in the 1920s.¹⁵

One level generally not extant is regional government. In theory, a regional approach would seem like a good scale for addressing many land use topics. Local governments could use this structure to collaborate on concerns of mutual interest. However, a regional framework is difficult to accomplish with the multitude of localities that comprise the typical metropolitan area in the United States, who would each have to cede authority to a regional entity. Moreover, efforts to coordinate among localities in a region can be complicated because the powers assigned to local governments can vary considerably, as between counties, cities, and special use districts (water authorities, for example), and because many metropolitan areas lie in more than a single state.

Even though land use is controlled largely by local government, several federal policies and programs have had a tremendous impact on sprawl and loss of open

¹³ In Dillon's rule states, the state gives municipalities only those powers and duties expressly detailed in their enabling legislation (a limited authority approach). In Home Rule states, the prevailing form in most states, the municipality has authority over all decisions not otherwise explicitly reserved by the state.

¹⁴ Jerold S. Kayden, *National Land-Use Planning in America: Something Whose Time Has Never Come*. Washington University in St. Louis. Online. Available from the university's web site: <http://law.wustl.edu/Journal/3/pg445to472.pdf>. Accessed: March 20, 2002.

¹⁵ Rutherford Platt. *Land Use and Society: Geography, Law, and Public Policy*. Island Press, Washington, D.C. p. 233-238.

space. In a 1999 survey conducted by the Fannie Mae Foundation,¹⁶ urban experts were asked to rank the top ten influences on the American city over the past 50 years. The 1956 National Defense Highway Act and the Federal Housing Administration's (FHA) mortgage financing program were cited as the two top-ranking influences.

These programs offer federal incentives that substantially influenced development patterns in U.S. cities for decades. For example, under the Interstate Highway Act, federal gas tax revenue funds a very large portion of the total investment in new highway construction. By contrast, local governments are expected to assume a much higher percentage of investments in mass transit, which allows cities to grow in a more condensed area.¹⁷ Another example of the indirect effects of federal programs on growth are the FHA-insured mortgages which date from the 1930s. These mortgages have encouraged new housing on the suburban fringe as some lenders refused to insure mortgages on older houses in most urban neighborhoods, thereby reinforcing residential development outside urban boundaries, especially after World War II.¹⁸

On the other hand, some federal policies were purposefully created to assist in growth management and open space preservation. The U.S. Department of Housing and Urban Development has contributed roughly \$12 billion to urban planning, water and sewer facilities, open space acquisition, and public transit since it was created in 1965.¹⁹ Its creation elevated housing and planning considerations to the cabinet level for the first time.²⁰ The 1968 Douglas Commission appointed by President Johnson considered sprawl and possible solutions, including urban growth boundaries. In the late 1960s and early 1970s, Congress considered, but did not enact national land use legislation which would have provided federal aid to states devising statewide land use plans and creating procedures to protect environmentally sensitive lands.²¹ It did pass coastal zone management legislation in 1972, which was characterized as federal land use legislation applied to areas which were especially threatened by environmental degradation and rapid development at that time. Some congressional supporters of coastal zone management legislation stated that they would return to consider national land use legislation at a later date, but the early 1970s turned out

¹⁶ Fannie Mae Foundation, *American Metropolis at Century's End: Past and Future Influences*. Online. Available: <http://www.fanniemaefoundation.org/programs/metropolis1/index.html>. Accessed: March 31, 2002.

¹⁷ Ibid.

¹⁸ Rutgers, Brookings, Parsons Brinckerhoff, ECONorthwest, *The Costs of Sprawl-Revisited*, p. 52-53.

¹⁹ NGA Center for Best Practices, *Growth Tool Kit: Recognize the Historical Roots of Growth Management*. Online. Available: http://www.nga.org/center/divisions/1,1188,C_ISSUE_BRIEF%5ED_2469,00.html. Accessed: March 15, 2002.

²⁰ Robert W. Burchell, David Listokin, and Catherine C. Galley, "Smart Growth: More Than a Ghost of Urban Policy Past, Less Than a Bold New Horizon," *Housing Policy Debate*, vol. 11, issue 4 (2000), p. 832. Online. Available from the Fannie Mae web site at: http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1104_burchell.pdf. Accessed: March 5, 2002.

²¹ Ibid.

to be the “high water mark” for national land use legislation. Numerous other laws focusing on the environmental sensitivity of lands and resources were enacted, especially in the late 1960s and early 1970s. However, these laws were not principally concerned with national growth management policy, and most focused on a single environmental issue, such as water quality or endangered species.²² These laws do not mandate land use planning at the state or local level, nor do they balance land preservation with any goals of growth management such as economic development, social equity, infrastructure capacity, or quality of life. Still, these laws establish a national concern for the effects of land use and have been paralleled by enactments at the local and state levels.

The Clinton Administration supported major initiatives to promote “smart growth” at the federal level. The Livability Agenda, initiated in January 1999, aimed to provide local governments with more tools and financial resources to pursue open space and regional smart growth strategies. The Lands Legacy Initiative, first proposed in FY2000, sought to expand funding to programs associated with land acquisition and natural resource protection, but would not have amended the programs themselves.²³

The Bush Administration has not aggressively pursued either initiative, but has begun a growth management campaign concentrated in brownfield redevelopment.²⁴ In January 2002, President Bush signed into law the Small Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118), which provides liability protection for prospective purchasers, contiguous property owners, and innocent landowners for the cleanup of brownfields. This protection is intended to attract private developers who can develop these sites, often as infill projects within urban areas. The bill also authorizes increased funding for state and local programs that assess and clean up brownfields.²⁵

Numerous bills were introduced in the 107th Congress to promote growth management and open space protection. The most widely-discussed proposal, the Conservation and Reinvestment Act (CARA, H.R. 701) would dedicate over \$3 billion annually for natural resource protection through the Land and Water Conservation Fund (LWCF) and other specified resource protection programs.²⁶

States may view these federal and congressional efforts differently. As part of the LBJ School Survey, participants were asked to gauge the effectiveness of federal

²² Kayden, *National Land-Use Planning in America* (online).

²³ Burchell et al., “Smart Growth” (online).

²⁴ Brownfields are abandoned or underused properties that are known or suspected to be contaminated.

²⁵ Environmental Protection Agency, *President Signs Legislation to Clean Environment and Create Jobs*. Online. Available: http://www.epa.gov/epahome/headline_011102.htm. Accessed: March 28, 2002.

²⁶ For more information on Administration activities and current and recent legislative proposals, see CRS Issue Brief IB10015, *Protecting Natural Resources and Managing Growth: Issues in the 107th Congress*.

policy in assisting states with growth management efforts. (See Appendix I for a review of the survey methods and participation numbers, by state.) These answers, which are opinions of the respondents, provide insights into the satisfaction of states with federal policies affecting growth management.

Respondents were asked if they agreed that “Federal policies of the past decade have been effective in preventing or minimizing urban sprawl.” An overwhelming majority of total respondents either disagreed (59%) or strongly disagreed (27%). Responses from two major subgroups into which survey participants can be divided, state government and non-state government representatives, were almost identical, although 30% of the non state government participants strongly disagreed compared to 26% of state government respondents.²⁷ By contrast, only 14% of all respondents agreed that the federal government has been effective in its growth management efforts, but most of these, 12% of the total, strongly agreed. State government respondents were slightly more positive than non-state government respondents in their view of the effectiveness of federal policies, with 14% strongly agreeing that federal policy has proven effective compared to 9% of non-state government respondents.

This pattern of responses shows that many more state officials and others believe these policies have been ineffective. However, the survey did not seek further explanations for why they reached their conclusion about the effectiveness of federal policies. A further examination of the effectiveness topic might begin with a dialogue between those few states where respondents believe that federal policies have been effective and the federal government. This dialogue could provide insight into how different implementation methods might affect the performance of federally initiated policies that influence growth management.

The next question asked respondents to broadly evaluate how changes in federal growth management policy would affect urban growth in their state. Respondents were asked: “If there were no changes in federal policy, would sprawl in their state get better, worse or stay the same?” About two thirds of the respondents, or 65%, felt that urban sprawl would get worse; however 76% of non-state government respondents felt sprawl would get worse with no changes, while only 60% of state government respondents answered this way. These respondents may have felt that the federal government has a beneficial role to play in the implementation of federal policies, and without innovation, conditions in their states would deteriorate. Possible explanations for a higher percentage of negative responses from non-state government respondents are that: (1) many of them are more likely to monitor the activities of the federal government and national policy debates that affect their concerns; and (2) because they are outside state government, some of them are likely to forcefully promote and seek publicity for their views.

²⁷ Non-government respondents included experts affiliated with professional organizations, academics, and non-profit organizations. In each state, the LBJ School Survey contacted the state director of the American Planning Association to initially identify the appropriate experts. To the degree that these respondents belong to groups that advocate planning, they may not represent the full range of views. Some additional individuals who were suggested during initial contacts with state government and non-state government representatives were contacted as well.

Roughly one-third of total respondents felt that sprawl would stay the same without changes in federal policy, although this includes only 24% of the non-state government respondents. This response could indicate a perceived lack of involvement and influence that the current federal policy has on sprawl and growth management. Some state government respondents might view sprawl as a state issue and therefore federal policies are either unwanted or of limited importance, while more non-state government respondents may identify strong associations between federal policies and state actions.

Only 3% of respondents felt that no change in federal policy would make growth management more effective in their state. From this response, one might conclude that these few individuals are not pleased with the federal government's role and would rather have growth management policies left to the state or localities. This response may reflect a view that federal policy has detrimental effects on a state's urban growth, and attempts to curb that growth. Interestingly, not a single non-state government respondent chose this answer; however, there was insufficient time to seek out an explanation.

Federal Programs and Land Use Patterns

The majority of federal policies that were believed to impact state growth management efforts in the LBJ School survey were in the areas of transportation, housing, environment, and agriculture; each is briefly introduced below. The impact of federal policies in each of these four areas on land use is substantial. Survey respondents both complimented and criticized federal efforts of the past and present in land use management. They expressed mixed feelings toward the federal role in the future of growth management.

Transportation. Federal transportation policies assert a powerful force on state and local planning efforts. Transportation systems are also sometimes viewed as contributing to unmanaged growth patterns. For example, the sprawling development patterns found in many metropolitan areas would have been virtually impossible without the automobile and modern highway systems. Thus, transportation infrastructure is considered a decisive factor in growth management and open space preservation issues. State and local policymakers recognize this key role, and increasingly look to transportation policy as part of the solution. Recent increases in funding for mass transit systems demonstrate congressional recognition of the evolving relationship between federal transportation policies and local and metropolitan development patterns.

Congress authorized the interstate highway system in 1956, in recognition of the value of the German autobahn system to the enemy during World War II and the need for mobility to the post-war economy and if another war erupted. This authorization led to the construction of 41,000 miles of highways.²⁸ Recent iterations of national transportation policy, starting with the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991 (P.L. 102-240), initiated a new phase of transportation policy

²⁸ Percival, Miller, Schroeder, and Leape, *Environmental Regulation: Law, Science and Policy* (New York: Aspen Law and Business, 2000), p. 761.

making. ISTEA marked momentous changes in federal policy by its incorporation of additional environmental considerations into transportation policy. The following funding provisions illustrate this point:

- ! States spent \$1 billion of an annual \$20 billion grant of federal highway funds on air pollution control projects;
- ! Spending on mass transit almost doubled, from just over \$3 billion in 1990 to close to \$6 billion in 1999; and
- ! Spending on bicycle and pedestrian projects grew from just over \$7 million in 1990 to more than \$222 million by 1999.²⁹

Another change gave much greater authority to Metropolitan Planning Organizations (MPOs) in determining how and when federal transportation dollars would be expended. Prior to ISTEA, MPOs were said to generate so-called “wish lists” and state Departments of Transportation (DOTs) made the final decisions in the allocation of federal funding. ISTEA required that the federal government certify transportation planning in metropolitan areas with populations of greater than 200,000. The certification process provided an assessment of how effectively each MPO worked with other transportation organizations, local governments, citizens, and state DOTs to reach certain planning requirements.³⁰

The most recent iteration of these policies, enacted in 1998 in the Transportation Equity Act for the 21st Century (TEA-21), sought even greater authority and flexibility for regional planning bodies in transportation planning. TEA-21 includes a new \$120 million program known as the Transportation and Community and System Preservation Pilot Program. “Designed to explore innovative ways to integrate transportation and land use decisions to fight urban sprawl,” this program is one specific instance where the federal government offers assistance to manage growth. Furthermore, the MPO certification process was amended to require public involvement. It also requires the federal government to renew the certification of MPOs every two years in order to maintain full eligibility for federal funding, thereby increasing the number of opportunities for public involvement.

A number of the survey respondents indicated that ISTEA and TEA-21 increased support for efficient land use planning. Yet, despite these changes and the resulting optimism among many of those officials, a majority of respondents stated that federal government transportation policies are incompatible with growth management efforts. A majority also identified any highway funding that displaces spending for mass transit systems as a major cause of urban sprawl. A majority of the survey respondents identified federal funding for the development of new roads, which often improves access to more land for development, as a major impediment to effective planning. State and local policymakers participating in the survey advocated a combination of maintaining existing roads and more funding for mass

²⁹ Barbara McCann and Stephanie Vance, *Ten Years of Progress*. Surface Transportation Policy Project (2001) Online. Available: www.transact.org. Accessed: March 5, 2002.

³⁰ Bruce D. McDowell, *Improving Regional Transportation Decisions: MPOs and Certification*. The Brookings Institute (September 1999). Online. Available: <http://www.brook.edu/urban/mcdowelllexsum.htm>. Accessed: March 10, 2002.

transit or multimodal transportation systems. Many argue that the actual costs of building and maintaining highways are greater than the amounts paid by motorists through various taxes and fees. Respondents who felt this way expressed support for an increased gas tax as a mechanism for paying the actual costs of commutes.

The recent shift in transportation policy by the federal government may be the reason for increased optimism on the part of state and local officials. While a number of state and local officials surveyed continue to view federal transportation policy as a hindrance to effective growth management efforts, a notable number acknowledge the progress originating with ISTEA and TEA-21. This conflicting sentiment is one measure of how relationships between state and local planning officials and the federal government concerning transportation policies continue to evolve.

Housing. Housing policies are important to development patterns because residents take multiple trips daily between their homes and jobs, shopping, schools and other destinations. If their residence is a long distance from their destinations, they are more likely to be adding to problems associated with growth. If the residence is in a new development, it may also be contributing to loss of open space.

Homeownership is a very important goal for most Americans. In a 1992 survey, Americans surveyed favored owning a home by a margin of three to one, choosing homeownership over retiring from their job 10 years earlier or taking a better job in a place where they would only be able to rent.³¹ Federal policies to support homeownership emerged in the 1930s. Today, the policy to deduct interest payments on home mortgage loans is one of the country's largest tax subsidies. In this setting, it should be no surprise that the homeownership rate in the U.S. is 66.2%, according to the 2000 U.S. Census.³²

Many positive aspects of federal housing policies contribute to making new homes easier to purchase. While this helps first time home buyers and veterans, the preference for new housing over the restoration of existing housing has the potential to encourage development further away from downtowns, where the land is less expensive and infrastructure must be installed to meet the needs of the incoming residents, while existing homes are allowed to deteriorate. When adequate public transit is not available, which is more likely with new development, longer and more frequent trips by auto can cause traffic congestion, air pollution, and other problems.

Survey respondents consistently indicated that federal housing policy greatly influences land use patterns and growth management. Most responses that listed the federal government as a hindrance to growth management policy indicated that FHA and VA loans for single-family housing, and the federal income tax mortgage deduction favor homeownership over multifamily and rental housing, and encourage housing patterns that convert more land per housing unit. Federal policy that

³¹ Michael A. Stegman, Johanna Brownstein, and Kenneth Temkin, "Home Ownership and Family Wealth in the United States," in *Housing and Family Wealth: Comparative International Perspectives*, ed. Ray Forrest and Alan Murie (London: Routledge, 1995).

³² U.S. Census Bureau, *People Quick Facts*. Online. Available: <http://quickfacts.census.gov/qfd/states/00000.html>. Accessed: March 25, 2002.

encourages new homes over rental units or the rehabilitation of existing housing was also listed as a problem. One recommendation from many respondents is to enact the proposed Historic Homeownership Assistance Act (H.R. 1172). This act would create a 20% federal income tax credit to homeowners who rehabilitate or buy a qualified historic house, up to a maximum credit of \$40,000. More generally, survey respondents identified legislation that would connect home ownership programs with growth management issues as one solution to some of these problems.

Environment. Federal environmental policies and programs have affected growth management activities in states, especially since the late 1960s, when the federal government became more actively involved in protecting the environment. An example of the thinking at that time is a comment by Russell Train, the chairman of the Council on Environmental Quality in the Nixon Administration. Commenting on that Administration's proposal for federal land use policies, he stated that "land use is the single most important element affecting the quality of our environment which remains substantially un-addressed as a matter of national policy."³³ Subsequently, while Congress enacted laws to regulate aspects of environmental quality, it has generally left land use or land quality regulation to the states.

Examples of environmental legislation enacted or amended in the late 1960s and 1970s included the Clean Air and Clean Water Acts, the Coastal Zone Management Act (CZMA), the Endangered Species Act, the National Environmental Policy Act (NEPA), and the Federal Land Policy Management Act. The CZMA is the closest to national land use legislation affecting private land, as envisioned by many national leaders in the early 1970s. It provides modest grants to coastal states, including the Great Lakes states, to encourage them to develop and implement coastal management plans and programs that improve the protection of sensitive shoreline resources, to identify coastal areas appropriate for development, to designate areas hazardous to development, and to improve public access to the coastline.³⁴ Another incentive for state participation is a requirement that all federal actions in or affecting coastal zones managed under a federally-approved plan must be consistent with that plan. In contrast with all the other environmental laws that protect specific places or resources, including those listed above, the National Environmental Policy Act of 1970 establishes a process to consider the environmental ramifications of proposed federal actions by requiring all federal agencies to prepare environmental impact analyses before they initiate actions that will have significant environmental effects.

In the 1990s, the federal government became interested in addressing growth management issues, in part as they relate to resource protection and other environmentally sensitive issues. Congress amended the Clean Air Act to strengthen the link between transportation policy and air quality, requiring the integration of Clean Air Act standards into transportation planning. The Clinton Administration first proposed the Lands Legacy Initiative with the FY2000 budget submission to substantially increase funding to about two dozen resource protection programs. Congress has generally supported funding increases, especially in the brief time

³³ Percivel et al., *Environmental Regulation*, p. 767.

³⁴ Funding totals less than \$100 million each year, which is divided among the 34 states and territories who administer federally-approved plans.

period when the projected budget surplus was projected to grow. Proposals for higher funding have continued under the Bush Administration, and are now known as the Conservation Spending Category. However, as the projected surplus has been replaced by a projected deficit, these increases may lose some support.³⁵ These efforts, while only indirectly connected with managing growth, have provided some additional incentives to states who choose to pursue growth management principles. Following the lead of federal initiatives, states have also employed brownfield redevelopment policies to manage growth and preserve open space.

The active federal role in regulating certain activities to protect the environment and providing more funding for some of these activities in recent years has increased sensitivity to federal interests that can affect growth management initiatives at the state and local levels. This study inquired about the effectiveness and impacts of federal environmental legislation at the state level. Only 14% of the respondents claimed that federal environmental policies, or lack thereof, were impeding state efforts to manage sprawl. Among the identified impediments were federal regulation of wetlands, coastal areas, and waterways.

Agriculture. Farmland in or near suburbs is affected by urban growth and by federal policies. Farmland lost to urban sprawl has been measured at one million acres a year.³⁶ In economic terms, the highest price for farmland will be paid to convert it to non-agricultural uses in or near urban areas. This economic value can be at odds with the amenity and food production values attributed to farmland by protection advocates, especially in some suburban areas.

Urban sprawl encroaches upon farmland by inflating property values, thereby making it extremely attractive for farmers to sell their land when developers make large offers. Urban sprawl also encroaches on farmland when developments expand near farms. Homeowners near farms may object to normal farming practices, including the use of noisy machinery outside “normal” working hours and spreading manure. These incompatibilities can lead to nuisance lawsuits; many states protect farmers from these actions with right-to-farm laws.

Federal policies affect agricultural land use and conversions. Many policies indirectly encourage these lands to be converted to other uses, while few directly protect them. In one of these, the Farmland Protection Program (FPP), the Department of Agriculture works with state or local governments to purchase conservation easements. Participation by farmers, as with all conservation programs created in recent farm bills, is voluntary. The 2002 Farm Bill authorizes \$50 million in FY2002, rising to a maximum of \$125 million in FY2004 for this purpose. It continues to require pending offers (so that funds will be used only where an interest in buying an easement has been expressed), and expands the eligible land to also include rangeland, grassland, pastureland, incidental forest land, and historic and

³⁵ Jeff Zinn, “Managing Growth and Related Issues in the 107th Congress,” CRS Issue Brief [out of print; available only through author], Congressional Research Service (Washington, D.C.: The Library of Congress, 2001), pp. 6-8.

³⁶ USDA Natural Resources Conservation Service. *Summary Report: 1997 National Resources Inventory*. (Washington, December, 2000), 89p.

archeological sites. It also expands eligible participants to include Indian tribes and non-profit organizations that meet certain qualifications.

Agriculture traditionally has been exempted from most environmental legislation, such as many provisions of the Clean Water and Clean Air Acts. However, non-point water pollution and confined animal feeding operations as concentrated sources of pollutants are receiving more attention, largely as a result of litigation. Agricultural sources are considered by many states to be the leading causes of water pollution. Pending regulatory decisions by the Environmental Protection Agency may encourage USDA to refocus many agriculture conservation programs to addressing water pollution.³⁷ Due to the difficult nature of tracking non-point pollution back to its source, the federal government has struggled for years to find a workable solution, using provisions of the Clean Water Act to regulate places where the most severe problems are found.³⁸

State Policies and Priorities: Overview and Comparison

State governments have become more central in addressing open space topics. Many of them have expanded planning efforts since the late 1960s in response to issues related to growth management and open space preservation. Some perceptions of state officials regarding these policies were discussed above. While the effects of federal policies can be far-reaching, the primary policy tools for land use planning are found at the state and local level.

State government-led efforts in this field were quite limited until the 1960s, when some states started to find unacceptable the consequences of uncoordinated local land use policies. Some states began to implement policies to encourage localities to consider the effects of their land use decisions on the surrounding region and the state as a whole. A common perception of this early state level planning was that only densely populated states were active in creating land management policies. For example, California began adopting new land use policy in the late sixties and early seventies,³⁹ long before the issue was even considered in many of the less populated states. The survey responses indicate that most states have become active, if not aggressive, in the 1990s in pursuing growth management policies.

State involvement in growth management has been described as occurring in waves.⁴⁰ The first wave is characterized by a concern for environmental protection and agricultural land preservation. The second wave builds upon environmental concerns and expands the focus to broader land use management policies. During

³⁷ For a general background on these issues, see CRS Report RL30437, *Water Quality Initiatives and Agriculture*.

³⁸ The location of water quality problems are identified in a state-by-state survey compiled by EPA biennially in the *National Water Quality Inventory*, most recently released for 2000.

³⁹ Stephanie Pincetl, *Transforming California: A Political History of Land Use and Development* (Baltimore: The John Hopkins University Press, 1999), p. XV.

⁴⁰ Richard Haeuber, "Sprawl Tales: Maryland's Smart Growth Initiative and the Evolution of Growth Management," *Urban Ecosystems*, vol. 3 (1999), pp. 132-3.

the late 1980s, states continued to develop policies to facilitate coordinated land use planning. Growth management and open space preservation issues gained national prominence due largely to widespread publicity of both the negative effects of unplanned urban growth on the environment and how sprawl can reduce the standard of living in many urban areas. Increased awareness about these negative trends and consensus-building on ways to promote more sustainable development patterns leads to another round of changes in state planning policies. This third wave places greater emphasis on comprehensive planning, either voluntary or mandated, at the local level. Topics identified as essential considerations for a well-developed plan include affordable housing, infrastructure, natural resource protection, urban revitalization, and interagency and intergovernmental coordination.⁴¹ The state's role in growth management programs becomes primarily one of providing effective incentives and disincentives to support local and regional entities with plan development and implementation. The incentives and disincentives may include judicial review and regulatory sanctions as well as technical and financial assistance.⁴²

The most recent policy trend in many states, comprehensive planning at the state level, has emerged more strongly since the late 1980s. Integrated statewide planning encourages localities to consider issues beyond their boundaries and to coordinate their plans with other government units. States can be distinguished by specific features of their comprehensive planning policies, such as whether the plans are mandated or voluntary, whether incentives and disincentives are included, and the degree of regulatory authority granted to local planning entities.⁴³ Many state-level policies originate in the Governor's office. In a review of state Governors' state-of-the-state addresses in 2000, reference to the importance of Smart Growth initiatives, open space preservation or urban revitalization was made by 32 Governors.⁴⁴

The Focus of State Policies. The broad increase in concern for growth management and loss of open space issues has not resulted in uniform policy responses across the states. The survey identified two distinct, but closely-related dimensions of land use: one connected to cities and urban sprawl, and the second to nonurban or urban-fringe issues such as the loss of open space. The survey asked about the relative importance of these dimensions. Results, in table 1, show that 47% of the respondents believe that their state places equal weight on both issues. However, many responded that their states focus principally on open space (36%) and a smaller number indicated a focus on urban sprawl (15%). These results reflect a range of priorities among states, likely to be explained by individual circumstances, including geography, urbanization patterns, and economic and political structure.

⁴¹ Scott A. Bollens, "State Growth Management: Intergovernmental Frameworks and Policy Objectives," *Journal of the American Planning Association*, vol. 58, no. 4 (Autumn 1992), p. 2.

⁴² Dennis E. Gale, "Eight State-sponsored Growth Management Programs: A Comparative Analysis," *Journal of the American Planning Association*, vol. 58, no. 4 (Autumn 1992), p. 6.

⁴³ Bollens, "State Growth Management," p. 4.

⁴⁴ Miller, Schroeder, and Leape. *Environmental Regulation: Law, Science and Policy*, 3rd ed. (New York: Aspen Law and Business, 2000), p. 770.

State officials saw the focus of state efforts differently than did non-state government officials. A majority of the state officials, 53%, perceived policy in their states as focusing equally on the two areas, while only 33% of the non-state respondents had the same view. A higher portion of both subgroups perceived states' efforts to be focused on preserving open space than on managing growth. The ratio between these two options was similar for both subgroups.

Table 1: State Policy Focus (in %)

	Total	State Government Officials (n=81)	Non-State Government Officials (n=30)
Managing Growth of Cities	15	12	19
Preserving Open Spaces	36	32	44
Equal Focus	47	53	33
No Policies	3	2	3

Source: Lyndon B. Johnson School of Public Affairs. A National Survey, Fall 2001-Spring 2002.

A large portion of all respondents thought all the issues except loss of resource lands, defined as lands that contain resources of economic value, to be “very serious,” as shown in table 2. A larger portion of state officials deemed loss of sensitive and of agricultural lands to be very serious than did non-state officials, while the reverse was true for the categories of urban sprawl, zoning practices, and inadequate infrastructure. The issues of highest concern to state representatives were urban sprawl followed closely by zoning practices. These responses suggest the view that traditional or available growth management tools may not be effective in handling the challenges of development and loss of open space. Overall, the results clearly indicate that growth management and open space preservation are high concerns for those surveyed both within and outside state government. The loss of resource land issue is apparently of less concern, perhaps because these lands may be more fully valued in the market and thus less threatened by urban development.

Table 2: Seriousness of Growth Management Issues (in %)

	Very Serious		Moderately Serious		Not Serious	
	State Govern. (n=86)	Non-State Govern. (n=36)	State Govern. (n=86)	Non-State Govern. (n=36)	State Govern. (n=86)	Non-State Govern. (n=36)
Urban Sprawl	50	53	37	44	13	3
Loss of Resource Lands	20	17	47	58	34	25
Loss of Sensitive Lands	45	33	48	61	7	6
Loss of Agricultural Lands	43	36	43	47	14	17
Zoning Practices	47	61	36	33	17	6
Inadequate Infrastructure	41	72	49	28	10	0

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

The survey asked respondents to rate the effectiveness of state policies. Despite the seriousness of growth management issues in states, most state officials and an even higher share of non-state government respondents considered growth management policies to be ineffective, as shown in table 3. Perceptions about the effectiveness of open space preservation policies were somewhat more positive. Although growth management is increasingly seen as an important statewide issue, in many states policies reportedly have not been developed or are not being enforced to meet the challenges that these respondents perceive.

Table 3: Effectiveness of State Policies (in %)

	Growth Management		Open Space Preservation	
	State Government (n=85)	Non-State Government (n=36)	State Government (n=85)	Non-State Government (n=36)
Very Effective	7	3	13	8
Moderately Effective	34	25	46	44
Not Effective	59	72	41	47

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

Issues Addressed by State Programs. Since no common set of categories for describing growth management and open space preservation initiatives exists, the research team developed categories and definitions to provide an analytical structure for classifying specific policy issues (see Appendix II). Each of the 354 state policies that were identified was categorized based on the issues addressed. Many of these policies address more than one issue. For example, a smart growth policy may well include the potentially-related topics of infrastructure management, land use management, and agricultural land preservation. The frequency with which states address each issue in the identified policies are provided in table 4. For example, Alabama has 3 policies; 2 of those address natural resource protection, 1 addresses land use management, and 1 addresses hazardous places.

The frequency with which an issue is addressed could be interpreted, with caution, as a proxy measure of its importance in policy making since 1990. States with similar physical and cultural characteristics, and land use history, may well share similar priorities on specific issues. For instance, states with a lengthy coastline would be expected to place a high priority on addressing coastal conservation issues, or states where larger portions of the remaining agricultural lands are threatened with conversion are more likely to address this topic.

The two issues most frequently addressed by state government are natural resource protection (19.7%) and land use management (18.5%); there is a large drop to the next most important issue, agricultural land (13.5%). The high number of state policies addressing natural resource protection issues may reflect a strong connection between growth management and open space preservation initiatives and environmental concerns. Some of the issues that are considered a part of natural resource protection, such as wetlands protection or wildlife restoration, have been addressed by many states for decades, where there is a long history of interest and program development.

Table 4: Policy Issues, by State

	Natural Resource Protection	Land Use Management	Agricultural Land	Urban Redevelopment	Cultural/Historical Preservation	Infrastructure Management	Coastal Conservation	Hazardous Places	Number of State Policies
Frequency (in %)	19.7	18.5	13.5	11.4	11.2	9.6	8.5	7.2	N/A
Alabama	2	1	0	0	0	0	0	1	3
Alaska	1	1	0	0	0	0	1	0	1
Arizona	4	2	3	2	3	2	0	2	4
Arkansas	0	0	0	1	0	0	0	1	1
California	11	2	6	8	4	2	6	1	19
Colorado	5	7	4	5	5	4	0	3	13
Connecticut	5	4	0	3	1	2	2	3	7
Delaware	8	10	8	3	3	6	3	2	17
Florida	5	4	4	5	6	6	11	5	15
Georgia	6	4	1	1	1	2	3	0	8
Hawaii	2	4	3	0	1	0	3	2	9
Idaho	4	4	0	0	1	1	0	0	4
Illinois	1	0	2	0	0	0	0	0	10
Indiana	4	7	5	4	1	2	1	1	11
Iowa	1	0	1	0	0	0	0	0	1
Kansas	1	0	2	1	0	0	0	0	4
Kentucky	5	1	5	1	2	1	0	1	7
Louisiana	0	0	0	0	0	0	0	0	0
Maine	0	5	0	2	1	3	0	1	10
Maryland	8	5	6	13	11	5	4	2	18
Massachusetts	6	7	1	3	2	3	0	0	8
Michigan	3	7	3	6	4	2	2	7	15
Minnesota	3	4	2	2	3	1	0	0	6
Mississippi	2	2	0	0	0	1	4	0	4
Missouri	1	0	1	2	1	0	0	1	5
Montana	0	1	1	0	0	3	0	1	5
Nebraska	3	0	0	0	0	0	0	0	3
Nevada	3	3	0	0	2	1	0	2	2
New Hampshire	5	5	2	0	4	0	2	0	3
New Jersey	9	9	10	7	8	5	9	5	15
New Mexico	2	2	1	0	1	1	0	0	4
New York	4	5	7	3	3	2	3	2	16
North Carolina	4	5	3	2	3	2	4	3	6
North Dakota	0	0	0	0	0	0	0	0	0
Ohio	1	0	4	1	1	0	0	1	5
Oklahoma	0	0	0	0	0	0	0	0	0
Oregon	7	6	4	6	3	8	3	2	12
Pennsylvania	5	3	7	4	4	2	2	2	10
Rhode Island	3	4	1	2	4	0	0	1	9

	Natural Resource Protection	Land Use Management	Agricultural Land	Urban Redevelopment	Cultural/Historical Preservation	Infrastructure Management	Coastal Conservation	Hazardous Places	Number of State Policies
South Carolina	2	2	1	0	1	0	2	1	6
South Dakota	0	0	0	0	0	0	0	0	5
Tennessee	2	1	1	0	0	0	0	0	5
Texas	0	4	0	0	0	0	0	0	4
Utah	3	4	3	2	1	2	0	3	6
Vermont	1	1	1	2	1	1	0	0	7
Virginia	2	2	1	0	0	0	1	0	6
Washington	3	3	3	0	2	3	3	1	3
West Virginia	1	1	0	0	0	0	0	0	2
Wisconsin	11	7	3	2	3	5	0	1	20
Wyoming	1	1	0	0	0	0	0	1	1
TOTALS	160	150	110	93	91	78	69	59	354

Source: Lyndon B. Johnson School of Public Affairs. A National Survey, Fall 2001-Spring 2002.

Land use management, the second most frequently addressed issue, captures the overall concern of state policymakers over the effectiveness of existing land use patterns. State policymakers appear most interested in initiatives that promote efficient growth and minimize negative externalities. A review of the policies shows that they have addressed this need in diverse ways.

There are a number of possible explanations for the relatively low frequency of certain policy issues, including hazardous places (7.2%), coastal conservation (8.5%), and infrastructure management (9.6%). Hazardous places is a category in which the federal government, through EPA, takes an active role through the Superfund Program and brownfield redevelopment. Issues receiving less attention in the state level may not necessarily be viewed as less important, but other levels of government, in this case, the federal level, may have a stronger role in addressing them. Coastal conservation initiatives are found only in those states that contain an eligible shoreline.⁴⁵ Furthermore, many coastal conservation programs were excluded because they were created before the 1990s and have not been significantly changed. Infrastructure management is an example of an issue that exemplifies the intergovernmental nature of land use. Many infrastructure programs receive substantial federal and local government funding or are funded through dedicated sources rather than general revenues, and are therefore not a priority for state initiatives. For instance, water and sewer lines are usually funded by local governments.

Approaches Employed to Address Policy Issues. This study created a set of categories and definitions for the various approaches used in state programs to manage growth and protect open space (see Appendix II for definitions). Table 5 shows the frequency of each state approach for the 354 identified state policies.

⁴⁵ 30 states are eligible to participate in the federal Coastal Zone Management Program.

The categories for planning techniques recognize the three distinct approaches. A distinction between mandated local planning and authorized local planning is based on whether local planning is voluntary or not in the state program. Coordinated state agency planning indicates participation across state agencies.

The three approaches most commonly used are information provision/technical support, market incentives/disincentives, and grants/funds. The more frequent use of these three approaches, in contrast with the less frequent use of mandated local planning, may suggest that states prefer to use inducements rather than mandating action or compliance. It is possible that more aggressive approaches to many of these issues would have political consequences, especially from adversely affected constituencies. The popularity of these primarily “hands off” approaches may also be explained by the relative autonomy they bestow on local governments in the realm of land use planning. Furthermore, these kinds of approaches may become even more attractive as fiscal constraints faced by many state governments start to limit funding for growth management and open space preservation initiatives.

Table 5: Policy Approaches, by State

	Information Provision/Technical Support	Market Incentives/Disincentives	Grants/Funds	Land Acquisition	Coordinated State Agency Planning	Land Use Regulation	Authorized Local Planning	Mandated Local Planning	Infrastructure and Facilities Provision	Number of State Policies
FREQUENCY (In %)	16.7	15	15.0	11	11	10	8	6	6.0	N/A
Alabama	1	0	0	1	0	0	0	0	0	3
Alaska	0	0	0	0	1	0	0	0	0	1
Arizona	2	2	3	4	0	2	1	1	2	4
Arkansas	1	1	0	0	0	0	0	0	0	1
California	5	10	11	8	3	3	0	3	1	19
Colorado	5	4	1	1	0	0	1	2	1	13
Connecticut	2	2	3	1	1	2	1	0	1	7
Delaware	6	6	0	3	4	3	0	4	0	17
Florida	7	3	5	3	0	1	0	2	2	15
Georgia	1	1	1	1	1	4	1	0	2	8
Hawaii	0	1	0	0	5	0	0	0	0	9
Idaho	0	2	2	1	0	0	0	0	0	4
Illinois	0	0	0	1	1	1	1	0	0	10
Indiana	4	2	1	1	0	2	3	0	0	11
Iowa	1	0	0	0	0	0	0	0	0	1
Kansas	0	1	1	1	0	2	0	0	0	4
Kentucky	1	0	2	2	0	1	2	0	0	7
Louisiana	0	0	0	0	0	0	0	0	0	0
Maine	1	0	7	0	2	0	0	0	1	10
Maryland	7	11	3	5	5	1	3	1	2	18
Massachusetts	2	1	0	0	1	1	0	4	0	8

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	Information Provision/ Technical Support	Market Incentives/ Disincentives	Grants/ Funds	Land Acquisition	Coordinated State Agency Planning	Land Use Regulation	Authorized Local Planning	Mandated Local Planning	Infrastructure and Facilities Provision	Number of State Policies
FREQUENCY (In %)	16.7	15	15.0	11	11	10	8	6	6.0	N/A
Michigan	7	9	6	2	2	8	4	0	1	15
Minnesota	1	1	0	0	1	1	1	1	1	6
Mississippi	1	0	1	2	0	0	0	0	0	4
Missouri	1	3	0	1	0	0	0	0	0	5
Montana	0	0	0	1	0	1	0	2	1	5
Nebraska	0	0	1	2	0	0	0	0	0	3
Nevada	1	1	1	1	0	2	2	0	1	2
New Hampshire	1	0	1	1	3	0	0	0	3	3
New Jersey	5	6	5	4	12	4	13	7	5	15
New Mexico	0	3	0	0	0	2	0	1	0	4
New York	4	4	8	1	1	1	2	1	0	16
North Carolina	3	0	3	3	0	1	0	0	1	6
North Dakota	0	0	0	0	0	0	0	0	0	0
Ohio	1	1	2	1	1	0	0	0	0	5
Oklahoma	0	0	0	0	0	0	0	0	0	0
Oregon	8	1	4	1	8	6	2	6	7	12
Pennsylvania	5	0	4	1	2	3	2	0	0	10
Rhode Island	1	3	2	1	3	0	1	1	0	9
South Carolina	0	3	0	2	1	0	2	0	1	6
South Dakota	0	0	0	0	0	0	0	0	0	0
Tennessee	2	2	0	1	0	0	1	1	0	5
Texas	0	1	0	0	0	1	2	0	0	4
Utah	2	0	1	2	1	4	2	0	1	6
Vermont	0	2	2	1	1	0	1	0	0	7
Virginia	1	0	2	1	2	1	1	1	0	6
Washington	1	3	0	1	3	1	0	1	2	3
West Virginia	0	1	0	1	0	0	0	0	1	2
Wisconsin	11	2	9	6	1	5	1	0	0	20
Wyoming	1	0	0	0	1	0	0	0	0	1
TOTALS	103	93	92	70	67	64	50	39	37	354

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

The categorization of programs by issue and approach can be used to examine the extent to which state initiatives are either targeted or broader. A broader effort to managing growth or protecting open space can be a single program that addresses multiple issues and uses various approaches or it can be a collage of numerous, more

targeted, programs, each addressing narrower issues. Combining many targeted programs for more comprehensive purposes may be very challenging to administer, and is not inevitably more successful than narrower programs.

Relative comprehensiveness of programs can be approximated by the number of issues they address. The number of issues addressed by the 354 programs varies from 1 to all 8, as shown in table 6. Programs that address a single issue are the most common. The issue(s) that each program addresses are shown in table 7. It indicates that most states have addressed growth management issue by issue. This strategy may be most politically viable. Legislation focused to one issue of high concern may have a greater chance of being enacted and might be less controversial than one that affects many interests. It is also possible that more limited programs are less expensive than comprehensive ones, and budgetary constraints are likely to be important in any states considering legislation addressing these issues in the future.

Table 6: Number of Issues Addressed per State Program

Number of Issues	Frequency
1	108
2	87
3	45
4	30
5	20
6	6
7	7
8	11

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

Table 7: Frequency of One-Issue Templates, by Issue

Policy Issue	Number of programs addressing issue	Number of programs addressing only this issue	Percentage
Land Use Management	150	33	22
Natural Resource Preservation	160	28	17.5
Agricultural Land	110	14	12.7
Urban Redevelopment	93	10	10.8
Infrastructure Management	78	8	10.3
Cultural/Historical Preservation	91	6	6.6
Coastal Conservation	69	5	7.2
Hazardous Places	59	4	6.8

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

Policy Recommendations from Participants. In an open-ended question, the survey solicited recommendations for state governments related to minimizing sprawl and preserving open space. The recommendations for minimizing sprawl are categorized in table 8. Of these respondents, 70 were state government officials and 30 were representatives of other organizations active in states. A higher percentage of non-state government respondents offered recommendations. These respondents all focused on three principal recommendations with roughly equal frequency. States should:

- ! Develop comprehensive plans and Smart Growth policies;
- ! Reform the tax system and fund disbursement practices; and
- ! Create and/or enhance market incentive/disincentive programs.

Table 8: Recommendations to Further Minimize Sprawl (in %)

	Total	State Government n=70 9%	Non-State Government n=30 17%
Establish Mandatory State Comprehensive Plan and Smart Growth Policies	12%	9%	17%
Reform State and Local Tax System and Fund Disbursement Practices	11	9	15
Create/Enhance Market and Financial Incentives/Disincentives for Sprawl	9	9	10
Increase and Coordinate State Funding and Investment Structure for Growth Management	8	8	9
Establish, Empower, and Coordinate Local Land Use, Planning, and Zoning Legislation	8	8	7
Fund and Support Agricultural and Open Space Land Acquisition and Preservation	6	8	4
Encourage Redevelopment of Existing Infrastructure and Brownfields	6	7	4
Educate Policymakers, Planners, Investors, and Public on Smart Growth	6	6	6
Enforce and Strengthen Regulatory Legislation and Programs	5	5	6
Create and Empower Regional Planning Organizations and Partnerships	5	5	4
Establish and Enforce Urban Boundaries/Growth Zones	4	5	2
Reform Local Land Use Policies	4	4	4
Provide Affordable Housing	4	4	2
Fund and Establish Water Conservation Efforts	2	2	2
Establish and Strengthen Purchase and Transfer of Development Rights Laws	2	4	0
Show Gubernatorial/State Leadership	2	2	2
Develop Statewide Transportation Planning	2	2	2
Institute or Enforce Impact Fees	2	2	1
Encourage Economic Diversification	2	2	0
Reform State Trusts for Land	1	0	2

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

These three areas of recommendation reflect the diversity of state approaches and generally support the perceived benefit of multipronged strategies for addressing these topics. In establishing a comprehensive plan, governments would be required to integrate issues, and probably to address them at a multi-jurisdictional scale. The reform of the tax system and adoption of market incentives may be seen as expanding opportunities to involve the private sector, and in this process, creating new or strengthened partnerships between government and nongovernment sectors.

One difference between the governmental and nongovernmental respondents occurred in the strength of preference for the two most frequent recommendations (preferred by a higher portion of nongovernmental respondents). A second difference was that 3 government respondents recommended establishing or strengthening transfer of development rights laws, while no non-state government respondents made this recommendation.

Respondents were asked what recommendations they would make to state governments on means to better preserve open space. Recommendations were offered by 57 respondents from state government agencies and 22 respondents from other entities. The three principal recommendations, of roughly equal importance as shown in table 9, were to:

- ! Fund and support agricultural and open space acquisition and preservation efforts;
- ! Increase and reform tax incentive structure to preserve open/green/agricultural spaces; and
- ! Establish and strengthen purchase and transfer of development rights laws.

In funding and supporting agricultural and open space acquisition and preservation efforts, states act directly. States can also put in place policies that less directly influence actions by altering incentives and disincentives, such as changing a state's tax incentive structure to preserve open/green/agricultural spaces. For example, transfer of development rights laws permit developers to reach their development goals while allowing agricultural landowners to benefit from open space land ownership. Differences between governmental and nongovernmental responses occurred among infrequently mentioned recommendations, with government respondents recommending more gubernatorial/state leadership and improved urban services while nongovernmental respondents favored reforming zoning practices and instituting and/or enforcing impact fees.

Table 9: Recommendations to Better Preserve Open Space
(in %)

	Total	State Government n=57	Non-State Government n=22
Fund and Support Agricultural and Open Space Acquisition and Preservation Efforts	17%	16%	18%
Increase and Reform Tax Incentive Structure to Preserve Open/Green/Agricultural Spaces	13	13	15
Establish and Strengthen Purchase and Transfer of Development Rights Laws	9	8	13
Adopt Smart Growth Legislation for Farmland Protection	6	6	8
Educate Policymakers, Planners, Investors, and Public on Land Preservation	6	8	3
Establish and Enforce Urban Boundaries	6	6	8
Mandate/Strengthen Coordination between State and Local Planning Agencies	6	5	8
Establish a Statewide Greenway System	5	5	5
Reform State Funding	5	7	0
Establish Funding for Conservation Land Trusts	5	5	5
Enforce and Strengthen Regulatory Legislation and Programs	4	5	3
Give Local Governments Additional Planning and Zoning Authority	3	4	3
Establish Legislation for Land Easements	3	4	3
Show Gubernatorial/State Leadership	3	5	0
Reform/Limit Local Zoning Practices	3	2	5
Improve Urban Services (i.e., Urban Schools)	2	3	0
Institute or Enforce Impact Fees	2	1	5

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

Concluding Observations

The survey elicited views on state-level policies from knowledgeable respondents who either work within state government or work on these issues in those states. These views were aggregated to identify the approaches used and the most critical considerations. The mix of key issues and approaches that emerge as priorities as states engage in managing growth and protecting open space varies widely. With varied amounts of experience in growth management and open space preservation, and differing degrees of urgency in addressing these issues, states are positioning themselves along a spectrum of state planning, from emerging leaders to not active. For some states where these issues began to be addressed 30 years ago and more, recent policies are grafted onto many years of interest and well-developed programs and approaches, whereas others started taking their first ambitious steps in the 1990s.

Useful lessons can be gleaned from comparing state activities. Examples of these lessons include the effectiveness of different approaches, the ability to coordinate efforts that recognize the interconnected nature of growth management issues, and the capacity to calculate fiscal impacts of unplanned growth. The amount of expertise states will be able to draw on can be expected to grow as new approaches are tested and implemented in more places. Experience from each state offers some

indication of the policy development challenges and the feasibility of particular approaches, but the context, including different political, geographic, social, and economic characteristics, may make direct transfers to other states difficult. In these experiences, the federal government often plays important roles. However, the federal role is seldom an isolated factor; the research findings show that success requires that multiple governments, linked both vertically and horizontally, work together to resolve pressing problems that transcend political boundaries.

A state-level analysis has yielded insights not only into the statewide policies and their outcomes, but also to the limitations of trying to evaluate planning policies without also examining local and regional approaches to planning. In addition, the setting each state finds itself in is important. The project research shows that the level of involvement in growth management and open space preservation issues is largely determined by these variables:

- ! **Geography:** states with a high proportion of natural resource land or rich agricultural land threatened with conversion to other uses are more likely to preserve remaining land and place a high value on resource land.
- ! **Dramatic population growth:** states that experienced significant population growth and development in their urban centers sought to work cooperatively managing growth to minimize the impact on the peripheral regions and hinterlands.
- ! **Political leadership:** states with gubernatorial support for comprehensive planning approaches or other growth management policies were the most likely to see these policies implemented. Local politics also influenced the extent to which the state would attempt to impose and regulate its planning activities.
- ! **Economic development goals:** many states have recognized the value of both strategic economic growth, and minimizing the negative externalities of development. Encouraging local governments to engage actively in the full spectrum of issues related to the development of their community, to consider the effects of this development on surrounding regions and to coordinate with other units of government has become a goal for many state programs that can have long-term economic benefits.
- ! **Environmental concerns:** states with valuable natural resources are responsible for preserving these assets in coordination with federal and local governments. Many states are also aware of the tourism benefits to their economy in preserving natural resource land.
- ! **Managing fiscal impact:** states implementing growth management and open space preservation programs recognize that trying to accommodate unplanned growth has fiscal costs that may grow. Funding new infrastructure and increasing tax burdens to accommodate development often stresses the tax base and existing resources.

State-level planning occurs primarily because localities and agencies find coordinating efforts or facilitating that process difficult without a framework in place or a regulated process. State policies frequently encourage localities and agencies to

examine the statewide or regionwide impacts of their policies. The state level is positioned to determine the overall planning and preservation goals within its boundaries, and to recommend methods for implementing coordinated solutions to growth issues. It also has the authority to develop and implement approaches that are too large for political subdivisions to address. States use multiple approaches to address planning issues. Some approaches are more effective than others. Ineffective policies reflect several limitations, including:

- ! policies and regulations that are put into place and not followed or diluted to the point of ineffectiveness;
- ! policies and regulations that are not clearly understood; or
- ! policies without penalties.

Policy focus varies across states. Within each state, public officials, agencies, NGOs, and various coalitions may disagree on priorities. Nonetheless, smart growth initiatives, task forces, and commissions on state planning issues frequently stimulate a productive dialogue and encourage units of government at every level to examine the impacts of existing planning policy frameworks. No one agency or layer of government acts in a vacuum to address growth management and open space preservation because they are interrelated with many other public policy issues, including affordable housing, private property rights, public transportation, and historical preservation, for example. State-level planning has emerged in response to the need to coordinate these and to do so in a way that is sustainable and consistent.

Appendix I: Research Methods and Process

The purpose of this study was to create an inventory of state activities directly related to growth management and open space preservation that were enacted, adopted, or undertaken in some other way since 1990, and to be able to make observations about the effectiveness of these policies. State activities were defined to include laws passed by state legislatures (including significant amendments to existing laws), voter initiatives, programs initiated without explicit enabling legislation, and executive orders. The research team settled on broad definitions of growth management and types of state responses when compiling this inventory. The issues and approaches that were identified illustrate the breadth of growth management and open space preservation techniques being used by states.

The research team decided to use a survey to identify the relevant activities in every state. Staff at appropriate state agencies and experts affiliated with nonprofit organizations, academics, and professional organizations were identified as the target population to be invited to participate in the survey. Responses to this survey provided current information and some original material, since survey recipients were asked to offer their personal assessment of state policies. Respondents completing the survey could choose to remain anonymous. This option was offered to encourage the highest level of candor in the responses, and their candor helped separate issues of substantive policies from political ones. Most respondents chose anonymity and this report respects all such requests.

Respondents were asked to rate the seriousness of urban sprawl and the loss of environmentally sensitive land issues in their state. Particular attention was paid to federal policies that help or hinder states' efforts. Detailed information on specific policies adopted or amended by states since 1990 was requested. To facilitate this process, a list of previously identified policies was included in the survey. An initial mailing was made in early November 2001 to 325 individuals employed by states and nonprofits. A second mailing was sent out in early January 2002 to individuals who had not responded as well as to an additional 75 individuals. A total of 128 surveys were returned. The table on the next page summarizes the mailings and response rates, by state.

Following the written survey, a telephone interview was conducted to solicit additional information. During this interview, questions were asked regarding implementation approaches, outside assessments, and individuals' own opinions on the effectiveness of the policies. The interviews often identified additional individuals, who were sent the written survey and often interviewed by phone.

Alternative sources of information complemented the survey and telephone interviews. Many state websites provided up-to-date information on state policies and allowed for review of key agency reports and legislation. Internet searches provided additional information, including inventories of state initiatives and studies of similar subjects. Nonprofit organization websites provided alternative perspectives and legislative reviews. Library materials often were helpful in identifying laws that were not found elsewhere. Searches of other published materials, including law review articles and newspaper archives, were also used.

The study team encountered a number of difficulties while administering the survey. The return rate for many states was lower than anticipated. Often the return rate was higher from program directors, whether governmental or nongovernmental, in smaller states. In larger states, program directors typically requested subordinates to complete the survey, and this often resulted in the survey becoming misplaced in large departments. Forwarding the survey to an identified individual became necessary. Responses to the events of September 11, 2001 caused many northeastern states to never receive the first and second mailings.

Table 10. Responses to LBJ School Survey, by State

State	Survey Responses(received/sent)		Telephone Interviews	
	Government Officials (93/244)	Nongovernmental Organizations (36/86)	Government Officials	Nongovernmental Organizations
Alabama	0/3	0/0	1	0
Alaska	1/5	0/0	2	1
Arizona	2/4	1/2	2	1
Arkansas	2/4	0/0	1	0
California	3/14	4/11	4	2
Colorado	1/4	0/1	1	0
Connecticut	2/6	0/2	1	0
Delaware	3/5	1/2	2	0
Florida	0/6	2/3	1	1
Georgia	3/5	0/1	1	0
Hawaii	2/6	0/1	4	0
Idaho	1/4	0/1	1	1
Illinois	0/2	1/1	0	2
Indiana	1/2	0/3	0	0
Iowa	0/2	1/3	1	1
Kansas	1/1	0/0	0	0
Kentucky	3/5	1/1	0	0
Louisiana	1/3	0/1	1	0
Maine	0/3	0/3	4	0
Maryland	5/9	0/2	0	0
Massachusetts	2/5	3/5	2	3
Michigan	4/12	1/2	0	0
Minnesota	1/3	0/2	0	1
Mississippi	2/4	0/0	3	1
Missouri	3/3	1/2	1	0
Montana	1/2	1/2	0	1
Nebraska	3/8	0/0	1	1
Nevada	1/2	1/1	1	1
New Hampshire	2/4	1/2	1	1
New Jersey	3/9	1/4	5	3
New Mexico	1/3	2/2	1	0
New York	4/7	0/2	6	1
North Carolina	3/4	1/2	2	0
North Dakota	2/5	0/0	1	0
Ohio	0/4	3/4	2	0
Oklahoma	0/1	2/2	0	0
Oregon	8/12	1/2	5	1
Pennsylvania	3/5	2/3	1	0
Rhode Island	3/6	0/0	2	0
South Carolina	1/5	0/0	0	0
South Dakota	1/4	0/0	0	0
Tennessee	0/2	1/1	1	0
Texas	3/6	0/0	0	0
Utah	3/7	1/1	1	0
Vermont	1/4	1/1	0	1
Virginia	2/8	0/1	1	0
Washington	1/5	0/2	1	0
West Virginia	0/2	0/1	0	0
Wisconsin	1/4	1/2	1	1
Wyoming	3/5	1/2	2	1

Source: Lyndon B. Johnson School of Public Affairs, A National Survey, Fall 2001-Spring 2002.

Survey responses varied in comprehensiveness. Some respondents completed the opinion-based sections and left the more substantive sections on specific policies blank. Also, many recipients stated that the survey would take too long to complete. The telephone survey also presented challenges because many potential participants were unavailable or difficult to contact. Frequently the telephone interviews required multiple calls. Yet information derived from the phone interviews was especially valuable as topics regarding triggering events, policy effectiveness, and assessments of state-level commitments were discussed. During the information-gathering process, the research team consulted with Henry Richmond and John DeGrove, two eminent scholars in the growth management field and advisors to this project. A final quality control step was to mail the draft chapter that described the state's experiences to the governor's office, with a request for a review for factual accuracy. Nearly half of these offices responded, and all oversights and factual errors were corrected.

The search strategy utilized by individual team members was varied in relation to the survey responses and telephone interviews in specific states. For some, the majority of information was derived from a few comprehensive survey responses requiring nominal supplementary research. For others, especially larger states, consulting alternative sources of information was necessary. Despite the limitations mentioned above, the written and telephone surveys, when combined with the supplementary information sources, provided original information on current policies in the 50 states.

Appendix II: Explanation of Terms

State governments pursue growth management and open space protection policies in a multitude of ways. The priority given to these issues and the policy instruments chosen vary substantially across states. In order to provide a consistent structure to these issues for this project, a number of categories and definitions had to be agreed to. Through the use of categories, the relative importance of various issues and policy instruments can be established. Given that state governments recognize no common categories or definitions, the definitions used here reflect those used in academic and policy literature.

Policy Issues in Managing and Protecting Open Space. One set of categories was created to disaggregate the general policy issues of managing growth and protecting open space. Each state law or program was classified with respect to the specific type of land management concern addressed:

- ! **Agricultural Land** concerns the preservation and viability of farmland and related farm operations, understood as the practices that contribute to the production and preparation of crops, livestock, and livestock products.
- ! **Coastal Conservation** concerns the preservation and development of any coastal area natural resource such as wetlands, beaches, and wildlife habitat.
- ! **Cultural/Historical Preservation** concerns the continued existence and use of areas or entities of cultural or historical value, ranging from single buildings and parks to farms and entire downtown areas.
- ! **Hazardous Places** concerns land where use is limited by actual or potential natural hazards and environmental contamination, or the perception of such contamination. Examples include floodplains, seismic hazard zones, abandoned mines, factories, and solid waste sites.
- ! **Infrastructure Management** concerns the maintenance, feasibility, and/or rehabilitation of existing infrastructure or the need for provision/planning of new infrastructure.
- ! **Land Use Management** concerns the determination of how land is used as addressed through planning, zoning, and the like.
- ! **Natural Resource Protection** concerns the use of resource land, environmentally sensitive areas, and other critical open space that is not encompassed within other designations, such as coastal or agricultural lands. This designation includes, but is not limited to, the issues of general open space preservation, wildlife habitat, and wetlands and forest preservation.
- ! **Urban Redevelopment** concerns the development needs of existing urban environments, especially deteriorating areas, and may relate to increasing urban densities, downtown revitalization, and/or neighborhood preservation.

Land Use Management Approaches. In addition, each state law or program is classified by the land use management approach(es) adopted. Frequently, a single state

effort adopts multiple approaches. The presentation of information on individual laws and programs allows for identification of multiple approaches. The approaches are:

- ! **Coordinated State Agency Planning:** collaborating among state agencies to manage growth. Examples of this approach include task forces and regional planning programs in which several state agencies are represented.
- ! **Mandated Local Planning:** requiring planning actions by local governments, as in a state government legally requiring all localities to undertake and submit a comprehensive plan.
- ! **Authorized Local Planning:** enabling, but not requiring, local governments to take planning actions.
- ! **Land Use Regulation:** imposing regulations that govern land use by the state, including planning laws, zoning, and the like.
- ! **Market Incentives/Disincentives:** provision of economic benefits to encourage certain actions and/or discourage others, including tax incentives, farmland special assessments, easements, and transfer of development rights.
- ! **Land Acquisition:** acquiring and securing land by the state to preserve it as open space.
- ! **Infrastructure & Facilities Provision:** guiding or meeting the infrastructure needs of an area and using infrastructure investments as a land use policy tool.
- ! **Grants/Funds:** creating funding mechanisms or allocating special funds for growth management activities.
- ! **Information Provision/Technical Support:** providing detailed information or analysis and/or technical support to facilitate improved growth management policy or action. Examples of this approach include land surveys, creation of a committee to study an issue, and technical assistance to local governments.

Appendix III: State Summaries

Introduction. Students at the University of Texas Lyndon B. Johnson School of Public Policy prepared summaries of state-level activity to address sprawl and manage growth in every state based on information they accumulated during surveys, interviews, and related information-gathering activities. The summaries vary widely, reflecting both diversity in the levels of interest and types of activities among states. Each summary should be viewed as a very brief introduction to an often complex set of laws, programs, policies, and activities; the many footnotes identify additional resources. The summaries emphasize actions and initiatives that have occurred since 1990. In most states, they focus on some combination of legislation and gubernatorial initiatives, and on perspectives during the winter and spring of 2002, when the survey was conducted. Since the survey, many states are adjusting their approaches because of diminishing state tax revenues and less economic growth and activity, especially in locations dominated by tech industries. The effect of the economic downturn reportedly has placed significant constraints on some states, especially in 2002.⁴⁶ Specific information about each identified program will be published in a CRS congressional distribution memo. Officials in each state received a draft of information about their state and were asked to review it for accuracy and completeness.

Alabama. Alabama's planning system is largely based on local control, and consequently very few state laws address growth management. The state has not pursued this avenue as vigorously as some of its neighbors, including Tennessee, Georgia, and Florida, in reforming state comprehensive planning laws that date back to the 1920s. Three programs and activities were identified during the survey:

- ! Forever Wild Program;
- ! Alabama Commission on Environmental Initiatives; and
- ! Alabama Geographical Information Council.

The Forever Wild Program, enacted in 1992, is the only program with an explicit concern for growth management or open space preservation. This program sets aside land for permanent state ownership using a portion of the interest earned on profits from the sale of offshore natural gas. Land is conserved for hunting, fishing, camping, outdoor recreation, natural resource protection and research, and preservation of unique sites.⁴⁷ In 1999, the program initiated the purchase of more than 47,000 acres of land in the Mobile-Tensaw Delta, the largest single land purchase for conservation in the state's history. The Delta is home to 32 plant and 26 animal species listed as endangered, threatened, or rare by the state of Alabama and the U.S. Fish and Wildlife Service, and is also designated by the World Wildlife Fund as an area of worldwide ecological importance.

In recent years, the Alabama legislature has considered, but not enacted, planning and land-use related legislation. In 1999, a bill to provide for county-level planning and zoning authority and an amendment to the state constitution to grant municipalities home rule powers over land use and development were proposed, but not passed.

In 2000, the Governor established the Alabama Commission on Environmental Initiatives. Its top priorities included the development and implementation of a

⁴⁶ *Are State Budget Shortfalls Shortchanging Smart Growth Initiatives?* A Natural Resources Defense Council-Sprawl Watch-Smart Growth America Report. Washington, D.C., March, 2002. 10p.

⁴⁷ Alabama Department of Conservation and Natural Resources, *Forever Wild*. Online. Available: <http://www.dcnr.state.al.us/agfd/forever.html>. Accessed: December 10, 2001.

comprehensive environmental education plan, an increased focus on advancing water policy, and a Smart Growth collaboration with Alabama's Commerce Commission.⁴⁸ The commission recommended a Smart Growth Commission be established to address sprawl. This recommendation had not been placed on the legislative agenda as of April 2002, due to budget shortfalls and the 2002 elections.⁴⁹

In 2002, the Governor increased his involvement in growth management efforts by sponsoring a two-day Conference on Smart Growth and Brownfields Redevelopment. It was attended by 200 officials, experts, and business leaders who discussed ways to better combat the effects of sprawl through improved land use planning.⁵⁰ The conference is an important step in creating an awareness of growth issues affecting the state. Concerns with urban sprawl were recently raised by a report from the U.S. Census Bureau, which stated that Alabama had the highest percentage of people who drive to work by themselves.⁵¹

The principal agency in charge of planning is the Alabama Department of Economic and Community Affairs (ADECA). ADECA operates as an extension of the Governor's Office, and administers federal grants in the areas of job creation, infrastructure, public safety, and energy efficiency and conservation.

Alaska. The role the State of Alaska has taken since 1990 to protect its vast amounts of open space has principally been to enforce existing state environmental protection regulations, to coordinate state efforts with federal programs, and to enable local planning.

The federal government has a strong role in determining the use of land in Alaska since it owns over 66% of the state. About one-third of this area is designated conservation units by federal laws such as the Alaska Native Claims Settlement Act (1971) and the Alaska National Interest Lands Conservation Act (1980). Alaska now contains 60% of the land in the National Parks System (administered by the National Park Service) and 86% of the land in the National Wildlife Refuge System (administered by the Fish and Wildlife Service).

The Alaska Department of Environmental Resources coordinates federal, state, and local environmental procedures, while planning efforts are based at the local level and supported by the Department of Community and Regional Affairs.⁵² With an average population density of 1 person per square mile (in contrast to the average population density of the entire United States of 75 persons per square mile), urban sprawl is not an issue for most local authorities. Alaska's largest cities (Anchorage, Fairbanks, and Juneau) can adopt local growth management regulations as they deem necessary and have implemented comprehensive land use regulations.⁵³

⁴⁸ Jacksonville State University, *Alabama Commission on Environmental Initiatives*. Online. Available: <http://www.jsu.edu/depart/epic/ACEI.html>. Accessed: January 15, 2002.

⁴⁹ American Planning Association, *Growing Smart: Alabama* (online).

⁵⁰ Smart Growth Online, *Smart Growth News*. Online. Available: <http://www.smartgrowth.org/news/bystate.asp?state=AL&res=1024>. Accessed: April 12, 2002.

⁵¹ American Planning Association, *Growing Smart: Alabama* (online).

⁵² Alaska Stat. Secs. 44.47.010, 44.46.010, and 46.03.010.

⁵³ Denali Commission Alaska, *Spotlight on Alaska*. Online. Available: <http://www.denali.gov>. Accessed: December 6, 2001.

The only state legislation to address growth management created the coastal zone management program in 1978. It was amended in 1990. In recent years, the state, working with a very senior delegation in Congress, has focused its efforts on infrastructure expansion and economic development across Alaska. The Denali Commission, for example, was established by Congress in 1998 as a federal-state partnership to provide critical utilities, infrastructure, and economic support throughout the state. Examples of the commission's efforts include the promotion of rural development through job training and energy infrastructure improvements, and an educational initiative to increase the capacity of rural communities to create and implement local plans. The Governor at the time of the survey was advocating the enactment of measures to meet the infrastructure needs of rural Alaskans and was a strong supporter of opening the Arctic National Wildlife Refuge to "environmentally responsible" drilling for oil and natural gas.⁵⁴ If successful, these federal and gubernatorial efforts are likely to have important implications for managing growth and preserving open space.

Arizona. Arizona is one of the fastest-growing states in the nation. Despite demographic trends, Arizona took a rather conservative approach to growth management and open space preservation policies until the late 1990s. With the leadership of the Governor, Arizona's legislature passed major growth management acts in 1998 and 2000. Arizona's approach to growth management continues to evolve in response to demographic trends. Four laws and programs were identified in the survey:

- ! Growing Smarter Act of 1998;
- ! Growing Smarter Plus Act of 2000
- ! Arizona Preservation Initiative; and
- ! Arizona Heritage Fund.

Local governments in Arizona have historically been responsible for land use planning. The Arizona Department of Commerce, through its Community Planning Office, monitors local activities, although current statutes provide little authority to enforce legislative mandates.

Approximately 13% of Arizona's land base is in state trust lands, which were granted by the federal government when Arizona became territory in 1863.⁵⁵ The federal government retained extensive holdings, and currently administers approximately 33.1 million acres. Arizona experiences difficulty in trying to consolidate parcels under three distinct types of land ownership (state trusts, federal lands, and privately owned lands) for either managed growth or conservation purposes. In the northern half of the state, fragmented ownership divided among private parties, federal and state lands, and Indian reservations, has resulted in checkerboard development patterns. State officials believe that exchanging or purchasing federal lands would allow it to plan more effectively and manage growth, but the federal government is often reluctant to trade or dispose of these lands.

The late 1990s marked a new era in land use policy, as the state enacted the Growing Smarter Act in 1998 and the Growing Smarter Plus Act in 2000. Critics described the 1998

⁵⁴ Smart Growth News, "Alaska Governor Urges Opening of Arctic Wildlife Refuge for Energy Development." Online. Available: <http://www.smartgrowth.org>. Accessed: February 27, 2002.

⁵⁵ Arizona State Land Department, *Historical Overview of State Land Trust*. Online. Available: <http://www.land.state.az.us>. Accessed: February 28, 2002.

Act as meaningless and ineffective because while communities could choose how they would like to pursue Growing Smarter initiatives, it did not include enforcement or evaluation procedures to ensure that local governments complied with state policy. In response to citizen initiatives and public demand, Growing Smarter Plus was passed in a special legislative session. The Governor described the Plus Act as making “Arizona a national leader in land use and growth management,” and praised the strong tools for managing growth it gave to localities.⁵⁶ Its primary tools are in-fill incentive districts, purchase of development rights and a required updating of zoning laws in order to be in compliance with the legislation. It also uses urban service limits, impact fees for development, and active citizen participation in the approval of land use development plans. Yet critics of Growing Smarter Plus claim that it provides no incentive to participate, no consistency between neighboring cities or counties, and no means of evaluation.

The political controversy surrounding Growing Smarter Plus has been fierce. Environmental groups have attempted to strengthen it by placing initiatives on the ballot. In November 2001, for example, citizens rejected Proposition 202, which would have created local growth management plans including mandated growth boundaries, after expressing significant support when it was first made public. This defeat is an illuminating example of the political tug-of-war currently taking place as antisprawl sentiments vie with concerns about loss of local control.

On February 22, 2001, the Governor announced the creation of the Growth Management Oversight Council to “monitor the effectiveness of Arizona’s growth management statutes and offer suggestions for their improvement.”⁵⁷ Arizona appears to be entering a new stage in its growth management and open space preservation agenda as it increases emphasis on improved enforcement and monitoring of policies by increasing the authority of state and local officials. The future of growth management as an important issue seems likely so long as the Governor in Arizona continues to devote attention to the issue and interest groups continue to make the topic a priority.

Arkansas. Planning and zoning authority in Arkansas exists primarily at the county and city levels rather than the state level. No single state agency is directly responsible for growth management and open space preservation, although a few of them indirectly address these issues. For example, the Department of Environmental Quality addresses preservation through watershed management plans and the Department of Economic Development facilitates strategic planning in communities to assist them in prioritizing their goals and objectives. County planning boards and plans, where these issues could be addressed, are optional. The state encourages multicounty planning primarily to enhance economic development and coordinate government services.⁵⁸ Planning and development districts provide technical assistance to local governments. City governments also have the option to work together to facilitate coordinated areawide planning.

⁵⁶ “Governor Signs Growing Smarter Plus Legislation,” Governor Jane Dee Hull News Releases, Phoenix, AZ, February 21, 2000.

⁵⁷ “Governor Appoints Growing Smarter Oversight Council,” Governor Jane Dee Hull News Releases, Phoenix, AZ, February 22, 2002.

⁵⁸ Arkansas Code Annotated, Title 14, Chapter 56, Section 401 et seq.

One law related to growth management is the Conservation Easement Act of 1983.⁵⁹ It allows for the acquisition of easements, thus preserving open space. A brownfield redevelopment law provides incentives to people who acquire abandoned industrial, commercial, or agricultural sites that may require environmental and/or hazardous material cleanup.⁶⁰

California. California has enacted numerous state growth management laws despite having a decentralized planning structure.⁶¹ Legislation, which ranges from amendments strengthening previous growth management policies to innovative laws intended to limit growth and protect open space, includes:

- ! California Farmland Conservancy Program Act;
- ! Energy Conservation;
- ! Williamson Act Amendments;
- ! California Forest Legacy Program Act;
- ! Legislation Linking Water Supply to Development;
- ! Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act;
- ! Oak Woodlands Conservation Act;
- ! Urban Park Act;
- ! Legislation Protecting Headwaters Forest, Owl Creek, and Grizzly Creek;
- ! A.B. 2663 (to protect agricultural land);
- ! Downtown Rebound Program;
- ! Natural Heritage Preservation Tax Credit Act;
- ! Wildlife Protection Act;
- ! California Rural Development Council;
- ! California Oceans Resources Management Act;
- ! Natural Community Conservation Planning Act;
- ! Cleanup Loans and Environmental Assistance to Neighborhoods Account;
- and
- ! Environmental justice (guidelines).

The rapid population growth and extensive suburbanization of open space and agricultural land in California following WWII forced the state to become involved in growth management before most other states. The Williamson Act of 1965, the best-known policy from this early growth management era, protects open space through conservation easements. It has enrolled over 16 million acres since the early 1980s.⁶²

The Santa Barbara oil spill of 1969 was a watershed event by engendering widespread environmental concern among California residents and creating support for the passage of several environmental and land use-related laws. The California Environmental Quality Act (CEQA), passed in 1970 and modeled after the National Environmental Policy Act, requires state and local agencies to consider the environmental effects of their policies and activities,

⁵⁹ Arkansas Code Annotated, Title 15, Chapter 20, Section 401 et seq.

⁶⁰ Arkansas Code Annotated, Title 8, Chapter 7, Section 1101 et seq.

⁶¹ Arthur Nelson and James Duncan, *Growth Management Principles and Practices* (Chicago: Planners Press, 1995), p. 26.

⁶² Department of Conservation, *The Williamson Act of 1965*. Online. Available: <http://www.consrv.ca.gov/dllrp/LCA/info>. Accessed: February 23, 2002.

to mitigate those impacts, and to report to the public.⁶³ In 1971, AB 1301, a landmark general plan law, required local governments to engage in planning, yet it did not enhance the state's planning authority. It imposed procedural and organizational requirements but no policy requirements. A year later California voters approved Proposition 20, the Coastal Protection Initiative. At the time, it was considered the boldest effort in state land use regulation. It created six regional coastal commissions under a state commission charged with issuing development permits and carrying out long-term planning and management.⁶⁴

In 1978, Californian voters passed Proposition 13, which restricted the property tax rate and allowed local governments to reassess property for tax purposes only when it is sold. This legislation had a profound impact on local government and school districts. Policymakers claim that cities have begun to favor retail development, which generates higher tax revenues, over residential development.⁶⁵

Since the early 1990s, continuous growth has placed more pressure on metropolitan areas. In the Los Angeles region, for example, the remaining open areas are undevelopable because the land is already protected, federally owned, too valuable as agricultural land, or would be too difficult to develop because of terrain.⁶⁶ With population projections of an additional 24 million residents in the next 40 years, the state faces ongoing challenges. Increased development has affected other quality-of-life issues. For example, between 1970 and 1990, while the state's population grew by 50%, the total number of miles traveled by cars and trucks grew by 100%.⁶⁷ This increase in vehicle miles traveled is an indicator of urban sprawl as people take longer trips on average, because more of them have moved farther away from the urban core or have longer commutes.

Since 1990, growth management legislation has included both enacting new policies and strengthening existing policies to address contemporary issues. The Williamson Act was revised in 1999 to restrict recreational use and disallow lot line adjustments to land enrolled in the program. SB 497 amended the government code in 2001 to allow lot line adjustments for only one to four parcels. New legislation created new certification procedures to limit development on the periphery of cities while providing low-interest loans to facilitate urban redevelopment. Protection of California agricultural and environmental land involved the use of conservancy programs, tax credits to landowners, direct purchases by the state, and providing matching funds to local governments, and nonprofit organizations.

Two bond measures have passed since 2000 to fund the preservation of open space and increase investment in parkland. The Safe Neighborhood Parks, Clean Water, Clean Air and

⁶³ UCLA Capital Programs, *California Environmental Quality Act*. Online. Available: <http://www.capital.ucla.edu/ep-ceqa.html>. Accessed: March 20, 2002.

⁶⁴ Frank S. So, Irving Hand, and Bruce D. McDowell, *The Practice of State and Regional Planning* (Chicago: American Planning Association, 1986), p. 230.

⁶⁵ The Southern California Studies Center, *Sprawl Hits the Wall: Confronting the Realities of Metropolitan Los Angeles* (Los Angeles, 2001), p. 37.

⁶⁶ The Southern California Studies Center, *Sprawl Hits the Wall*, p. 30.

⁶⁷ Greenbelt Alliance, *Beyond Sprawl: New Patterns of Growth to Fit the New California* (1995). Online. Available: http://www.greenbelt.org/pubs_merchandise/beyond_sprawl_txt.html. Accessed: March 20, 2002.

Coastal Protection Bond Act of 2000 earmarked \$2.1 billion in general obligation bonds to protect and expand parkland. In March 2002 voters approved the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002, providing an additional \$2.6 billion for investment in protecting open space and parkland.

The last decade has seen increased activism and interest in land development and sprawl issues.⁶⁸ More coalitions, made up of residents, nonprofit organizations, academic institutions, private sector companies, and governmental bodies, are forming in reaction to the impacts of development and population growth. Reports such as *See Beyond Sprawl* from the Greenbelt Alliance and Bank of America and *Sprawl Hits the Wall* from the Southern California Studies Center with the Brookings Institution Center on Urban and Metropolitan Policy are two examples of coalitions providing policy recommendations.

The state government is studying sprawl and open space loss. Resolutions adopted by the legislature in 1999 encourage the use of Smart Growth principles, such as planning for the future, promoting livable communities, providing better housing and transportation, and conserving open space and natural resources, when making policy.⁶⁹ The Smart Growth Caucus was formed by Representative Wiggins in January 2000 and has 31 state legislators. It released a report, *Growth Challenges in the Golden State*, in 2001.⁷⁰ The Commission on Regionalism, created in November 2000 by Speaker Hertzberg, published *The California Dream: Regional Solutions for 21st Century Challenges* in February 2002. It identified the need for regional efforts to address statewide problems, especially development and open space preservation.⁷¹

Population projections, widespread development, shrinking open space, and diminishing environmental quality fueled the increased priority placed on Smart Growth management since the mid 1990s. State legislators and local government officials, as well as the private sector, nonprofit community, academic institutions, and private citizens, continue to study ways to address these growing concerns.

Colorado. Colorado has a very strong tradition of local control over land use and growth management. Land use planning regulations, such as zoning, sign codes, and building codes are, for the most part, locally determined. Past attempts to establish “top down” control over aspects of development run counter to this tradition, and have been defeated either in the legislature or at the ballot box. Nonetheless, Colorado has been at the forefront in enacting planning reform and smart growth measures to address its explosive growth. In recent years, Colorado has attempted to control urban sprawl and protect open space through land use management, natural resource protection, and agricultural land preservation. Among the laws and programs are:

- ! Creating an Office of Smart Growth;
- ! Local Government Master Plan Criteria;
- ! Brownfield Redevelopment Tax Credit;

⁶⁸Ibid.

⁶⁹ University of Hastings School of Law, “*Smart Growth: State by State, 2000*” database. Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: March 20, 2002.

⁷⁰ California Smart Growth Caucus, *Growth Challenges Facing the Golden State* (online).

⁷¹ So, Hand, and McDowell, *The Practice of State and Regional Planning*, p. 230.

- ! Governor's Commission on Saving Open Spaces, Farms, and Ranches;
- ! Tax Credit for Historic Preservation;
- ! Conservation Easements Tax Credit;
- ! Master Plan Dispute Resolution;
- ! Property Owners Adjacent to Annexation;
- ! Concerning the Mandatory Adoption of Local Government Master Plans;
- ! Smart Growth: Colorado's Future;
- ! Great Outdoors Colorado Fund;
- ! Development Impact Fees; and
- ! Voluntary Cleanup and Redevelopment Act.

The Governor promoted the Smart Growth agenda adopted in 1999 in a comprehensive initiative, "Smart Growth: Colorado's Future." The initiative intends to protect open lands and give local communities the tools needed to plan for responsible growth.⁷² He also signed six Smart Growth bills in 2000 and established the Governor's Commission on Saving Open Spaces, Farms and Ranches. This 2000 legislative package created the Office of Smart Growth and the Intergovernmental Land Use Dispute Resolution Program. This program was specifically designed to aid local governments in negotiating land use conflicts to more efficiently implement growth management legislation.

The Governor called a special session of the legislature to address growth in September 2001. During this session, the legislature passed a package of bills that the *Denver Post* called "the most significant land use reform in Colorado since the 1970's."⁷³ The package:

- ! Requires fast-growing and large cities and counties to develop comprehensive land use plans;
- ! Creates a dispute resolution mechanism for local governments to settle plan conflicts;
- ! Authorizes every city and county to collect impact fees; and
- ! Amends laws to limit the ability of cities to annex territory far outside their boundaries.

In addition, in November 2001, Colorado voters overwhelmingly approved the governor's proposal to give Great Outdoors Colorado, the state conservation agency, the ability to bond against its revenue so that it can move quickly to protect natural landscapes that come on the market.

The Department of Local Affairs is the statewide agency responsible for implementing planning programs and statutes. The Department's Office of Smart Growth acts as a clearinghouse for information and assistance to local governments for their smart growth planning efforts.

Connecticut. Connecticut's growth management programs are created and implemented both at the state and local level but focus on statewide planning. The stimulus for this activity has been that the state's population increased by 3.6% annually between

⁷² State of Colorado, *Smart Growth: Colorado's Future*. Online. Available: <http://www.state.co.us/smartgrowth/>. Accessed: January 5, 2002.

⁷³ Colorado House Bill 01S2 (2001).

1990 and 2000. Connecticut's goal is to have at least 7% of the land in the state dedicated as open space. Of that land dedicated to open space, at least 10% will be held by the state and the remainder will be held by local governments and conservation organizations.⁷⁴ Relevant laws and programs include:

- ! Coastal Zone Management Act revisions;
- ! Conservation and Development Policies Plan;
- ! Inland Waterways and Watercourse Act;
- ! Neighborhood Revitalization Zone Act;
- ! Open Space for Recreation;
- ! Special Contaminated Property Remediation and Insurance Fund; and
- ! Urban Sites Remedial Action Program

Connecticut first initiated statewide planning in 1976 when policymakers developed the Conservation and Development Policies Plan for Connecticut.⁷⁵ It remains the basis for current initiatives. In the 1970s, the legislature passed laws protecting environmentally sensitive areas such as coasts and wetlands. In the 1990s, it revised some of these laws, and strengthened the regulatory authority of the state. For example, Connecticut's Coastal Management Act was amended in 1995 to promote collaborative planning efforts among state agencies, and to extend protection to wildlife and fish habitats.

The state's renewed activism also addressed urban redevelopment. In the 1990s, the legislature enacted the Neighborhood Revitalization Zone Act, the Urban Sites Remedial Action Program, and provided for brownfield redevelopment through the Special Contaminated Property Remediation and Insurance Fund. In addition, the Open Spaces for Recreation Act was passed in 1997 as an avenue to meet the state's goal of preserving open spaces.

The State Office of Policy and Management is the lead agency implementing the Conservation and Development Policies Plan, which must be renewed every five years. This program is used primarily as a regulatory tool for promoting coordinated planning. Regional and local governments work with the State Office of Policy and Management to ensure that their plans are consistent with the statewide plan. This Office also collaborates with the Department of Environmental Protection and the Department of Agriculture to promote joint efforts with local governments and municipalities. Through the plan and other initiatives, local and regional governments are active participants in statewide efforts to manage growth and give special attention to open space acquisition and preservation opportunities. Some municipalities are also active in preserving agricultural lands.

Delaware. Delaware places a high priority on land management, as evidenced by the abundance of legislation passed and revised since the early 1990s to preserve open space generally and agricultural land. The creation of new committees and the expansion of existing ones dealing with land management issues as well as changes in the state-level approach to comprehensive planning are measures of Delaware's leadership in growth management. Laws and programs include:

⁷⁴ Connecticut State Legislature. *Public Acts: Public Act No. 99-235, Sec. 2b*. Online. Available: <http://www.cga.state.ct.us> Accessed: December 20, 2001.

⁷⁵ Connecticut General Statutes Secs. 16a-24-16a-33. Online. Available: <http://www.cga.state.ct.us> Accessed: December 20, 2001.

- ! Livable Delaware 2001 Agenda;
- ! Livable Delaware 2001 – Act to Define Brownfields;
- ! Livable Delaware 2001 Advisory Council;
- ! Livable Delaware 2001 – Open Space Formula;
- ! Livable Delaware 2001 – Graduated Impact Fees;
- ! Livable Delaware 2001 – Comprehensive Plans;
- ! Historic Preservation Tax Credit;
- ! Delaware Agricultural Lands Preservation Act;
- ! Task Force for Farmland Preservation;
- ! Shaping Delaware’s Future Act of 1995; and
- ! Land Use Planning Act of 1996.

Delaware’s recent involvement in land management began in 1989 when the Governor introduced his first land management policy proposal. The Delaware Land Protection Act established land preservation as a priority and created a trust that has preserved over 30,000 acres. In 1994, the Governor reestablished a Cabinet Committee on State Planning Issues and charged it with ensuring effective and coordinated planning. This Committee quickly became active in promoting various studies and legislation. In 1994 and early 1995 it gathered citizen opinions characterizing development, economic, infrastructure, and quality of life issues anticipated in 2020 and presented them in a report titled *Shaping Delaware’s Future*.⁷⁶ The Shaping Delaware’s Future Act of 1995 requires counties to submit comprehensive land use plans to the Office of State Planning and Coordination based on the report. The cabinet committee reexamined its role in state policy in a 1999 report titled: *Managing Growth in the 21st Century: Strategies for State Planning and Spending*.⁷⁷ This report provided a framework to help manage growth while promoting revitalization, with the understanding that land management is mainly the responsibility of local government.

Delaware’s 1978 Land Use Planning Act, known as LUPA, was revised in 1996. LUPA originally sought to facilitate coordination between local governments in their planning activities and development patterns. The revision requires local governments to submit all planning proposals affecting adjacent jurisdictions, such as proposed annexations and certain local ordinances, to the Office of State Planning and Coordination (OSPC) for review and comment. These proposals are also forwarded for review to eleven other state agencies.

Coalitions between government and nonprofit organizations have been an important initiator of state policies. In 1997, Delaware hosted a Land Use Planning Summit sponsored by the Delaware Public Policy Institute to study the issue of land management. The forum made eleven policy recommendations in the following legislative sessions. Three of these recommendations were enacted. The three enacted bills all focus on regional planning coordination, but vary in their approaches to improve land management: one bill expanded the membership on the Advisory Panel on Intergovernmental Planning and Coordination, which provides a forum for regional planning; the second made all planning data available to planning agencies at the state, regional, and local levels and to the public to facilitate

⁷⁶ Cabinet Committee on State Planning Issues, *Shaping Delaware’s Future* (April 1995). Online. Available: <http://www.state.de.us/planning/shape/sdf.pdf>. Accessed: March 21, 2002.

⁷⁷ Office of State Planning Coordination. *Managing Growth in 21st Century Delaware: Strategies for State Policies and Spending*. (December, 1999). Online. Available: <http://www.state.de.us/planning/shape/strategy/index.htm>. Accessed: March 28, 2002.

responsible development; and the third encouraged regional planning and required municipal governments to plan for housing and population growth.

The Governor continued the priority of land management established by her predecessor when she assumed the position in 2001. One of her first acts was to issue an executive order calling for the state to provide leadership on land use issues by setting an example. It required state agencies to develop implementation plans by August 2001 based upon the goals expressed in *Shaping Delaware's Future*. Following the executive order, the Governor presented an ambitious initiative in March, 2001, called Livable Delaware, which proposed legislation and established a Livable Delaware Advisory Council.⁷⁸ The council's main responsibilities are to: promote the Livable Delaware policy; develop planning standards; monitor the progress of land management efforts and handle disputes among levels of government. Legislation would support Livable Delaware by imposing graduated impact fees, establishing comprehensive plan implementation and annexation standards, changing the open space formula legislation, and amending brownfield matching grants.

Numerous other policies were also passed in the 1990s and early 2000s. Conservation easements and transfer of development rights were encouraged for open space, agricultural land, and historic preservation. The cigarette tax was earmarked in 2001 to exclusively fund environmental protection including the purchase of additional land through the Farmland Preservation Fund and the Water Conservation Trust Fund.

Florida. Florida encourages the efficient delivery of public goods and protects open space using comprehensive growth management strategies. These strategies enable and require regional planning councils, cities, and counties to develop their own comprehensive growth management strategies in compliance with state policy. Florida's key laws and programs include:

- ! Beach and Shore Preservation Act;
- ! Growth Policy Act;
- ! Local Government Comprehensive Planning and Land Development Regulation Act;
- ! Educational Facilities Act;
- ! Florida Preservation 2000 Act;
- ! Brownfield Redevelopment Bonus Refunds;
- ! Florida Communities Trust Act;
- ! Florida Forever Act;
- ! Florida Coastal Zone Management Act;
- ! Affordable Housing Study Commission;
- ! Eastward Ho!; and
- ! Florida Growth Management Study Commission.

The issue of growth management first seriously arose in the early 1970s, and the state responded by enacting the Florida Comprehensive Planning Act of 1972. This Act promoted intergovernmental coordination to address growth management, provided strategies for implementing the state plan, and included guidelines for determining appropriate growth and transportation plans. It was not fully implemented until 1985. Other

⁷⁸ Livable Delaware, *Livable Delaware*. Online. Available from the Delaware state web site at: <http://www.state.de.us/planning/livedel/>. Accessed: February 15, 2002.

legislation enacted included the Florida Environmental Land and Water Management Act of 1972 and the Area of Critical State Concern Program, which enabled the state to preserve open space by actively regulating growth that threatens coastal conservation and natural resources of statewide significance, respectively.

In spite of Florida's early interest in growth management and open space issues, the first enforceable legislation was passed in 1985, when both the State Comprehensive Plan (SCPA) and the Local Government Comprehensive Planning and Land Development Regulation (LGCPA) Acts were enacted. Together, these two laws provided a broad framework for addressing growth management. The SCPA provides long-range policy guidance for orderly growth and development, and the LGCPA requires all 67 counties and 407 municipalities to adopt comprehensive growth management plans consistent with state and regional plan goals. Comprehensive plans contain chapters that address: future land use, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. A key component of the LGCPA is its concurrency policy that permits local governments to issue a development order only when it will not degrade mandated service levels for six kinds of public facilities.⁷⁹ This requirement helps prevent growth in areas where available infrastructure levels cannot sustain additional development and helps encourage orderly and efficient growth patterns.

Rule 9J-5 of the Florida Administrative Code contains the minimum criteria local governments must address in their comprehensive plans and provides guidance concerning the efficient use of land, the provision of public facilities and services, the separation of urban and rural uses, and the protection of agriculture and natural resources.

The policies passed in the 1970s and 1980s remain important, although many of them have been significantly revised since 1990 to meet new growth management challenges. In addition, two new major land acquisition programs, Preservation 2000 and Florida Forever, are providing \$6 billion over a span of 20 years to acquire environmentally sensitive lands and other significant open space. Florida's Department of Environmental Protection coordinates the largest land acquisition programs. The Department of Community Affairs (DCA) coordinates growth management activities. Divisions of the DCA include Community Planning, Coastal Management, Communities Trust (whose mission is to preserve ecologically fragile land and wetlands and set aside green space), and Housing and Community Development. The DCA uses planning and regulatory approaches and open space acquisition to guide growth and development. It reviews local comprehensive plans and plan amendments for compliance with Florida's growth management laws and coordinates with local authorities and Florida's eleven regional planning councils. Many other agencies submit comments to the DCA on comprehensive plans and amendments. The DCA issues a public notice of finding for each plan and/or plan amendment. If the DCA finds it to be out of compliance, the local government must respond or participate in an administrative hearing. The DCA provides technical assistance and some planning grants to help local communities formulate acceptable comprehensive plans, but this funding has been chronically insufficient.

At the local level, comprehensive plans are produced by planning staffs, approved by city councils, and then by the state. Approved plans can be amended by city governments a maximum of two times per year, sometimes reducing the ability of local government to fully address their growth issues. The effectiveness of these efforts relies, in large part,

⁷⁹ John M. DeGrove, *Planning & Growth Management in the States* (Cambridge: Lincoln Institute of Land Policy, 1992), p. 7.

upon solid local planning and enforcement. The DCA has no regulatory authority to enforce adopted plans, but state law does allow any party adversely affected by development approved by a local government to appeal if to the DCA it is not consistent with the comprehensive plan.

Florida's growth management system has been criticized by the current Governor. In February 2000, his Growth Management Study Commission recommended relying more on city and county growth management plans (with less state and regional oversight) and streamlining the review of comprehensive plan amendments. While no substantial changes had been enacted, pending legislative proposals could alter Florida's growth management system in the future.

Georgia. Comprehensive planning occurs primarily at the regional and local level. At the state level, the cornerstone of the planning program is the requirement of a long-range comprehensive plan by each local government. These plans identify community goals and objectives, and the means by which governments propose to achieve them. The Georgia Planning Act of 1989 initiated this program by specifying that Georgia's 159 counties and 529 cities must maintain their plans to remain eligible for certain state and federal assistance programs. The Georgia Department of Community Affairs (DCA) administers the program, maintaining a schedule for required plan updates and reviewing submitted plans. In addition to this act, Georgia has the following laws and programs:

- ! Georgia Development Impact Fee Act;
- ! Environmental Planning Criteria;
- ! Mountain and River Corridor Protection Act;
- ! Growth Strategies Reassessment Task Force;
- ! Transfer of Development Rights (enabling legislation);
- ! Georgia Regional Transportation Authority; and
- ! Georgia Greenspace Program.

The Georgia Regional Transportation Authority (GRTA) has played a major role in land use planning since 1999. It has the authority to approve a region's transportation plan, to overrule local land use decisions, to require municipal contributions to regional transportation projects, to acquire existing transportation systems, and to implement new transportation systems. GRTA works with the 13 counties in Georgia that have been designated nonattainment under the Clean Air Act. In these counties, GRTA also works closely with state, regional, and local agencies.

Other laws and policies focus on managing growth and controlling sprawl. The Georgia Development Impact Fee Act provides guidelines for local governments to impose exactions on developers to help finance the expansion of affected infrastructure. New development projects are required to pay these fees to fund a proportionate share of the cost of public facilities needed to serve them. The Georgia Greenspace Program provides formula grants to eligible counties if they develop and implement plans to permanently protect at least 20% of the jurisdiction as natural, undeveloped green space. Other legislation attempts to protect Georgia's natural resources and open spaces by encouraging coordinated planning and by requiring state agencies to collaborate on meeting standards. Examples include: the Environmental Planning Criteria, which passed in 1991 and established minimum standards for land use; and the Mountain and River Corridor Protection Act of 1991, which encourages local governments to control pollution in protected rivers.

Georgia's current high interest in managing growth and protecting open space is supported by the Governor, who includes transportation, greenspace, and air and water quality among his most important issues and has played a major role in establishing the GRTA and the Georgia Greenspace Program.

Hawaii. Hawaii has a reactive approach to curbing urban sprawl and protecting its natural and cultural resources. The state's growth and land conservation objectives, shaped by its natural surroundings, serve as a framework for county-level development projects. Although Hawaii was the first state to codify a statewide planning program in 1978, little change to the state's initial planning policies has occurred in the last ten years. Among the current laws and programs are:

- ! Land Use Commission;
- ! Coastal Zone Management;
- ! State Planning Act
- ! Transfer of Development Rights;
- ! Habitat Conservation Plans and Safe Harbor Agreements; and
- ! State Water Code.

The state level shares significant responsibility for public education, health, welfare, zoning, transportation, and planning with its four counties on eight islands, making it different from many states. Another difference is that the largest city, Honolulu, houses 81% of the state's population. As a result, Hawaii relies on a strong state government system to maintain consistency in implementing state policies and objectives.

In 1963, prior to developing its statewide planning process, Hawaii's State Land Use Commission classified contiguous land areas into one of four land use districts: urban, rural, agricultural, and conservation. Because Hawaii, unlike other states, is entirely surrounded by water, preservation of environmental quality hinges on protecting the state's watersheds. With very short distances between the upper reaches and mouths of watersheds, land use within them can have a major impact on coastal water quality and environmental health.⁸⁰

Hawaii revised its coastal zone management legislation in 1995 to include economic considerations. Such considerations include ensuring that new developments are compatible with their visual settings, minimizing disruption or degradation of coastal water ecosystems by regulation of stream diversions and directing the location and expansion of coastal-dependent developments to designated areas. The state's original coastal zone management legislation, enacted in 1977, established several priorities, which were reiterated in Hawaii's 1978 State Planning Act.

The State Planning Act, revised in 2000, identifies state standards for protecting agricultural and coastal lands and serves as a foundation for county zoning requirements and development objectives. This Act establishes a statewide planning system that is intended to promote implementation consistency and performance by linking state programs to stated policy goals and objectives. It provides natural resource related agencies with the tools to implement the state's planning objectives. While it establishes the policy linkages, the authority and responsibility for implementing any particular tool are established under

⁸⁰ Much of the information in this summary comes from a letter from Ruby Edwards, Office of Planning, Department of Business, Economic Development, and Tourism (DBEDT), State of Hawaii, to Professor Robert Wilson, May 8, 2002.

separate statutes that assign them to specific agencies. During the 1990s, Hawaii has added new tools, including conservation easements, transfer of development rights, tax increment financing, and the Real Property Tax Law for Dedicated Lands.

The Department of Business, Economic Development, and Tourism (DBEDT) leads the State Planning Act implementation. It houses the Office of Planning (for statewide planning initiatives), the Land Use Commission, and the Coastal Zone Management Program. The Land Use Commission classifies land for specific agricultural, commercial, environmental, and cultural uses. It is under constant criticism from developers. The Land Use Law determines permissible uses within each land use district. However, counties administer the zoning and permitting processes that determine the specific land uses allowed within each district. Based on these designations, if a county requests state review of a permit application under review by the Land Use Commission, other state agencies and key offices in the DBEDT provide input as to whether the development proposal complies with the state's policy planning objectives. It appears, however, that these departments rarely coordinate their reviews of development proposals.⁸¹

Idaho. Growth management and open space protection have not been high public policy priorities in Idaho. Idaho has a comprehensive plan that considers property rights, population analysis, land use, natural resources, and hazardous areas but delegates implementation to city and county governments. The Planning and Zoning Commission updates this plan. Additional state long-range plans are maintained by the Department of Parks and Recreation, for protection and development of areas of scenic beauty, and by the governor's office, for protection of the state's natural resources.

The state's Land Use Planning Act has been in effect for 23 years and was last updated in 1999. It allows city and county governments to establish their own planning and zoning policies based on local criteria. Each locality must adopt a map identifying an area surrounding urban areas that are impacted by urban growth. Geographic factors and areas in the process of annexation by the city must be incorporated into the area of impact map.⁸²

Illinois. Illinois adopted statewide smart growth measures in April 2000 that include state laws and direct federal-state funding through the governor's Illinois Tomorrow program. The Department of Commerce and Community Affairs is the statewide planning body. Counties and municipalities can engage in local planning, and the state offers grant programs to encourage planning.⁸³ Many of the current laws addressing growth management have been enacted since 1998, and many of them deal with agricultural land protection, since most of the state is farmland. These laws and programs include:

- ! Balanced Growth Capacity Building Program;
- ! Open Space Land Acquisition and Development Act;

⁸¹ Telephone interview by Jessica King with Office of Planning representative, Hawaii Department of Business, Economic Development, and Tourism, Honolulu, Hawaii, April 8, 2002.

⁸² American Planning Association, *Growing Smart: Statutory Summary for the State of Idaho*. Online. Available: <http://www.cpa.state.tx.us/>. Accessed: February 15, 2002.

⁸³ Illinois Governor's Office, *Illinois Tomorrow Program Overview*. Online. Available: <http://www2.state.il.us/state/balanced/programs.htm>. Accessed: February 20, 2002.

- ! Farmland Preservation Act (revisions);
- ! Agricultural Areas Conservation and Protection Act (revisions);
- ! Illinois Conservation Reserve Enhancement Program;
- ! Conservation 2000;
- ! Illinois Rivers 2020 Program;
- ! Open Land Trust Act;
- ! Real Property Conservation Rights;
- ! Main Street Program;
- ! Brownfields Redevelopment Programs;
- ! Illinois Tomorrow Corridor Planning Grant Program; and
- ! Green Illinois Communities Demonstration Grant Program.

In 1999, the Governor spearheaded the Illinois FIRST (Fund for Infrastructure, Roads, School and Transit) Program, which will provide \$12 billion over five years to build and repair the state's infrastructure, including roads, highways, transit, as well as redevelop brownfields, and preserve resources.⁸⁴

In 2000, a Balanced Growth Cabinet was established by executive order. Members represent state agencies with programs that affect growth. This cabinet submits recommendations to the Governor for additional programs and policies that will promote coordinated planning strategies.

In April 2000, the Governor launched Illinois Tomorrow,⁸⁵ which draws on the Open Space Land Acquisition and Development Act, the Agricultural Areas Conservation and Protection Act, and the Farmland Preservation Act. The main implementing agencies of these laws and programs are the Departments of Agriculture, Natural Resources, and Commerce and Community Affairs, and the Environmental Protection Agency. The Governor has actively pursued federal funding to implement the Illinois Conservation Reserve Enhancement Program, Conservation 2000, and Illinois Rivers 2020 programs. Many of the Illinois Tomorrow programs provide grants to communities for local land use planning initiatives that can improve growth patterns. These include; the Open Lands Trust Grant Program, Balanced Growth Capacity Building Program, Corridor Planning Grant Program, Community Development Assistance Program, and Brownfields Redevelopment Loan Program. The governor's office implements the growth management initiatives to address five "balanced growth" principles:

- ! reduction of traffic congestion;
- ! preservation of open space;
- ! urban reinvestment and redevelopment;
- ! quality of life and traffic congestion; and
- ! building partnerships between state and local governments.

Indiana. Most growth management and open space preservation initiatives take place at the local level. The state considers land use decisions a local matter, but provides

⁸⁴ Ed Bolen, Kara Brown, David Kiernan, and Kate Konschnik, *Smart Growth State by State* (Hastings, CA: University of California College of the Law, Spring 2001). Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 10, 2002.

⁸⁵ Illinois Governor's Office, *Illinois Tomorrow Program Overview* (online).

information, technical assistance, and advice to local governments concerning their growth patterns. Among the laws and programs are:

- ! Assessment of Certain Forest Lands;
- ! Indiana Heritage Trust Fund;
- ! Indiana Land Resources Council;
- ! Right to Farm (nuisance);
- ! Hoosier Farmland Preservation Task Force; and
- ! Indiana Land Use Forum.

Localities can make use of enabling legislation—designed to encourage better land use management—that consists of tax assessments⁸⁶ and authorized planning.⁸⁷ Although the state emphasizes preservation of agricultural lands,⁸⁸ it also addresses open space preservation and environmental concerns, voiced mostly through task force recommendations and studies rather than legislation.

The Indiana Heritage Trust Fund protects sensitive natural areas for recreation and habitat purposes. The Department of Natural Resources oversees the Fund.⁸⁹ Other state groups that deal with land use issues are housed in the Office of the Commissioner of Agriculture (Indiana Land Resources Council) and in the Governor's Office (Indiana Land Use Forum), reflecting the state's awareness of the effects of unmanaged growth on agricultural land as well as the Governor's interest in land use.⁹⁰

In 1997, the Governor commissioned the Hoosier Farmland Preservation Task Force to study land use trends, causes of farmland conversion to nonagricultural uses, and the consequences of farmland conversion. Among the Task Force recommendations made to the Governor and the legislature were to adopt local ordinances that would encourage greater housing density and to formulate incentives to encourage development where infrastructure is already in place. It also recommended the creation of the Indiana Land Resources Council, which presently serves as Indiana's primary source of information on land use and growth management issues. The council also helps to forge and maintain partnerships among local, county, and state governments in addressing land use issues.

Iowa. Antisprawl advocates in Iowa waged an educational and legislative campaign for state-level attention to planning and growth management in 2001 and 2002. The state has lost 99% of its native prairie and wetlands and two-thirds of its forest land, and is losing 26,000 acres of farmland annually, according to data compiled by the federal Natural Resources Conservation Service for its periodic National Resources Inventory.⁹¹ Statewide

⁸⁶ Indiana Code, Sec. 6-1.1-4-13 and Sec. 6-1.1-6. Online. Available: <http://www.in.gov/legislative/ic/code/>. Accessed: April 15, 2002.

⁸⁷ Indiana Code, Sec. 36-7-4-205.

⁸⁸ Indiana Code, Sec. 14-34-4-9.

⁸⁹ Indiana Code, Sec. 14-12-2-1.

⁹⁰ The Indiana Land Resources Council is housed within the Office of the Commissioner of Agriculture and the Indiana Land Use Forum is housed within the Governor's Office.

⁹¹ Iowa Environmental Council, *Sprawl and Our Environment*. Online. Available: http://www.earthweshare.org/n/pp_sprawl.pdf. Accessed: February 24, 2002; Jay Howe,

nonprofit groups cite these figures in their advocacy for more carefully planned land use. These groups are encouraging state-level involvement in growth management, an area that historically has not been a priority for Iowa's state government. Conservation easements are allowed by state statute.⁹² Some private conservation programs exist, but the Iowa Natural Heritage Foundation suggests that these programs are not widely used.⁹³

Conservation issues in Iowa gained popularity in the late 1980s. The Iowa Open Spaces Protection Plan of 1988 recommended a 10% increase in the amount of "protected" lands by 2000. The actual increase in publicly owned spaces was roughly 12% from 1989 to 2000. This plan made other recommendations, but a state official indicated that these have not been carried out and the plan needs to be updated.⁹⁴

In 1989 the Iowa Legislature approved the Resource Enhancement and Protection Program (REAP). REAP funds programs for soil and water enhancement, conservation education, and historic preservation, among other purposes. Currently, 43% of the program's \$9 million budget goes toward open space conservation.

Specific consideration of sprawl at the state level has recently resurfaced. A 1997 Iowa Legislature resolution created the Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland.⁹⁵ This working group, composed of 21 members with backgrounds in planning, development, design, agriculture, transportation and conservation, spent two years collecting information on Iowa's land use policies and patterns. Among its 1999 recommendations were: developing a statewide land use inventory; creating a council composed of state agency representatives to establish, maintain, and revise a state strategic development plan; and requiring cities and counties to prepare plans.⁹⁶

Some Iowa legislators attempted to address these goals in 2002 when they introduced the Land Management Planning Act (known as the "Planning Bill"), which proposed statewide land use planning. This legislation recommended identifying statewide goals for

(...continued)

"Urban Sprawl: We Ignore Smart Growth at Our Own Peril," *Des Moines Register* (February 8, 2001). Reprinted in 1000 Friends of Iowa website. Online. Available: <http://www.kfoi.org>. Accessed: February 24, 2002.

⁹² Iowa Code Annotated, Sec. 457A.

⁹³ Iowa Natural Heritage Foundation, *Protecting Your Land with a Conservation Easement*. Online. Available: <http://www.inhf.org/easement.htm>. Accessed: February 24, 2002.

⁹⁴ Letter from Arnie Sohn, Chief of Program Administration Bureau, Iowa Division of Parks, Recreation and Preserves, to Dr. Robert Wilson, Mike Hogg Professor of Urban Policy, Lyndon B. Johnson School of Public Affairs, The University of Texas at Austin, February 4, 2002.

⁹⁵ House Concurrent Resolution 21, Iowa House of Representatives, Iowa General Assembly (1997).

⁹⁶ Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland, *Final Report* (January 1999). Online. Available: <http://www.legis.state.ia.us/GA/77GA/Interim/1998/comminfo/urbplan/final.htm>. Accessed: February 24, 2002.

development of land so that cities and counties would be encouraged to pursue antisprawl objectives in their planning. The bill was defeated in committee in late March 2002.

Kansas. Kansas has many agricultural land preservation policies as about 88% of the state was devoted to farmland in 1997. The policies include regulations dealing with conservation easements, right-to-farm laws, property tax relief, and limitations on local government authority to regulate agricultural land. Outside of agriculture, laws and programs include:

- ! Conservation Easements;
- ! Community Development Grant Programs; and
- ! Surface Mining Land Conservation and Land Reclamation Act.

Kansas has few state policies dealing with planning and urban sprawl. Planning is concentrated at the county and city levels. The Kansas Department of Commerce and Housing has some planning functions, but most relate to economic development. The Department of Commerce and Housing administers grant programs to municipalities for community development, a Main Street program for neighborhood revitalization, and community capacity-building programs.

In 1998, Kansas began the process of developing its Transportation 2000 program in response to federal requirements. This program focuses on economic development. While it does not explicitly regulate local land use; it does provide additional money for public transportation and rail improvements.

Kentucky. In the 1990s Kentucky undertook its most visible and ambitious planning efforts at the state level.⁹⁷ Development, particularly unplanned growth into rural and agricultural areas, has occurred as a result of Kentucky's high growth rate over the last 20 years. Between 1982 and 1997 Kentucky's growth in developed areas outpaced the national average by 27%. Data from the 1990s indicate population growth varies, with some nonurban counties experiencing robust growth as well. The rural-urban balance shifted during the 1990s, with slightly more residents living in nonmetropolitan counties.⁹⁸ The natural areas of Kentucky are a valued resource for tourism, recreation, and agriculture. However, farmland loss occurred at the second-fastest rate in the country during the late 1990s,⁹⁹ and state officials have recognized the economic and environmental impact of unplanned growth on surrounding agricultural and rural areas. Laws and programs include:

- ! Purchase of Development Rights and Purchase of Agricultural Conservation Easements;
- ! Transferable Development Rights;

⁹⁷ Ed Bolen, Kara Brown, David Kiernan, and Kate Konschnik, *Smart Growth State by State* (Hastings, CA: University of California College of the Law, Spring 2001). Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 10, 2002.

⁹⁸ *Ibid.*, p. 3.

⁹⁹ Smart Growth Online, *Budget Constraints Delay Some Kentucky Growth Control Measures, but Others Remain*. Online. Available: <http://www.smartgrowth.org/news/article>. Accessed: February 12, 2002. Kentucky Smart Growth Task Force, *A Report of the Governor's Smart Growth Task Force*, p. 16. Administrative Code, 418 KAR 1:010-1:070. Administrative Code, 302 KAR 100:020.

- ! Heritage Land Conservation Act;
- ! Identification of Lands of Statewide Agricultural Importance;
- ! Smart Growth Task Force; and
- ! Renaissance Kentucky Program.

The Governor established his Smart Growth Task Force in May 2001, and charged it with developing a comprehensive approach and framework for managing Kentucky's land use issues. The task force is a collaborative effort that utilizes research to inform developers of statewide land use strategies.¹⁰⁰ The Governor's Office is leading this campaign with committees on agriculture; wildlife and the environment; planning; transportation and corridor management; community development and design; and economic development. After a series of studies and public forums on growth management and its impacts on the environment, infrastructure, economy, and natural resources, the Task Force continues to develop approaches to manage urban growth. One approach considered is to recommend reestablishing the State Planning Office to coordinate state agency programs. Kentucky had established a State Planning Office in 1976 to provide staff for the state planning committee and to develop policies and procedures for the use of research and planning consultants. In 1984 the statute creating this office was repealed. Kentucky's recent planning statutes are working toward creating a statewide and regional planning framework. They authorize planning units with the expectation that a planning commission will be formed to oversee the planning process.

The Renaissance Kentucky Program, adopted in 1996, is helping to revitalize downtowns through a collaborative network of state and local entities and financial incentives and technical assistance. Kentucky also administers several land acquisition programs focused on preserving agricultural land and natural resources. The land evaluation and site assessment program is an innovative approach to valuing agricultural land in order to protect it from encroaching development from urban and suburban areas.

The support of the Governor's Office in the land use management campaign has been instrumental to its success thus far, but many of the Task Force's recommendations as of this writing had not become law. The task force has already accomplished one prime goal by effectively articulating to state agencies the importance of well-managed growth planning to reduce costs and preserve the state's assets.

Louisiana. Growth management and open space preservation are not policy priorities at the state level. Land-related statutes in the 1990s reflect the state's growing concern with revitalizing natural areas, preserving water sources, and restoring the coastline, but these policy priorities are unrelated to concerns about managing growth. Population growth and development are not increasing at a rate sufficient to raise concerns at the state level. In some of the larger urban parishes, regional planning commissions and local planning units are addressing land use planning issues. Louisiana's approach to planning and zoning reflects both the demographic trends and the constitutional emphasis on local control.

Louisiana does not have a state planning agency. Planning authority is distributed among state agencies, and the Department of Administration oversees research that evaluates the development of state resources and local planning efforts. Municipalities and

¹⁰⁰ Kentucky Smart Growth Task Force, *A Report of the Governor's Smart Growth Task Force* (Lexington, KY, November 2001).

parishes are allowed, but not mandated, to create planning commissions. Commissions are expected to prepare a master plan for their jurisdiction; internal coordination and consistency are not required in the development of these plans.¹⁰¹ The highest level of coordinated planning occurs through regional planning commissions, which have the authority to develop planning policies for parishes. Their success is predicated upon local government cooperation and participation.¹⁰²

Louisiana's coastline, with extensive wetlands, is considered a national asset. The rate of coastal wetland loss in Louisiana averages 25 to 35 square miles per year. This amount is 80% of all coastal wetland losses in the all of the continental United States, according to the U.S. Fish and Wildlife Service using its National Wetlands Inventory data base. In 1978 the Louisiana State and Local Coastal Resources Management Act established a state program overseeing the regulation of developmental activities that affect coastal wetland loss. This program became part of the state's federally approved coastal zone management program in 1980. In 1989 the legislature established the Wetlands Trust Fund and the first Wetland Restoration Plan, and an amendment creating the Coastal Restoration Division within the Louisiana Department of Natural Resources. In 1990, Congress passed the Coastal Wetlands Planning, Protection and Restoration Act of 1990 (P.L. 101-646) that provides federal funding for state restoration activities.

State and federal agencies completed the Coast 2050 plan in 1998. Under this plan, federal, state, and local levels collaborate to sustain the coastal ecosystem in ways that support and protect the environment, economy, and culture of southern Louisiana.¹⁰³ The Louisiana Department of Natural Resources' Office of Coastal Restoration and Management administers the plan. Programs that address preserving the Louisiana coastline and maintaining the quality of the state's water resources are widely supported, although some industry and development stakeholders do not always agree.

These intergovernmental legislative and political efforts to preserve natural resources do not directly relate to growth management. At this time, the regional and local approach to growth management is viewed as sufficient to address emerging issues due to unplanned growth. The court system handles most disputes, which demonstrates the localized and case-specific nature of these issues in Louisiana. The state is not concerned with land use management at the state level presently.

¹⁰¹ Ed Bolen, Kara Brown, David Kiernan, and Kate Konschnik, *Smart Growth State by State* (Hastings, CA: University of California College of the Law, Spring 2001). Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 10, 2002.

¹⁰² Urban Futures.org, *Louisiana*. Online. Available: <http://www.urbanfutures.org/state.cfm?state=Louisiana#4>. Accessed: February 5, 2002.

¹⁰³ Louisiana Coastal Wetlands Conservation and Restoration Task Force and the Wetlands Conservation Restoration Authority, *Coast 2050: Toward a Sustainable Coastal Louisiana* (Baton Rouge, LA, 1998). Online: <http://www.savelawetlands.org/site/Reports/Coast%202050/report1.pdf>. Accessed: February 12, 2002.

Maine. Maine's Governor is a strong supporter of Smart Growth efforts.¹⁰⁴ Within his administration, the State Planning Office (SPO) takes a leading role in addressing urban sprawl. The SPO issued two reports in the late 1990s that drew attention to state policies that encourage sprawl.¹⁰⁵ This advocacy has proved timely, as popular concern over sprawl appears to be increasing.¹⁰⁶ The state government has extensive powers over land use and planning, and zoning in all unincorporated areas.¹⁰⁷ Laws and programs currently include:

- ! Revolving Renovation Fund;
- ! Municipal Investment Trust Fund;
- ! Comprehensive Planning, Plan Update, and Implementation Grants;
- ! Smart Growth Challenge Grants; and
- ! Great American Neighborhood Partnership Grants.

Since the late 1980s, state government has focused on coordinating the actions of relevant state and local groups within an extensive set of growth management policies and programs. Such efforts are guided by statewide goals for planning and regulatory activities at all levels of government as set forth in the Growth Management Act of 1988.¹⁰⁸ This act codifies the Growth Management Program, which funds the SPO's technical and financial assistance programs for municipalities that submit plans consistent with state growth management goals.

The SPO administers the Maine Coastal Program, which encompasses all cities and towns that have land along the coast or a tidal waterway. Since 1978, it has functioned as a partnership among local, regional, and state agencies. The program also collaborates with local land trusts and economic development groups, and is administered to achieve a balanced, comprehensive approach to coastal management.

In addition to various state programs to keep land in productive forestry, farming, and fishing use, Maine administers the Land for Maine's Future Program that purchases land for recreation and conservation. Since it was established by voter initiative in 1987, approximately 65,000 acres have been acquired from willing sellers. Various components of this program have enjoyed the support of Maine's past three Governors. Maine also

¹⁰⁴ State of the State Address by Angus King, Governor of Maine, Augusta, Maine, January 23, 2001. Online. Available: http://www.state.me.us/governor/policy/my_position/01sos.html. Accessed: February 24, 2002; "Nation's Governors See Smart Growth as Major Issue," National Trust for Historic preservation, February 24, 2000 (press release). Online. Available: http://www.nationaltrust.org/news/docs/20000224_nations_governors.html. Accessed: February 24, 2002.

¹⁰⁵ Evan Richert, Director, Maine State Planning Office, *Confronting the Issue of Sprawl in Maine*. Online. Available: <http://mrdc.umext.maine.edu/archive/sprawl/confronting.htm>. Accessed: February 24, 2002; Maine State Planning Office, *The Cost of Sprawl* (May 1997). Online. Available: <http://www.state.me.us/spo/pdf/sprawl.pdf>. Accessed: February 24, 2002.

¹⁰⁶ "Report: Portland Northeast Sprawl Capital," *Lewiston Sun-Journal*, Oxford Hills edition (July 30, 2001), p. 2; Smart Growth Online, *Maine Gov. Stresses Need to Manage Growth in State*. Online. Available from the Smart Growth Online web site at: <http://www.smartgrowth.org/news/bystate.asp?state=ME>. Accessed: February 24, 2002.

¹⁰⁷ Title 12, Maine Revised Statutes Annotated, Secs. 683-685.

¹⁰⁸ Title 30A, Maine Revised Statutes Annotated, Sec. 4314.

administers an innovative approach to address the issue of “school sprawl.” Many New England towns have found that residential and commercial sprawl soon follow the siting of a school in a previously rural location. Maine has addressed this trend since 1997 by providing funds for the Revolving Renovation Fund to rehabilitate older public school facilities in areas where development has already occurred.¹⁰⁹

Other legislation established financial incentives to curb sprawl. Examples include Growth-Related Capital Investments to coordinate state capital spending with growth management goals¹¹⁰ and the Municipal Investment Trust Fund to improve municipal infrastructure.¹¹¹ Both programs were established by Maine’s Smart Growth Initiative, which passed the legislature in 2000¹¹² and enhanced numerous aspects of Maine’s Smart Growth Program. This initiative also funded grant programs administered by the SPO to assist municipalities and regions in addressing sprawl-related issues and devising Smart Growth solutions. A state budget shortfall in 2002 reduced the number of these programs from five to two.¹¹³

Maryland. Maryland has a very active growth management program and is widely recognized as an early adopter of statewide, incentive-based efforts to address sprawl. It is one of only a few states to provide a statutory-based statewide growth management policy. Local governments collaborate with the state in formulating growth policies. Laws and programs are numerous, and include:

- ! Live Near Your Work Program;
- ! Community Legacy Program;
- ! Rural Legacy Program;
- ! Green Print Program;
- ! Office of Smart Growth;
- ! Smart Growth and Neighborhood Conservation Policy;
- ! Brownfields Program;
- ! Smart Growth Areas Act;
- ! Smart Codes;
- ! Economic Growth, Resource Protection and Planning Act;
- ! Smart Codes (Models and Guidelines, Infill Development, and Smart Neighborhoods);
- ! Forest Conservation Act;
- ! Job Creation Tax Credit;
- ! Maryland Main Street Program;
- ! Neighborhood and Community Assistance Program;
- ! Maryland Heritage Preservation and Tourism Areas Program;
- ! Tax Credit for Preservation and Conservation Easements; and
- ! Community Parks and Playgrounds Program.

¹⁰⁹ Title 30A, Maine Revised Statutes Annotated, Sec. 6006F.

¹¹⁰ Title 30A, Maine Revised Statutes Annotated, Sec. 4349A.

¹¹¹ Title 30A, Maine Revised Statutes Annotated, Sec. 6006D.

¹¹² Maine Public Law 776 (2000).

¹¹³ Email from Will Johnston, Grant Coordinator, Maine State Planning Office, to Drew Murray, February 19, 2002.

A few important programs established prior to 1990 created guidelines for growth management. In 1967, the Maryland Environmental Trust was established to conserve and improve the natural and scenic aspects of the Maryland environment. Program Open Space was established in 1969 to acquire outdoor recreation and open space land for public use. The Shore Erosion Control Program was the first of several state programs to protect various resources in the coastal zone. The highly acclaimed Agricultural Land Preservation Program, established in 1974, protected farmland through the purchase of conservation easements. The multistate Chesapeake Bay Agreement, initiated in 1983 and subsequently updated, establishes a regional commitment to restoring the bay involving businesses, local governments, citizens, and organizations.

Numerous growth management laws were passed after 1990. The Maryland Economic Growth, Resource Protection and Planning Act of 1992, the state's primary planning law, created a framework for citizens, developers, state agencies, counties, and towns to approach planning for growth and resource protection. Premises of this act are that counties and towns are best suited for establishing priorities for growth and resource conservation in comprehensive plans, and that priorities should be endorsed by acts of the state. Local governments are required to adopt comprehensive plans that contain visions, goals, or policy statements that serve as a guide to growth. Local governments may plan and zone in their jurisdictions and can create a planning commission.

This act also features several consistency requirements. For example, the state may not fund a public works, transportation, or major capital improvements project if it is not consistent with the state policy. In addition, a local jurisdiction may not approve or construct a local project involving the use of state funds unless the project is consistent with the comprehensive plan. The act does not require state approval or certification of the local comprehensive plans, but localities must hold public hearings and distribute copies of the plan to all planning commissions and all state and local jurisdictions responsible for financing or constructing the public projects necessary to implement the plan.¹¹⁴

The governor during most of the 1990s was instrumental in the development of Maryland's Smart Growth initiatives and neighborhood conservation strategies. In 1997, he encouraged the passage of Maryland's Smart Growth and Neighborhood Conservation program. The legislation allows the state to direct programs and funding to support locally designated growth areas and protect rural areas. Since the initiative is not a no-growth policy and does not create mandates, it has been largely accepted by local governments. He also made smart growth his top priority as chairman of the National Governors' Association.

In 2001, during his final year in office, the Governor promoted a package of Smart Growth bills that garnered national attention. One of these is the Maryland Green Print Program, which allows for the purchase of easements on agricultural lands and creates an integrated system that links preserved areas in order to increase their overall environmental quality. In May 2001, the Governor announced that the Department of Planning would actively intervene, possibly with judicial action, in major local development decisions that promote sprawl.

¹¹⁴ Ed Bolen, Kara Brown, David Kiernan, and Kate Konschnik, *Smart Growth State by State* (Hastings, CA: University of California College of the Law, Spring 2001). Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 10, 2002.

Maryland's Smart Growth program relies on the cooperation of all state departments and agencies whose actions affect the location of growth, coordinated through the Governor's Office of Smart Growth and guided by a 1998 Executive Order.¹¹⁵ This Office ensures that all departments and agencies are acting in accordance with smart growth principles by serving as an information clearinghouse for all parties involved in the planning process. The Maryland Department of Planning plays the central role in implementing state planning laws. Other key departments include Natural Resources, Transportation, Environment, Housing and Community Development, Agriculture, Business and Economic Development, and General Services.

Massachusetts. The Commonwealth of Massachusetts has a variety of growth management policies, most of which either mandate some form of local planning or provide information and technical assistance to enable better planning. For example, Executive Order 418 provides technical assistance and resources to help communities create community development plans. The state seems to be equally concerned about preserving and maintaining community character, historic preservation, and protection of natural resources. Current laws and programs include:

- ! Community Preservation Act;
- ! Wetlands Protection Act;
- ! Planning for Growth;
- ! Community Development Planning and Executive Order 418 to address the housing shortage;
- ! Land Disposition Policy (Article 97);
- ! Community Buildout and Analysis; and
- ! Community Preservation Initiative.

Prior to the 1990s, Massachusetts had passed few measures actively addressing growth management and open space preservation. Beginning in 1955, the state established authority to create regional planning commissions.¹¹⁶ An abundance of advisory land use legislation was passed between the late 1960s and late 1970s, including the Zoning Act,¹¹⁷ the designation of regional planning districts,¹¹⁸ and the Subdivision Control Law.¹¹⁹ In 1973, a significant forest preservation program was initiated that gives favorable treatment to landowners willing to keep forested land undeveloped and manage that land under a long-term strategy.¹²⁰

The Governor and some legislators were proponents of growth management legislation in the 1990s, including the 1996 Open Space Bond Bill, the Rivers Protection Act, and

¹¹⁵ Executive Order 01.01.1998.04.

¹¹⁶ Massachusetts General Laws, ch. 40B, Secs. 1-8. The General Laws of Massachusetts. Online. Available: <http://www.state.ma.us/legis/laws/mgl/index.htm>. Accessed: January 12, 2002.

¹¹⁷ Massachusetts General Laws, ch. 40A, Secs.1-17.

¹¹⁸ Massachusetts General Laws, ch. 40B, Secs. 9-18.

¹¹⁹ Massachusetts General Laws, ch. 41, Secs. 81K-81G.

¹²⁰ Massachusetts General Laws, ch. 61, and Massachusetts Bureau of Forestry, *CH 61 - The Forest Tax Law*. Online. Available: <http://www.state.ma.us/dem/programs/forestry/service/fortax.htm>. Accessed: April 10, 2002.

Executive Order 385. Executive Order 385, “Planning for Growth,” encourages state agencies to incorporate sustainable development and protection of resources into their everyday operations. When a legislator who supported addressing growth problems became the secretary of the Executive Office for Environmental Affairs (EOEA), he helped initiate the Community Preservation Act, which had been debated by legislators for at least 18 years before it passed. The act, described as a “municipally-driven, smart growth initiative,” allows communities to increase their property tax rate by up to 3% to create a Community Preservation Fund, which is backed by state matching funds.¹²¹ The fund can be applied toward cultural and historic preservation, open space preservation, and developing and maintaining affordable housing.

Most recently, the current Governor has successfully protected more than 100,000 acres of land under “Article 97”.¹²² This effort has been greatly assisted by increasingly cooperative relationships between EOEA and other agencies, as well as cities and towns, private landowners, and the nonprofit community. While the state has been very active in the direct protection of land, growth management and land use initiatives at the state level are advisory (primarily undertaken by the EOEA and the Department of Housing and Community Development), with the ability to make the vast majority of land use decisions vested at the local level.

Michigan. Michigan is becoming more active in addressing growth management issues. It has enacted few laws promoting statewide planning (and no statewide land use goals), but numerous ones enabling local and regional governments with growth management authority, where those issues are usually addressed. At the state level, Michigan’s initiatives concentrate on protecting environmentally sensitive areas such as wetlands, and preserving agricultural lands. The Michigan Department of Agriculture and the Department of Environmental Quality (DEQ), both of which collaborate with the federal government, and the Department of Natural Resources, are most closely associated with preservation of open space and planning. The DEQ is usually the lead agency for the implementation of regulatory and environmental incentive programs aimed at environmental protection. Laws and programs include:

- ! Brownfields Redevelopment Financing Act;
- ! City and Village Zoning Act;
- ! Clean Michigan Initiative;
- ! County Planning Act;
- ! Farmland and Open Space Preservation Program;
- ! Historic Preservation Program;
- ! Municipal Planning Act;
- ! Natural Resources and Environmental Protection Act;
- ! Neighborhood Enterprise Zones Act;
- ! Obsolete Property Rehabilitation Act; and
- ! Township Planning and Zoning Acts.

¹²¹ Executive Office of Environmental Affairs, *Community Preservation Initiative*. Online. Available: <http://141.154.98.52/#>. Accessed: April 15, 2002.

¹²² Massachusetts Constitution, amendment XCVII. Online. Available: <http://www.state.ma.us/legis/const.htm#cart095.htm>. Accessed: January 22, 2002.

Initiatives to protect wetlands and coastal areas in Michigan began in 1974 and culminated in the passage of the Goemare-Anderson Wetland Protection Act in 1979.¹²³ This act assigned land preservation and planning responsibility to local and county governments.

In 1994 the Michigan Relative Risk report identified “lack of land use planning” as a major risk for the future of Michigan. Coalitions and foundations appeared to promote initiatives for planning, but their activism subsequently faded. In 1995 growth management consortiums at the county level emerged. These consortiums convinced the state legislature to consider land use legislation in 1994 and 1996. Their effectiveness was a major factor in the passage of local enabling acts such as the City and Village Zoning Act, the County Planning Act, the Municipal Planning Act, and the Township Planning Act.

Michigan’s approach to growth management is unique because it has two distinct areas with very different development concerns. In the Detroit metropolitan area, the state faces urban growth management crises such as sprawl. In the north, or Upper Peninsula, the state is faced with controversy over how to preserve open spaces and environmentally sensitive areas. These controversies often involve the consideration of the local wetland ordinances.

In recent years, state and nonstate entities have worked together to promote land conservation and redevelopment through programs like the Conservation Reserve Enhancement Program and the Farmland & Open Space Preservation Program. Since 1996, enactments like the Brownfield Redevelopment Financing Act, the Natural Resources and Environmental Protection Act, and the Neighborhood Enterprise Zones Act have addressed growth management issues like land conservation and redevelopment. In 1998, voters approved the Clean Michigan Initiative that raises funds from a tax increase to preserve open space and acquire parks and wildlife habitats.¹²⁴

Minnesota. Minnesota adopted a framework to guide county and municipality community-based plans in 1997.¹²⁵ The Community-Based Planning Act encourages counties and municipalities to collaborate in preparing comprehensive community-based plans. This Act provides financial and technical assistance for local planning and articulated an initial set of eleven statewide goals that all community plans had to consider.¹²⁶ It directed Minnesota Planning, the state’s planning agency, to administer the financial and technical assistance parts of the program and provide review and comment on all the plans. These reviews were intended to ensure that plans promoted cooperation among neighboring communities and local public involvement in creating them. Local governments are strongly encouraged to include an implementation section that identifies activities necessary to carry out the plan. Since it has been in effect for less than 5 years, it is too soon to assess results. Other laws and programs include:

- ! Metropolitan Livable Communities Act;

¹²³ Michigan Compiled Laws Annotated, Secs. 281.701-722. Online. Available: <http://www.michiganlegislature.org/documents>. Accessed: December 20, 2001.

¹²⁴ “State Growth Management: The Intergovernmental Experiment.” *Pace Law Review* (Fall 1993), p. 483. Online. Available: Lexis-Nexis Academic Universe, <http://web.lexis-nexis.universe/>. Accessed: December 20, 2001.

¹²⁵ Minnesota State Statutes Annotated, 4A.01-10.

¹²⁶ These goals were repealed in 2001.

- ! State Development Strategy Proposal;
- ! Urban Rivers Act; and
- ! Urban Development (including generic environmental impact statement).

Prior to 1997, many Minnesota communities did not have current local plans to guide decisions on development, land use, transportation, and environmental quality. State law provided little guidance to municipalities on establishing local and/or regional plans, and funding was very limited.¹²⁷ Planning organizations had existed for some time, including the Metropolitan Council of Minneapolis/St. Paul established in 1967 and the regional development commission established in 1969.

In 2000, the Governor started to institute policies collectively called Smart Growth. These policies are based on three principles. First, economic growth is good and Minnesota wants it to occur where people live and not to pursue policies that restrict or impede growth. Second, environmental quality should be preserved. Most residents want open space close to where they live. They believe that public amenities are worth preserving and the state has a role in that preservation. Third, use fiscal restraint for spending on infrastructure to determine “the best use of Minnesota’s dollars.”¹²⁸

Mississippi. Efforts to protect open space and manage growth in Mississippi focus on the state’s coastal resources and are therefore directed by the Mississippi Department of Marine Resources (DMR). Economic growth has traditionally taken priority over environmental concerns, according to survey participants.¹²⁹ Yet, rapid growth in the coastal area has recently generated some interest in balancing natural resource protection with economic development by protecting coastal wetlands, and coastal resources more generally.

The Mississippi Legislature recognized the importance of the coastal wetlands in 1973 with the passage of the Coastal Wetlands Protection Law. It stipulates that all coastal wetlands loss must be mitigated in accordance with a “no net loss” policy. An analysis must be conducted to determine if other, less environmentally sensitive sites can be used for a project. If coastal wetlands will be degraded, compensation is required. The DMR reports wetlands loss has slowed tremendously since this law was enacted.¹³⁰

However, even under this legal protection, the sensitive environment along Mississippi’s Gulf Coast is increasingly threatened. State legislation was passed in 1990 to allow operating casino cruise vessels to remain docked on the Mississippi River or on the Gulf Coast. The first of many casinos opened in 1994, surrounding itself with hotels, parking structures, and other infrastructure within a quarter mile of the coastline. The Gulf Coast population has grown with the industry, and the three coastal counties are the fastest

¹²⁷ Minnesota Planning, *Community-based Planning in Minnesota*. Online. Available: <http://www.mnplan.state.mn.us/commplan/cbpinmn.html>. Accessed: January 28, 2002.

¹²⁸ Metropolitan Council, *Metropolitan Council*. Online. Available: http://www.metrocouncil.org/mnsmartgrowth/sg_whatish.htm. Accessed: March 28, 2002.

¹²⁹ Lyndon B. Johnson School of Public Affairs, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

¹³⁰ Mississippi Department of Marine Resources, Coastal Preserves Program, *Mississippi’s Coastal Wetlands* (Biloxi, MS, 1999) p. 3.

growing in the state.¹³¹ In response the state has mandated the DMR to develop guidelines for coastal planning and to evaluate the future impacts of casino construction and related economic expansion on coastal resources. The DMR formulated the comprehensive Coastal Resource Management Plan (CRMP). It seeks to direct, but not deter, economic growth in a manner that protects and enhances coastal resources. Mississippi municipalities and counties may adopt comprehensive plans and may form planning commissions (but are not required to), and the CRMP offers assistance to those on the coast that opt to pursue these activities.

Actions taken since 1990 created an acquisition program for coastal wetlands and provided funding for conservation and enhancement of public access to the coastal tidelands. Under the Mississippi Coastal Preserves Program, enacted in 1992, the DMR has acquired 23,300 acres of a designated 83,000 acres of crucial coastal wetland habitat.¹³² The Tidal Trust Fund Program, started in 1994, meanwhile, uses income from the lease or rental of tidelands (by casino operators, for example) to make grants to acquire and preserve these sensitive lands, as well as operate public education programs.

Missouri. Missouri has few statewide initiatives for growth management and protection; few laws even indirectly address these subjects. The laws and programs that address growth management are not comprehensive, and include:

- ! Voluntary Cleanup Program;
- ! Downtown Development Executive Order;
- ! Neighborhood Preservation Act;
- ! Farmland Preservation Act; and
- ! Historic Preservation Tax Credits.

The State and Regional Planning and Community Development Act designates the Office of Administration as the official state planning agency. The Office provides planning assistance and technical information to counties, municipalities, metropolitan planning areas, and regional planning commissions.¹³³ The state has vested the planning power in the counties and provided them substantial discretion. All municipalities are authorized to plan and zone, but the state does not require a comprehensive plan nor does it set up consistency requirements for plans across the state.¹³⁴ The state's Commission on Intergovernmental Cooperation, Community Growth, and Revitalization Committee facilitates communication between various levels of government and addresses shared problems, including growth-related issues. It was created by executive order in 1985, and members include five private citizens, four legislators, six cabinet members, and representatives from local government organizations.

¹³¹ Jay Charland, "Mississippi Responds to Coastal Growth and EPA Stormwater Rule: DMR NOAA Develop Coastal Resource Management Plan." Mississippi-Alabama SEA Grant Legal Program. Online. Available: <http://www.olemiss.edu/orgs/masglp/storm.htm>. Accessed: January 12, 2002.

¹³² Mississippi Department of Marine Resources, *Mississippi Coastal Preserves Program*, Biloxi, MS, 1998 (pamphlet).

¹³³ Missouri Revised Statutes Annotated, ch. 251, sec. 170.

¹³⁴ Missouri Revised Statutes Annotated, ch. 89, sec. 030.

In the 1990s, Missouri demonstrated some interest in growth management. The state passed legislation that focused on hazardous waste clean-up and infill development in the late 1990s. The Voluntary Clean-up Program, passed in 1995, allows, the Department of Economic Development and Department of Natural Resources to provide technical assistance to brownfield owners as they clean up their sites. The Neighborhood Preservation Act of 1999 and Historic Preservation Tax Credit, passed in 1998, established tax incentives for development in specific city districts.

The Governor offered various initiatives in 2001 concerning growth management, but met with limited success. During his first legislative session, he proposed a task force to study growth management and offer recommendations, but that proposal was rescinded in response to significant opposition. He issued an executive order calling for the state to focus on downtowns in urban areas when procuring office space. Beyond these efforts, however, Missouri's position on managing growth has changed little for decades.

Montana. In Montana, county governments are assigned principal responsibility for growth management and open space protection. State involvement, however, may increase in the near future as it implements laws and policies, including:

- ! TransPlan 21;
- ! Montana Agricultural Heritage Act; and
- ! Two unnamed laws addressing infrastructure management.

Montana's state government addresses open space preservation by purchasing conservation easements that protect environmentally sensitive and popular recreation areas. The Montana Agricultural Heritage Act, adopted in 1999, contributes funding to purchase agricultural conservation easements, including family farms, ranches, and forestlands with significant public value. This Act is also administered to protect watersheds and wildlife habitat, and provide aesthetic benefits. The Office of State Planning uses the Comprehensive Environmental Cleanup and Responsibility Act to require liable parties to participate in hazardous substances cleanup. The Department of Transportation has implemented TransPlan 21, which will establish a set of policy goals and priorities for addressing statewide transportation needs, based on acceptable funding levels.

While these programs address issues related to growth management and open space preservation, counties are the key jurisdictions. After adopting a comprehensive plan for growth policy that meets state requirements, counties may plan and zone.¹³⁵ Cities are not required to adopt a comprehensive plan before planning and zoning. If a city chooses to adopt a comprehensive plan, all future actions, including zoning ordinances, must be consistent with it. However, there is no internal consistency requirement. Both counties and municipalities are authorized to establish planning boards. If a local jurisdiction appoints a planning board, that board must prepare a growth policy.¹³⁶

Montana has no statewide growth management or open space preservation system and no central agency focusing entirely on sprawl-related issues. Only recently has progrowth

¹³⁵ Montana Code Annotated, Section 76-1-601

¹³⁶ Ed Bolen, Kara Brown, David Kiernan, and Kate Konschnik, *Smart Growth State by State* (Hastings, CA: University of California College of the Law, Spring 2001). Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 10, 2002.

management legislation been proposed, based on an American Planning Association (APA) report analyzing Montana's land use laws. The Montana Smart Growth Coalition, composed of 27 nonprofit public interest organizations, requested this report to assess the need for statutory reform.¹³⁷

Nebraska. Urban growth management and open space protection is the responsibility of local government in Nebraska. Recent state initiatives provide financial support for cities and counties to develop comprehensive plans and preserve natural resources. Planning duties for cities and counties are based on their population. A second-class (800 to 5,000 people) and first-class city (5,000 to 100,000) must have a planning commission and comprehensive plan, while a primary-class city (100,000 to 300,000) must have a planning department. A metropolitan-class city (300,000+) must have a planning board and city plan. Counties with only second and first-class cities may form a planning commission and adopt a comprehensive plan, while counties with primary or metropolitan-class cities must form a planning commission.

The state Department of Economic Development awards federal Community Development Block Grants (CDBG) for planning to local governments where a minimum of 51% of the residents have low to moderate income. These grants can be used for studies, data gathering, and preparation of strategic or comprehensive plans. Since 1994, grants have funded the preparation of over 60 comprehensive plans.¹³⁸ Today, 78 of 93 counties have or are in the process of adopting comprehensive plans.

In 1993, the state created the Nebraska Environmental Trust Fund (NET) and provided revenues from the Nebraska Lottery. By 2001, the fund had spent \$54 million in grants to preserve and restore wetlands, protect lakes from pollution, and develop recycling programs and markets. Given the high demand for NET resources, the Governor created the Natural Nebraska Fund in 2001 to augment it. In 2002, the NET awarded the Joslyn Institute of Omaha a three-year grant to work with state and local officials and stakeholders to develop strategies for addressing growth in the Interstate 80 corridor between the cities of Omaha and Lincoln. This area is projected to have a population of approximately 1.7 million by the year 2050.

Other efforts to protect natural resources include an amendment to the Nongame and Endangered Species Act that allows the Parks and Game Commission to purchase lands that are vital to endangered animals and wildlife and the creation of the Lower Platte River Corridor Alliance (LRCA). The LRCA works with numerous counties and organizations to improve comprehensive land use and cooperation in the high-growth area of the Lower Platte River. No evaluation of these efforts has been completed at this time.

¹³⁷ American Planning Association, "A Critical Analysis of Planning and Land-Use Laws in Montana: A Report of the American Planning Association Research Department Prepared for the Montana Smart Growth Coalition" (Chicago, January 2001), pp. 7-10, 28, 42.

¹³⁸ Community and Rural Development, *Community Development Block Grants Funded for Planning Activities, 1994-1999*. Online. Available: http://crd.neden.org/cpr/cpr_cdbg_projects.html. Accessed: November 12, 2001.

Nevada. Las Vegas is the fastest-growing city in the nation and Nevada was the fastest-growing state as of 2001.¹³⁹ Due to its history of a very small population and substantial federal land ownership (approximately 86% of Nevada is in public ownership), Nevada has historically taken a conservative approach to growth management and state officials historically have shown little interest in land use management. But it has become more proactive in recent years due to demographic challenges, especially in the greater Las Vegas area.

Local governments in Nevada approach growth management from two distinct perspectives. In one, they encourage the state government to take a more active role in providing coordination among local governments. They also support greater funding from a state government that has been unwilling to act on private land use management issues. In the other, local governments are apprehensive about restrictions that could result from state intervention.

Las Vegas, although not the state capital, dominates the state legislature because of the large portion of the population and economic activity in the state that are there. Nevada is not a home-rule state, so policies enacted by the legislature apply throughout. As a result, the pro-growth sentiments of the Las Vegas area and its representatives greatly influence state policy. This can frustrate officials from other regions, specifically from the environmentally sensitive Washoe County/Lake Tahoe region, who may be more interested in growth management and environmental protection policies but lack the necessary political leverage in the state legislature.

Growth management and open space preservation initiatives in Nevada are expected to evolve as more people in the greater Las Vegas area demand action. The Nevada legislature session that adjourned in July, 1997 was known as the "Growth Session." It created the Southern Nevada Strategic Planning Authority, which permits local governments to institute strategic plans and included provisions for regional planning coordination and growth boundaries.¹⁴⁰

In 1998, the U.S. Congress passed the Southern Nevada Public Land Management Act (P.L. 105-263). This act sought to address the problems caused by the high percentage of federal land ownership in the greater Las Vegas area by providing that Bureau of Land Management (BLM) land in southern Nevada could be sold for development. The proceeds from these sales would be transferred to northern Nevada to purchase environmentally sensitive lands in areas such as the Carson City/Lake Tahoe region. This is one example of the innovative ways that Nevada and the federal government have responded together to the state's unusual land management situation. Federal-state partnerships are often viewed as a vital component of growth management and open space preservation within this state because of land ownership patterns.

New Hampshire. New Hampshire has a strong, coordinated state and local system for growth management and open space protection. It has experienced a significant loss of farmland, forests, and habitat over the last 25 years, along with disintegration of many the

¹³⁹ Negative Population Growth, *NPG State Facts: Nevada*. Online. Available: <http://www.npg.org/states/nv.htm>. Accessed: April 8, 2002.

¹⁴⁰ The Southern Nevada Strategic Planning Authority, *Framework for the Future*. Online. Available: http://www.snrpc.org/Snspa_Plan/SNSPA_Plan_Framework.htm. Accessed: April 23, 2002.

state's country villages and historic town centers. By 1994 the state had created an Office of State Planning and had implemented a comprehensive development plan.¹⁴¹ The state utilizes a Smart Growth strategy and emphasizes historic preservation as a major part of this plan. Laws and programs include:

- ! Office of State Planning;
- ! State Development Office;
- ! Department of Resources and Economic Development;
- ! Council on Resources and Development; and
- ! Land and Community Heritage Investment Program.

The state passed several laws in 2000-2001 that enhance efforts to protect open space, historic areas, and farmland. These laws provide for a grant-giving framework to further develop and strengthen regional planning agencies and allow those agencies to coordinate with localities on downtown revitalization, sprawl discouragement, and traffic management efforts. Also, the state has appropriated over \$30 million to support the redevelopment of brownfields and it provides grants to communities to assist them in protecting water supply lands. New Hampshire also has recently strengthened its state master planning requirements for communities to encourage growth management and land use planning and zoning processes.

New Jersey. New Jersey has a long history of managing sprawl and preserving open space. New Jersey's active planning has been shaped by the state's location between the cities of New York and Philadelphia, and by the presence of a long desirable and developable coastal belt. Furthermore, the state contains sensitive wetlands, and large, undeveloped woodlands and watershed areas. Laws and programs currently being used include:

- ! Garden State Trust Act and Referendum;
- ! State Planning Act;
- ! Communities of Place;
- ! The New Jersey State Development and Redevelopment Plan;
- ! Statewide Long-Range Transportation Plans (Choices 2020 and Choices 2025);
- ! Department of Environmental Protection Strategic Plans and Land Use Regulations Plan;
- ! Education Facilities Construction and Financing Act;
- ! Smart Growth Planning Grants;
- ! Green Acres Program;
- ! Farmland Preservation Program;
- ! Brownfields Redevelopment Program; and
- ! Coastal Area Facility Review Act and Rules.

The basis for New Jersey's current activity in open space management is its State Plan, developed in 1985. Plan goals are to "conserve its natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth,

¹⁴¹ American Planning Association, *Growing Smart: Statutory Summary for the State of New Hampshire*. Online. Available: <http://www.planning.org>. Accessed: January 20, 2002. p. 67.

development and renewal.”¹⁴² The State Plan is comprehensive and attempts to coordinate activities among all levels of government. All decisions regarding land management and other antisprawl activities (including transportation, coastal management, and open space acquisition) are framed by the Plan. It also calls for periodic review and assessment of New Jersey’s achievements over time. It was amended by the State Development and Redevelopment Act and reapproved (most recently in 2001).

The Department of Community Affairs, the Planning Commission, and the Department of Environmental Protection (DEP) are lead state agencies overseeing open space management. Working with these agencies, New Jersey localities have also been extremely active in preserving open space. Localities have used local referenda to allocate a small percentage of property tax revenue directly to open space purchasing funds, which have been used to acquire thousands of acres. Two especially successful municipalities are Princeton and South Brunswick Township. Individual localities have instituted many additional programs, and the state has numerous grant and partnership programs to assist them to acquire and manage open space. The Governor’s Office continues to be an incubator of ideas pertaining to these issues. In 1999, for example, it supported a statewide forum entitled “Living with the Future in Mind” that identified citizen concerns about the use of land and environmental issues.¹⁴³

As of 2001, New Jersey had protected approximately 1.1 million acres of open space (more than 20% of the state) through such means as acquisition and conservation easements. Much of this land has been acquired by the DEP through its Green Acres Program, which was established in 1961 to meet New Jersey’s growing recreational and conservation needs. The program staff assists the state and localities with legal matters, financing options, and land management issues. This program, and the Farmland Preservation Program, have recently been revitalized and strengthened through the establishment of the Garden State Trust. This trust was established following an audit of land conducted during the mid 1990s that determined that only 2 million acres of privately held open space remained in the state. The voters approved a constitutional amendment in 1997 to create a trust, as proposed by the governor. The trust can receive \$98 million of sales tax revenue per year through 2009 (and also has authority to issue \$1 billion in bonds) to protect 1 million additional acres of open space. This has the potential to double the state-controlled open space while saving half the open space still in private hands. The trust works with other state agencies, local governments, and nonprofit organizations as well as individual landowners (especially to protect farmland).

New Mexico. In New Mexico, growth management and open space preservation consist primarily of local zoning and planning authority. State laws allow local governments to establish planning commissions¹⁴⁴ and planning districts¹⁴⁵ on the regional, county, and

¹⁴² New Jersey Department of Community Affairs–Office of State Planning, *New Jersey State Development & Redevelopment Plan*, Executive Summary, Trenton, NJ, March 1, 2001, p. 1.

¹⁴³ New Jersey Future, *Living with the Future in Mind*. Online. Available: <http://www.njfuture.org/HTMLSrc/SSR/>. Accessed: March 28, 2002.

¹⁴⁴ Regional Planning Act, New Mexico Statutes Annotated, Sec. 3-56-1 to 3-56-9 (Michie 1978); County Planning Commission, New Mexico Statutes Annotated, Sec. 4-57-1 to 4-57-3 (Michie 1978); and Planning and Platting, New Mexico Statutes Annotated, Sec. 3-19-1 (continued...)

municipal levels. State land use legislation in New Mexico consists nearly entirely of enabling legislation. Planning and zoning laws enacted prior to the 1990s relied on the governor's attention to local planning commissions. Representatives from state government could participate only if "designated by the governor to attend meetings of the commission."¹⁴⁶ Most recent land use legislation protects historical sites¹⁴⁷ and helps counties acquire land. Laws and programs include:

- ! New Mexico Subdivision Act;
- ! Land Use Easement Act;
- ! Cultural Properties Preservation Easement Act; and
- ! County Indebtedness (constitutional amendment)

Passed in 1991, the Land Use Easement Act attempts to preserve open space and natural resources.¹⁴⁸ The 1995 Subdivision Act attempts to manage growth and ensure public health standards.¹⁴⁹ More recently, a law was passed that enables localities to better protect properties of cultural or historical significance, and the constitution was amended to require localities to issue general obligation bonds to acquire land.¹⁵⁰ The state agency most actively involved in planning and growth management is the Department of Finance and Administration. Other entities involved in the administration of planning and land use laws are local planning commissions and county clerks.

New York. Open space preservation and growth management efforts in New York focus on funding for state and local conservation efforts and designing creative strategies to combine managing growth with environmental protection. The state's tradition of home rule restricts the powers of the state legislature to act in relation to local government's property, affairs, and administration.¹⁵¹ Laws and programs to preserve open space and manage growth include:

- ! Open Space Conservation Plan;
- ! Clean Water/Clean Air Bond Act;
- ! State Environmental Quality Review Act;
- ! Environmental Protection Fund;

(...continued)

to 3-19-12 (Michie 1978), at LexisNexis, *New Mexico*. Online. Available: <http://198.187.128.12/>. Accessed: January 2, 2002.

¹⁴⁵ Planning District Act, New Mexico Statutes Annotated, Sec. 4-58-1 to 4-58-6 (Michie 1978).

¹⁴⁶ Regional Planning Act, New Mexico Statutes Annotated, Sec. 3-56-3 (Michie 1978).

¹⁴⁷ Cultural Properties Preservation Easement Act, New Mexico Statutes Annotated, Sec. 47-12A-1 to 47-12A-6 (Michie 1978).

¹⁴⁸ Land Use Easement Act, New Mexico Statutes Annotated, Sec. 47-12-1 to 47-12-6 (Michie 1978).

¹⁴⁹ Subdivision Act, New Mexico Statutes Annotated, Sec. 47-6-1 (Michie 1978).

¹⁵⁰ New Mexico Statutes Annotated, Sec. 47-12A-1 to 47-12A-6 (Michie 1978) and Article IX, Sec. 10F, respectively.

¹⁵¹ New York State Department of Environmental Conservation, *Conserving Open Space in New York State 2001—A Summary of the Draft Plan* (Albany, NY, October 2001), pp. 4-6.

- ! Agricultural Districts (creation and review);
- ! Agricultural Assessment Program;
- ! Right to Farm Protections;
- ! Farmland Protection and Non Point Source Abatement Projects for Agriculture;
- ! Adirondacks Park Agency Act;
- ! Quality Communities Interagency Task Force;
- ! Historic Preservation Matching Grant Program;
- ! New York State Heritage Area Program;
- ! New York City Watershed Program;
- ! Local Government Training and Technical Assistance Program; and
- ! Local Waterfront Revitalization Program.

In the 1990s major sources of funding were created for land acquisitions and other environmental projects, such as brownfield cleanup, coastal conservation, and historic preservation. The \$1.75 billion Clean Water/Clean Air Bond Act, proposed by the Governor and approved by voters in 1996, and the Environmental Protection Fund, established in 1993, enabled the state to make visible strides toward protecting open space in recent years. The Governor supported full funding for these programs in FY2002 while many others faced budget cuts. Since 1995 the state has acquired full title or easements on nearly 250,000 acres of natural and recreational resource lands, including permanent conservation on 139,000 acres in the Adirondack Park.¹⁵²

The state legislature has been active in other land management initiatives since 1990. Agricultural land preservation has been one focus, as seen in laws to clarify the review process of agricultural districts, protect the right-to-farm, provide grants for agricultural and farmland protection projects, and maintain viable agricultural operations that need nonpoint source pollution abatement and control projects. Legislation also enacted two grant programs for historic preservation; the Historic Preservation Matching Grant Program in 1993 and the New York State Heritage Area Program, revised in 1994. Finally, the state has played a major role since 1997 in working with the City of New York to control development in the watershed areas surrounding the reservoir system that supplies water to the city.

The Governor has encouraged partnerships between local and state governments involving growth management efforts. He created the Quality Communities Interagency Task Force in 2000 to inventory key local, state, and federal programs that affect community development, preservation, and revitalization goals of municipalities, and to make recommendations to improve these programs and strengthen the capacity of local governments to develop and implement land use planning and community development strategies. In February 2001 it presented 41 recommendations, which include, for example, authorizing Open Space Districts as a local government conservation tool, and extending tax credits for farmland preservation.¹⁵³ The task force has provided leadership for future growth management and open space protection action by the state. While the Governor has

¹⁵² New York State Office of Parks, Recreation and Historic Preservation, *Project Review and Compliance*. Online. Available: <http://www.nysparks.state.ny.us/field/projrevcomp/>. Accessed: December 4, 2001.

¹⁵³ Quality Communities Interagency Task Force, *State and Local Governments Partnering for a Better New York*.

recommended legislation to implement many of its recommendations, the legislature has not yet enacted any of these bills.

North Carolina. North Carolina uses a variety of tools to plan for efficient growth, especially at the state level, to protect land that ranges from coastal wetlands to scenic mountain ridges. As a modified Dillon's rule state, local governments in North Carolina must seek approval for powers not granted to them in the state code. Localities do have the power to develop land use plans outlining growth areas, implement zoning standards, and to create farmland preservation and easement programs. Only two counties, Wake and Forsythe, have enacted such preservation programs. State policy makers created a Smart Growth Commission on January 30, 2000 to strengthen the tools already in place and increase the options available to state and local officials for managing growth and protecting open space. Current laws and programs include:

- ! Coastal Area Management Act;
- ! Clean Water Management Trust Fund;
- ! Million Acres Initiative;
- ! North Carolina Main Street Program;
- ! Commission to Address Smart Growth, Growth Management, and Development Issues; and
- ! Wetland Restoration Program.

Basic land use laws have existed in North Carolina since 1974, when the Coastal Area Management Act (CAMA) was enacted requiring 20 coastal counties to adopt land use plans to be approved by the Coastal Resources Commission. Growth management expert John DeGrove described the program as, "a success story of national significance, demonstrating a truly effective state-local partnership in land and growth management for the coast."¹⁵⁴ North Carolina's subsequent experience with growth management has been characterized by a number of starts and stops. Since the late 1980s, some politicians have advocated growth management policies, but these proposals have failed to attract broad political support. For example, no state or regional framework is in place to guide local governments in their land use planning. Approximately one-half of all local governments in North Carolina lack land use plans.

Many of the more successful growth management programs involve trust funds. These programs include the Clean Water Management Trust, the Farmland Preservation Trust Fund (FPTF), and the Parks and Recreation Trust Fund. In 1999, for example, the FPTF processed easements to protect 1,981 acres. In its most recent session, the state legislature allocated \$1.7 million for farmland preservation. At the same time, many other state programs, especially those supporting infrastructure development, have actively contributed to growth patterns without much consideration for effects on land use patterns. For example, about 1% of the approximately \$1.7 billion of state funds invested in North Carolina's highways per year is spent on public transit.

In an effort to respond to growing concerns of sprawl and unmanaged growth, the North Carolina General Assembly created the Commission to Address Smart Growth, Growth Management and Development Issues in January, 2000. The General Assembly's decision to create this commission may reflect growing interest in the issue and could be the

¹⁵⁴ John DeGrove, *Land Growth and Politics* (Washington, DC: Planners Press, 1984), p. 370.

beginning of more active growth management policies. The Commission issued its report in the fall of 2001, and the General Assembly has yet to act on any of the recommendations.¹⁵⁵ The General Assembly passed the Million Acres Initiative in 2000 to preserve open space through voluntary acquisition of land and conservation easements by federal, state and local governments, and nonprofit organizations. With over a million people moving into the state during the 1990s, more officials are beginning to recognize a need for more effective growth management. The commission and the initiative are cited as important examples of increased interest and responsiveness.¹⁵⁶

North Dakota. While urban sprawl has become an issue in a few cities, such as Fargo, and open space protection, specifically wetland and farmland protection, is a concern for some, urban sprawl and open space protection are not broadly perceived to be problems. In fact, following a decline in its population in the 1990s, North Dakota is actively seeking population growth. A few policies, such as the Renaissance Zone Act and the Urban Renewal Law, have been passed at the state level to encourage urban infill and redevelopment. However, economic growth and population growth, rather than growth management, have been the intent of these policies. Actions that have been taken have occurred at the municipal level.

Ohio. Urban sprawl is a relatively serious concern in Ohio, but loss of farmland appears to be the state's most critical growth-related issue. Agriculture is Ohio's leading industry, supporting one in every six jobs.¹⁵⁷ Accordingly, state-level growth management, while not a coordinated effort, has focused principally on agricultural lands, and the Secretary of Agriculture is a high-profile advocate of farmland preservation. Laws and programs include:

- ! Agricultural Easements;
- ! Office of Farmland Preservation;
- ! Clean Ohio Bond Fund;
- ! Agricultural Easement Purchase Program; and
- ! Community Reinvestment Areas.

Planning and zoning activities in Ohio are conducted at the local level. The state enables, but does not require, local governments to create plans. Protection of property rights has very strong support in Ohio, which counters the case for statewide comprehensive planning. State involvement in growth management is also limited by the deep-seated tradition of home rule in cities and towns.

In 1997, the legislature created an Office of Farmland Preservation within the Ohio Department of Agriculture (ODA). The office coordinates and funds local farmland preservation programs and collaborates with other state agencies to identify actions that

¹⁵⁵ North Carolina General Assembly, *Commission on Smart Growth, Growth Management and Development: Findings and Recommendations*, report prepared by cochairs Howard N. Lee and Joe Hackney (Raleigh, NC, Fall 2001), p. 7.

¹⁵⁶ North Carolina General Assembly, *Commission on Smart Growth, Growth Management and Development: A Message from the Cochairs*, report prepared by cochairs Howard N. Lee and Joe Hackney (Raleigh, NC, Fall 2001), p. 3.

¹⁵⁷ American Farmland Trust—Ohio, *Support Protection of Ohio's Farmland*. Online. Available: <http://www.farmland.org/regions/oh/support.htm>. Accessed: May 16, 2002.

threaten farmland. A statute enacted in 1977 and last amended in 1999 allows the designation of Community Reinvestment Areas, where the state provides financial encouragement for urban containment through tax incentives.¹⁵⁸ Legislation enacted in 1998 enables donated agricultural land to be placed under easement by the ODA.¹⁵⁹ In 2001, legislation created and funded the ODA's Agricultural Easement Purchase Program. This program will spend a projected \$25 million by 2005 to help local governments and nonprofit agencies purchase agricultural easements.¹⁶⁰

A constitutional amendment approved by voters in 2000 created the \$400 million Clean Ohio Fund. The state will issue \$200 million in revenue bonds for brownfield redevelopment activities and \$200 million in general obligation debt for preservation of open space under a program created by the statute that also established the Agricultural Easement Purchase Program. This statute also created the Clean Ohio Council, whose members include the director of the Ohio Environmental Protection Agency (OEPA); two state senators; two state representatives; and seven members appointed by the Governor who represent local governments, business interests, and environmental advocacy organizations. The Council will select projects to be funded by the Clean Ohio Fund. The Ohio Department of Development (ODOD), through its Office of Urban Development, implements the brownfields portion of the Fund in consultation with the OEPA. Local agencies were to submit funding applications in the spring of March 2002. The fund planned to make its first awards in July 2002. An ODOD official notes that while the activities financed by the Fund may contribute to managing growth, the fund was established to address overall quality of life rather than land use issues.¹⁶¹

Oklahoma. Oklahoma has no statewide growth management plan. Cities are given authority by the state to adopt capital improvements and city plans, but neither is mandatory. Generally, land use planning in the state is decentralized. In the mid-1980s, the legislature enacted several development programs and increased power to state agencies to maintain employment in Oklahoma and to attract additional economic activity to the state. The Long Range Capital Planning Commission, the Oklahoma Department of Commerce, and the State Bond Advisor preside over growth issues in the state, providing localities with technical assistance, feedback on capital improvement plans, and financing expertise.

Oregon. Oregon's growth management strategy, a "top-down" approach, has earned the state recognition as the original model for centralized planning.¹⁶² City and county governments are required to develop and implement comprehensive plans that must be

¹⁵⁸Ohio Revised Code, Secs. 3735.65–3735.70.

¹⁵⁹Senate Bill 223, 122nd General Assembly (1998); Ohio Department of Agriculture, *Office of Farmland Preservation*. Online. Available: <http://www.state.oh.us/agr/FarmlandPresIndex.htm>. Accessed: February 24, 2002.

¹⁶⁰House Bill 3, 124th General Assembly, regular session (2001); Ohio Department of Agriculture, *Facts about the Farmland Preservation Component of H.B. 3*. Online. Available: <http://www.pwc.state.oh.us/Clean.Ohio.Agricultural.htm>. Accessed: February 24, 2002.

¹⁶¹ Telephone interview by Drew Murray with John Magill, Assistant Deputy Director, Office of Urban Development, Ohio Department of Development, March 5, 2002.

¹⁶² University of California Hastings College of the Law, Public Law Research Institute, "Smart Growth: State by State" database. Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 17, 2002.

approved by the state. Plans are required by law to be consistent and coordinated at all levels of government (state, county, city, special districts), and this has resulted in extensive coordination. This law, the Land Use Planning Act of 1973, is a landmark statewide comprehensive planning law, the first of its kind in the United States. It is administered by the Land Conservation and Development Commission (LCDC), and continues to provide the framework for all planning in the state. Five years later, in 1978, Oregon took another significant step in growth management when it created the first elected regional government in the nation, called Metro. Metro is responsible for growth and planning policies in the Portland region, which encompasses three counties and 24 cities. This regional approach can improve the effectiveness of growth management by addressing concerns that cross political jurisdictions and allowing for comprehensive planning.

Building on both 1970s initiatives, the state remains committed to land use planning. In the 1990s, the legislature passed bills related to growth management in each legislative session, and the Governor actively enhanced growth management coordination through several executive orders and initiatives. Current initiatives and programs include:

- ! Ocean Resource Planning;
- ! Removal and Fill from Wetlands and Rivers;
- ! Special Land Assessments;
- ! Oregon Highway and Transportation Plans;
- ! Oregon Livability Initiative;
- ! Oregon Plan for Salmon and Watersheds;
- ! Statewide Planning Goals;
- ! Transportation and Growth Management Program and Planning Rule; and
- ! Using State Resources to Encourage Quality Community Development.

Several programs implemented in the 1990s address transportation topics. The state Transportation Plan, prepared by the Department of Transportation (ODOT), is the overarching policy plan for multimodal transportation systems. It supports approved land use plans, although local governments are ultimately required to amend their plans to be consistent with the state plan. The plan's highway element seeks to achieve the long-term objectives shared by land use and transportation. It focuses on relationships between highways and patterns of development, and also on how ODOT will work with local governments and other affected entities when developing transportation system plans. The Transportation and Growth Management Program, a joint venture between the Department of Land Conservation and Development (DLCD) and ODOT, offers financial and technical assistance to foster livable, transportation-efficient communities. The Transportation Planning Rule, created to interpret the Transportation Statewide Planning Goal, sets requirements for the coordination of affected governments in developing transportation system plans.

A key element of Oregon's effective growth management efforts is the coordination at (and between) the state and local levels. The Community Solutions Team, created by the Governor, brings together the directors of five agencies to coordinate actions on growth management and community development. Other such teams work at the regional level. The Oregon Plan for Salmon and Watersheds also requires that each affected agency be represented on the monitoring team.

Oregon's laws and programs emphasize protection of resource lands. Wetlands, for example, are protected through a statewide inventory and provision of technical assistance to local communities. Other laws provide special assessments for farm and forest lands.

The Oregon Plan for Salmon and Watersheds has wide-reaching effects on water quality, watersheds, and salmon. Most of these programs implement one or more of the 19 Statewide Planning Goals.

Federal policies on growth management issues have also affected Oregon's efforts. For example, the LBJ survey found that Oregon officials cite federal transportation policy as helpful, due in part to the flexibility of the use of federal funds. (It is also viewed as a hinderance for other reasons.) This flexibility may help explain why Oregon has such a strong transportation element to its growth management programs. Also found to be helpful are environmental and federal land management policy and intergovernmental revenue transfers. Federal policies are also important because more than 50% of Oregon is federal land.

Several state-level entities implement growth management and open space preservation laws. The all-volunteer, seven-member LCDC, supported by the DLCDC, coordinates state and local planning, adopts state land use goals, verifies that local plans pursue the state goals, and oversees the coastal zone program. The DLCDC is the administrative arm of the LCDC, and prepares the state planning guidelines and provides funding and expertise to local governments. The Commission can block the distribution of tax revenue or suspend local authority to issue building permits if the local government's actions are not consistent with state goals. The Division of State Lands administers state wetlands policies. The State Department of Parks and Recreation is responsible for beach and other open space issues.

State legislation clearly established a commanding role for state planning but the system was complex, involving state, county, and city governments and special districts. In 1997, the Governor signed an executive order to integrate land use programs and investments, including consolidation of all planning goals, laws, and rules, around six objectives, which included prioritizing mixed-use development and supporting development compatible with the community's ability to provide public services. Based on the level and type of activity since 1990, Oregon remains committed to the principles of managing growth and appears poised to remain a model for growth management practices.

Pennsylvania. Pennsylvania's growth management system, which relies on county and municipal governments to take the initiative to plan, has been described as a "bottom-up" approach.¹⁶³ The Pennsylvania General Assembly passed this system's new legislative centerpiece, amending the Municipalities Code, in 2000. Currently, laws and programs include the following:

- ! Growing Smarter Legislation;
- ! Land Use Planning and Technical Assistance Program;
- ! Growing Greener PA;
- ! Pennsylvania Greenways Commission;
- ! 21st Century Environmental Commission;
- ! Agricultural Land Preservation Policy⁷⁶;
- ! Keystone Opportunity Zone Program;
- ! Land Recycling Program; and
- ! The Pennsylvania Historic Preservation Plan.

¹⁶³ David R. Godschalk, "Smart Growth Efforts around the Nation," *Popular Government* (Fall 2000), pp. 12-10.

Prior to the 1990s, Pennsylvania passed few measures to address growth management and open space preservation. About 25% of the state is agricultural lands (7.3 million acres) and 50% is forest land (15.5 million acres). Its abundance of these natural resources as well as its colonial heritage made rapid loss of farmland, concern for historical landmarks, and revitalization of inner cities critical issues for Pennsylvania's fledgling growth management movement.¹⁶⁴ The one exception is that since the early 1980s, Pennsylvania has been a national leader in farmland preservation. In 1981, legislation was enacted permitting farmers to petition local governments for the creation of Agriculture Security Areas (ASAs). In 1987, Pennsylvanians voted to issue \$100 million in bonds to finance a conservation easement purchase program. In 1988, legislation was enacted creating the Agricultural Conservation Easement Purchase Program. The program has permanently preserved more than 225,000 acres since 1989, more than any other state.¹⁶⁵

In 1994, the Governor identified growth management and open space preservation as priorities.¹⁶⁶ He created the 21st Century Environment Commission and charged it with recommending environmental policies for the twenty-first century. Among the issues it identified, the commission singled out the "challenge of promoting responsible land use" as the most pressing environmental problem. Further, it recommended that local level planning commissions were crucial in developing recommendations for promoting responsible land use patterns.¹⁶⁷ During this same time period, Pennsylvania journalist Tom Hylton, who won the Pulitzer Prize for his editorials on community planning, generated public awareness of growth management issues when he recommended policies for discouraging sprawl and creating better communities in his book, *Save Our Land, Save Our Towns—A Plan for Pennsylvania*.¹⁶⁸

In 1999, the Governor established a foundation for future growth management systems through an Executive Order. The order recommended that the findings of the 21st Century Environment Commission be acted upon and also established the Governor's Center for Local Government Services as the principal state entity responsible for land use assistance and monitoring. Also in 1999, the Pennsylvania Historical and Museum Commission and Preservation Pennsylvania, a nongovernmental organization, launched a campaign to develop a five-year plan for historic preservation. The plan calls for expanding the use of preservation as an economic development strategy, and for strengthening preservation planning at the local level. Both groups continue to secure funding and legislative support for their initiatives.

¹⁶⁴ Commonwealth of Pennsylvania Governor's Office, Executive Order 1999-1, Sound Land Use Planning. Online. Available: http://www.dced.state.pa.us/PA_Exec/DCED/government/exec-order.htm. Accessed: February 1, 2002.

¹⁶⁵ Email from Office of the Governor of the Commonwealth of Pennsylvania to Mona Nichols, April 24, 2002.

¹⁶⁶ Text of Governor Ridge's speech at the Pennsylvania Environmental Council Annual Dinner (May 31, 1995). Online. Available: <http://www.dep.state.pa.us/dep/ridge/govremark0531ec.htm>. Accessed: February 1, 2002.

¹⁶⁷ Governor's Center for Local Government Services, Department of Community and Economic Development, *The Planning Commission in Pennsylvania—Planning Series 2*, 9th ed., (Harrisburg, PA, August 2001), p. 1.

¹⁶⁸ *Save Our Land, Save Our Towns*. Online. Available: <http://www.saveourlandssaveourtowns.org/book.html>. Accessed: May 22, 2002.

During the 1990s, the Pennsylvania General Assembly adopted several measures to address open space and environmental protection as well as urban renewal, centering on farmland and open space acquisition, brownfields redevelopment, and tax-free zones to revitalize communities. In 1995, it passed measures to establish the state's Land Recycling Program, which encompasses the Industrial Sites Reuse Program and the Infrastructure Development Program. These programs foster the cleanup of environmental contamination at industrial sites and work to bring contaminated lands and brownfields back to productive use by disbursing grants to businesses that are willing to undertake the restoration efforts. It also established the Keystone Opportunity Zone Program to promote urban renewal in 1998. This legislation attempts to attract economic development and renewal to Pennsylvania's distressed areas by allowing state and local governments to issue tax abatements, credits, exemptions, and deductions. Most recently, it passed the Growing Greener Program to implement part of the governor's 1999 Land Use Planning Executive Order. This Program allows for the investment of nearly \$650 million over five years in farmland and open space protection, state parks refurbishment, abandoned mines and watersheds cleanup, and water and sewer systems upgrades.

Accompanying the Growing Greener Program is the Growing Smarter Initiative, which is the cornerstone of the state's current growth management approach. It encourages counties and municipalities to coordinate their planning and implementation efforts, and offers better planning tools and some implementation funding. Announced in February 2000, this initiative doubles the commonwealth's investment in land use planning and technical assistance, amends the Municipalities Planning Code, and calls for a complete review of state government programs and policies to ensure agency programming and decision-making support local land use planning. Funding for land use planning assistance, a component of this initiative, more than doubled between FY 1999-2000 to FY 2000-2001, and is now \$4.6 million.

Legislation was enacted in 2000 that supports and encourages communication, coordination, and consistency of land use issues at all levels of government to implement another component of the Initiative. This legislation requires that state agencies be permitted to comment on local government planning and zoning, strengthens regional planning, and permits the designation of growth and rural resource areas through intergovernmental cooperative planning and implementation agreements. To increase public awareness of the Initiative, the Governor's Center for Local Government Services has implemented an "Action Plan", which gives county and municipal governments the tools and resources to manage growth.¹⁶⁹

The future of growth management and open space preservation efforts in Pennsylvania seems bright. Since 1990, the state not only invested resources in studying growth management issues and practices, but implemented many of the recommendations and provided substantial funding. Also, nongovernmental entities like 10,000 Friends of Pennsylvania and Preservation Pennsylvania are providing direction and support. These groups and the Governor's Center for Local Government Services work to maintain public

¹⁶⁹ Governor's Center for Local Government Services, *The Comprehensive Plan in Pennsylvania—Planning Series #3*. Online. Available: <http://www.inventpa.com/default.asp?path=Communities%20in%20PA/Governor%27s%20Center%20for%20Local%20Government%20Services>. Accessed: February 1, 2002; and Governor of the Commonwealth of Pennsylvania email.

interest in state growth management issues. The new Governor has promised “to be a strong proponent of Growing Smarter initiatives.”¹⁷⁰

Rhode Island. Rhode Island adopted a growth management system in the late 1980s that depends upon a “highly cooperative process involving extensive input and review by both the state and municipalities.”¹⁷¹ The state comprehensive planning act mandates both comprehensive planning by municipalities and consistency between state and local plans and actions. Many growth management professionals consider the Rhode Island system the most comprehensive state plan adopted in the 1980s.¹⁷² Laws and programs that are a part of the Rhode Island effort include:

- ! Building and Fire Code Revisions;
- ! Historic Preservation Investment Tax Credit;
- ! Rhode Island Greenways Act;
- ! Governor’s Growth Planning Council;
- ! Local Open Space and Recreation Grants Program;
- ! Zoning, Land Development, and Subdivision Review Enabling Acts;
- ! Development Impact Fee Act;
- ! Brownfields Redevelopment; and
- ! Mill Building and Economic Revitalization Act.

Concern over rapid development in Rhode Island during the 1970s and 1980s and loss of open space, particularly in coastal areas, were major factors in the establishment of a growth management system. In 1988, Rhode Island passed the Comprehensive Planning and Land Use Regulation Act (CPA), which is a collection of plans adopted over the past 30 years grouped into a dozen areas.¹⁷³

Rhode Island had established an Office of Statewide Planning and a State Planning Council prior to 1988. The 1988 statute established a program of comprehensive planning review within the Department of Administration of the Statewide Planning Program to coordinate a review of local plans by state agencies and to review these plans for consistency with the elements of the State Guide Plan. The Statewide Planning Program personnel, who are staff of the State Planning Council, develop elements of the State Guide Plan, which are then reviewed and adopted by the State Planning Council.

All cities and towns are required to adopt comprehensive plans and to submit them to the Statewide Planning Program for approval, based in part on compliance with the 1988 law. Plans must address the following elements: goals and policy statements; land use; housing; economic development; natural and cultural resources; services and facilities; open space and recreation; and circulation and implementation strategies. The municipal council

¹⁷⁰ Governor of the Commonwealth of Pennsylvania email.

¹⁷¹ Letter from Rhode Island Department of Environmental Management to Professor Robert Wilson, University of Texas at Austin, April 16, 2002.

¹⁷² John M. Degrove, *Planning and Growth Management in the States* (Cambridge, MA: Lincoln Institute of Land Policy, 1992), p. 86.

¹⁷³ Rhode Island General Laws 42-11-10.

approves submissions for statewide review when all required elements are included.¹⁷⁴ The CPA stipulates that local governments failing to develop a plan consistent with state regulations will have a plan developed for them by the Office of State Planning. The statute has effectively motivated reluctant local governments to comply.¹⁷⁵

The state legislature subsequently approved two measures to support the state planning system, updating the Zoning Enabling Act in 1991 and the Land Development and Subdivision Review Enabling Act in 1992. The measures aligned zoning and development standards with the principles of the 1988 growth management plan, and included modern language and current techniques.

In the late 1990s, the state legislature passed laws to refine the growth management plan. In 1995, it approved the Greenways Act, which establishes a 25-year plan for creating greenspace and a statewide greenway network which will eventually encompass one-third of the state. Voters approved \$15 million for bonds to implement the network. In 1998, Rhode Islanders reaffirmed their commitment to protecting open space by approving new bond funds for the Local Open Space and Recreation Grants Program.

The state also established a brownfields redevelopment program in the 1990s. The Department of Environmental Management, the Economic Development Corporation (a quasi-governmental entity that encourages economic investment in the state), and the Statewide Planning Program are responsible for implementing the provisions of the 1995 Industrial Property Remediation and Reuse Act 1995. These entities assist parties with the brownfields redevelopment process and help them obtain grants and other funding for projects, mainly from state and federal sources. The state promotes brownfields redevelopment through tax incentives. Redevelopers also are encouraged to utilize tax credits offered through the Mill Building and Economic Revitalization Act, if they are redeveloping historic industrial mill structures, and the Historic Preservation Investment Tax Credit (discussed below).

Rhode Island continues to successfully implement growth management legislation. In 2000, the legislature passed an impact fee act to ensure that new development bears a proportionate share of the cost of building new educational facilities. The 2000 Building and Fire Codes Revision and the 2001 Historic Preservation Investment Tax Credit promote urban redevelopment and historic preservation by encouraging and facilitating the restoration of old buildings and neighborhoods. The state's Historic Preservation Investment Tax Credit of 30% reinforces the federal historic tax credit of 20%.

Recently, nongovernmental groups such as Grow Smart Rhode Island have been calling for Smart Growth initiatives in the state. In response, the Governor signed Executive Order 2002-2 to establish a Growth Planning Council comprising state agency heads. The council will recommend best practices for managing new growth and will inventory all existing state programs, policies, and expenditures to evaluate their effect on sustainable development and the preservation and enhancement of environmental quality and natural resources.

¹⁷⁴ American Planning Association, *Growing Smart Project: Statute Summaries*. Online. Available: <http://www.planning.org/>. Accessed: February 15, 2002.

¹⁷⁵ Degrove, *Planning and Growth Management in the States*, p. 91.

South Carolina. South Carolina recently enacted legislation to reduce urban sprawl in its communities. However, the state does not have a statewide coordinated plan for growth management. Like many states, it enables its local units of government to manage sprawl on a regional basis.

Prior to 1994, South Carolina's coastal management program and the Mountain Ridge Protection Act were the two primary statewide growth management directives. The 1977 coastal management legislation requires local entities to submit their zoning requirements for all designated coastal areas to the Department of Health and Environmental Control for approval. The 1984 Mountain Ridge Protection Act banned the construction of tall structures on protected mountain ridges.¹⁷⁶

In 1994, the legislature passed the State Planning Enabling Act, providing municipalities and counties with the authority to manage growth dependent upon each community's needs. While previous laws are grandfathered, the 1994 act governs resolution of conflicts between old and new laws. Under the act, municipalities and counties may, but are not required to, form local planning commissions "to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction."¹⁷⁷ The plans these commissions develop are to include evaluations of population growth, housing needs, economic development characteristics, and infrastructure availability. Planning commissions have the authority to set aside land for conservation purposes and to employ impact fees and tax incentives, as well as coordinate zoning standards. In 2001, the state recognized the need to preserve open space and created the Conservation Land Bank to provide grants and loans to municipalities to designate areas for conservation purposes. The state largely defers to communities according to the area's needs, except along the ocean shoreline, where it uses the coastal management program to manage sprawl.

South Dakota. Comprehensive land use planning and zoning is implemented by counties and municipalities. State law allows, but does not require, these local units of government to create zoning commissions, and to develop comprehensive land use plans and zoning ordinances.¹⁷⁸ Some counties have pursued comprehensive planning and zoning ordinances. The unzoned counties are mostly very rural; they generally address land use problems through the enforcement of public nuisance ordinances.

With over 48 million acres and less than 1 million people, urban sprawl and open space have not traditionally been high priority issues in South Dakota. The state has focused its few efforts on maintaining open space near its growth areas and establishing urban forests. Cities generally encourage growth, without much attention given to resulting development patterns. However, planned growth, land use compatibility, and agricultural land preservation are emerging issues in some of the more urban areas.

¹⁷⁶ American Planning Association, *Growing Smart: Statutory Summary for the State of South Carolina*. Online. Available: www.planning.org. Accessed: April 28, 2002.

¹⁷⁷ South Carolina State Statutes, Sec. 6-29-340.

¹⁷⁸ South Dakota Legislative Research Council, South Dakota Codified Laws, chapters 11-2 (County Planning and Zoning) and 11-4 (Municipal Planning and Zoning). Online. Available: <http://legis.state.sd.us/statutes/index.cfm>. Accessed: April 24, 2002.

The state government is not empowered to conduct state-level comprehensive land use planning, though several state agencies coordinate with local planning and zoning agencies on land use-related issues. The Department of Transportation engages in extensive statewide transportation planning. The Department of Environment and Natural Resources is responsible for assuring the environmental compliance of proposed development activities. Environmental impact statements are discretionary under state law.¹⁷⁹ The Department of Education and Cultural Affairs, Office of History addresses historical preservation issues.

Tennessee. During the 1990s, rapid population and economic growth in Tennessee led to numerous legal disputes over annexation and incorporation laws. In 1997, the Lieutenant Governor and Speaker of the House formed an Ad Hoc Committee on Annexation to study growth policy.¹⁸⁰ Committee recommendations were later incorporated into legislation passed in 1998, and intended to minimize urban sprawl, eliminate poorly planned annexations or incorporations, and improve the coordination of development with public services. The law requires that counties and municipalities establish coordinating committees to develop growth plans and submit them for ratification to the county commission and municipal government. Municipal growth plans must identify an Urban Growth Boundary (UGB), while county plans must identify Planned Growth Areas (PGA) and Rural Areas (RA). Ratified plans must be submitted to the state's Local Governmental Planning Advisory Committee (LGPAC), made up of appointed officials from agencies and organizations with an interest in planning, for approval. Approved plans may be modified for three years only under extraordinary circumstances. If an impasse is reached in the plan preparation process, the county or municipal government may request mediation services from the Office of the Secretary of State.

The law established incentives and disincentives to participate. Proposals to the Housing Development Agency and the Department of Economic and Community Development from counties and municipalities are awarded bonus points if they adopted an LGPAC-approved growth plan by July 2000. Technical assistance is available from the County Technical Assistance Service, Division of Local Planning, Municipal Technical Service, and University of Tennessee Institute for Public Service. Counties who do not receive final LGPAC approval become ineligible for some grant programs and loans after July 1, 2001 until their plans are approved.¹⁸¹

The Tennessee Advisory Commission on Intergovernmental Affairs (TACIR) evaluated implementation efforts; it found in 2000 that 75 counties (of 93) administered approved growth plans (thus gaining bonus points). The 18 remaining counties were unable to reach a consensus on the size of their UGBs, but are continuing negotiations to resolve differences. TACIR notes that despite this progress, some approved plans may not

¹⁷⁹ South Dakota Legislative Research Council, South Dakota Codified Laws, chapters 34A-9 (Environmental Impact of Governmental Actions). Online. Available: <http://legis.state.sd.us/statutes/index.cfm>. Accessed: April 24, 2002.

¹⁸⁰ Tennessee Advisory Commission on Intergovernmental Affairs, *Tennessee's Growth Policy Act: A Vision for the Future*. Online. Available: <http://www.state.tn.us/tacir/tacirpublications.htm>. Accessed: January 11, 2002.

¹⁸¹ Metropolitan governments are exempt from sanctions, and counties that created metropolitan government charter commissions by July 1, 2001, have a one-year extension.

adequately assess RAs, minimize sprawl, or comply with planning requirements.¹⁸² A 2001 review, published by the TACIR stated that the RA component of growth plans has received “little substantive attention,” and recommended that coordinating committees assess their RA based on the quantity, quality, location, and vulnerability of natural assets and provide data resources and techniques that might help in the process.¹⁸³ TACIR reports on the impact of approved growth plans on urban sprawl and compliance with planning requirements are pending. Other laws and programs available include:

- ! Agricultural District and Farmland Preservation Act;
- ! Agricultural, Forest, and Open Space Land Act;
- ! Brownfields Law; and
- ! State Land Acquisition Fund.

Texas. In curbing urban sprawl, the state defers to cities, counties, and regional planning organizations. The constitution’s home rule provision enables its cities with zoning and annexation authority. Counties have limited authority to plan for growth. However, both cities and counties are able to create and join regional planning organizations, which have tended to focus on transportation issues. Texas does not have a statewide planning requirement; however, it does provide localities with the ability to manage growth, based on their needs.

In 1997 the state legislature authorized comprehensive planning among regional and local entities. Although the law does not mandate a comprehensive plan, it does enable to cities to use concurrency in their planning process.¹⁸⁴ In 1999, the legislature enacted several laws affecting land use. One of these authorized municipalities to establish empowerment zones, within which they could waive or adopt certain fees related to construction, enter into beneficial agreements, grant sales tax refunds and municipal sales tax abatements, and enter into agreements abating municipal property taxes on property located in these zones.

The state grants growth management authority to cities, and some of them have taken the initiative to curb urban sprawl in their communities. They are using tools such as tax abatements, land purchases for conservation purposes, and zoning restrictions to encourage greater development density.

Utah. In the late 1990s, Utah began to address managing the growth of cities and open space preservation, largely in response to a population growth rate that is more than double the national average. Smart growth techniques are being promoted through cooperation among state and local governments and private and nonprofit organizations. These groups are assisted by state growth management commissions.

¹⁸² Tennessee Advisory Commission on Intergovernmental Affairs, *Implementation of Tennessee’s Growth Policy Act in CY 2000* (online).

¹⁸³ Tennessee Advisory Commission on Intergovernmental Affairs, *Planning for Rural Areas in Tennessee under PC 1101*. Online. Available: http://www.state.tn.us/tacir/PDF_FILES/Growth_Policy/ruralareas.pdf. Accessed: March 13, 2002.

¹⁸⁴ Concurrency is defined as linking an entity’s comprehensive plans with its zoning and available infrastructure.

The need for state land use management policies was not very apparent until about 1970, in part because almost 65% of Utah is federal land. An initial attempt at establishing a policy was unsuccessful when the Utah Land Use Act of 1974, designed to create a land use commission, was repealed when opponents successfully argued that the Act infringed on private property rights.¹⁸⁵ After this repeal, the state legislature showed little interest in growth management until the early 1990s, when it enacted legislation addressing growth at the local and regional levels. Under the leadership of the Governor, new efforts to institute planned growth tools emerged in 1997 with the creation of Envision Utah, a public/private community partnership for growth management. This was followed by the passage of the Utah Quality Growth Act in 1999.¹⁸⁶ This act created the Utah Quality Growth Commission to administer planning grants to local governments. The Commission requires comprehensive plans from counties and cities. Strong leadership in the legislature and in the Governor's Office has enabled the state to employ statewide planning for growth management. All state agencies implement the policies developed by the Quality Growth Commission. Related laws and programs include:

- ! Agricultural Protection Area;
- ! County Land Use Development and Management Act;
- ! Municipal Land Use Development Act; and
- ! Utah Forest Legacy Program.

Vermont. Vermont actively attempts to control urban sprawl, monitor land use, and encourage community development. It has a statewide comprehensive plan, a state agency planning implementation committee, and numerous state grant, loan, and technical assistance programs that encourage environmental preservation, cultural and historical preservation, and land conservation.¹⁸⁷

Vermont first became involved in land use issues with the passage of the State Land Use and Development Law, known as Act 250, in 1970. The law includes ten criteria that guide regulatory review of large development projects by nine regional citizen District Commissions. The 10 criteria include: environmental protection; traffic impacts; agricultural land preservation; historic preservation; the fiscal impacts of growth and scattered development; impacts to public investments; and conformance with regional and municipal plans. District Commission decisions can be appealed to the Environmental Board, which oversees the implementation of Act 250.¹⁸⁸

The next major law, called the Growth Management Act of 1988, and known as Act 200, establishes a state-planning framework of 12 goals aimed at planning development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside. A grant program, administered by the Agency of Commerce and

¹⁸⁵ Elizabeth Evensen, "Open Space Preservation in Utah: Techniques, Tools, and First 'Quality Growth' Steps," *Journal of Land, Resources & Environmental Law*, vol. 19 (1999), p. 1.

¹⁸⁶ Utah General Statutes, Secs. 10-2-401.5-426. Online. Available: <http://www.le.state.ut.us/~code>. Accessed: December 20, 2001.

¹⁸⁷ John M. DeGrove, "Vermont: The Struggle to Meld Permitting and Planning," in *Land, Growth, and Politics* (Washington, DC: American Planning Association, 1984), pp. 64-97.

¹⁸⁸ Vermont Environmental Board, *Act 250: Vermont's Land Use and Development Law*. Online. Available: www.state.vt.us/envboard/statute.htm. Accessed: October 22, 2001.

Community Affairs, assists municipalities in preparing up-to-date plans to meet the goals of this Act.¹⁸⁹ Also about this time, the Housing and Conservation Fund, administered by the Housing and Conservation Board, was established to provide for the protection/conservation of open lands, historic properties, and affordable housing. The Fund has conserved over 300,000 acres of agricultural and ecologically sensitive lands.

Since 1990, Vermont has enacted laws to encourage the revitalization and preservation of downtown areas, including the Downtown Program (1994) and the HUD Consolidated Plan (1995). The Plan spends HUD Community Development Block Grant Funds on projects in growth centers and downtown areas. The Agency of Commerce and Community Affairs administers both programs. Since 1992 and the inception of the Transportation Planning Initiative, regional transportation plans are funded by the Agency of Transportation through the regional planning commissions, the entities who are also responsible for preparing Act 200-compliant regional plans. All proposed accesses onto state highways in regional transportation plans must comply with local land use plans.

In 2000, the legislature passed the Development Cabinet Law, requiring key agency secretaries to advise the Governor in a coordinated fashion on matters related to implementing land use programs, policies, and actions. These matters include such issues as land conservation, affordable housing, and strengthening the agricultural and forest products industries. Also, the Development Cabinet is to work with local entities on planning efforts to discourage scattered development and encourage downtown revitalization and compact growth centers. Other laws and programs it might draw on include:

- ! Municipal and Regional Planning Development Fund;
- ! Agricultural Nonpoint Source Pollution Reduction; and
- ! Interstate Interchange Executive Order.

Virginia. Local governments address urban growth issues. State-local relationships are defined by Dillon's rule, so the state legislature determines which tools localities may use.¹⁹⁰ Local planning commissions adopt comprehensive plans that address land use, transportation, community facilities, historical areas, and natural resources, but zoning ordinances and subdivision regulations need not comply with the intent of these plans.¹⁹¹ The state does not provide oversight, technical assistance, or financial incentives for local planning.

¹⁸⁹ Farmland Information Library, Vermont Statutes. Online. Available: www.farmlandinfo.org/fic/laws/state/stvt.html. Accessed: October 31, 2001.

¹⁹⁰ A Dillon's rule state allows local governments to exercise only those powers expressly given or implied by the state legislature. A municipality must look to the Virginia Constitution, statutes, and the municipal charter (granted by the General Assembly) for its legal powers. Many localities have appealed, generally unsuccessfully, to the General Assembly for more flexible powers to address local growth problems. Critics suggest that localities have sufficient planning powers, but fail to use them appropriately and consistently.

¹⁹¹ Virginia Chapter of the American Planning Association, *Virginia's Growth Management Tools* (June 1999-2002). Online. Available: <http://www.vapanning.org/growthtools.pdf>. Accessed: February 10, 2001.

The Regional Cooperation Act of 1985 authorizes the creation of planning district commissions to create regional plans for municipalities to consult and follow. The commissions also provide technical aid to local governments and collect data for the state.

Recent legislation in Virginia addresses particular open space or natural resource concerns, including the Chesapeake Bay Preservation Act, Open Space Lands Preservation Fund (OSLPPF), and the creation of the Virginia Land Conservation Fund (VLCF). The Chesapeake Bay Preservation Act limits development that will adversely impact water quality of the bay or its tributaries. New goals for improving water quality were adopted in 2001. The OSLPPF offsets the costs for landowners to convey an easement, while the VLCF awards local governments, public bodies, and non-profit organizations matching grants to purchase land that has cultural, historical, or environmental importance. State funding for the VLCF was suspended in 2001. Other laws and programs include:

- ! Office of Farmland Protection;
- ! Open Space Preservation Trust Fund; and
- ! Southern Growth Policies Agreement.

One recent growth management initiative is the effort by the Virginia Coalition of High Growth Communities. It advocated permitting municipalities to use transfer of development rights and to charge infrastructure fees, as well as the establishment of a Growth and Economic Development Commission in 2001 to address infrastructure, revitalization, and open space preservation. In recent years, there has been little gubernatorial leadership on these topics or to secure state funding for conservation programs. Some critics also point out that local governments often fail to use the growth management or open space preservation tools available.¹⁹²

Washington. Washington State's comprehensive growth management and environmental protection efforts are viewed as among the most aggressive in the nation. The Growth Management Act of 1990 and the State Environmental Policy Act (SEPA) of 1971 form the foundation for a strategy that empowers counties and localities to create their own plans and that requires consistency of city/county plans with the state plan. Although the Growth Management Act of 1990 was not the first legislation authorizing local land use planning, it broadened the relationship between the state and localities on growth planning.¹⁹³ Its principal predecessors were the Planning Commission Act of 1935 and the Planning Enabling Act of 1959.

Washington has a long tradition of interest in environmental protection, but the federal National Environmental Policy Act of 1969 spurred Washington to action when it required that environmental issues be exposed and environmental values be considered in decisions made by federal agencies. Washington subsequently passed a state version of this legislation in 1971, requiring all state and local government agencies to develop procedures that consider environmental issues in their decision-making. During this time, it also acted to protect its coastal resources where development was occurring. The Shoreline

¹⁹² Virginia Chapter of the American Planning Association, *Virginia's Growth Management Tools* (online).

¹⁹³ Ed Bolen, Kara Brown, David Kiernan, and Kate Konschnik, *Smart Growth State by State* (Hastings, CA: University of California College of the Law, Spring 2001). Online. Available: <http://www.uchastings.edu/plri/spring2001.PDF>. Accessed: January 10, 2002.

Management Act of 1971 requires localities to integrate coastal management issues into their planning and submit plans to the Washington Coastal Zone Management Program for consistency with state efforts.

The first amendments to SEPA, enacted in 1995, require the Department of Ecology to add procedures to coordinate SEPA with the Growth Management Act by integrating it into the planning process. Subsequent amendments have made planning policies clearer and easier for local governments to use and further integrated the SEPA and Growth Management Act framework into agencies' internal planning processes.

Washington's Office of Economic Development coordinates and reviews plans made at the state, regional, and local levels. The Growth Management Act requires counties to submit a comprehensive plan for meeting growth thresholds if the county 1) has a population of 50,000 or more and the population has increased by at least 10% in the previous 10 years; or 2) the county has a population of less than 50,000 and the population increased by at least 20% in the previous 10 years.¹⁹⁴ Techniques often required by counties to implement their plans include: mandatory urban growth boundaries for metropolitan areas; identification of open space corridors between urban growth areas; groundwater protection measures; transferable development right inclusion; farmland protection planning; and forest land protection measures.¹⁹⁵

West Virginia. In West Virginia, planning is addressed at the regional level with guidance from the state. This role is concentrated at the beginning of the regional planning process, and is limited to the effects of regional planning on economic development. West Virginia law generally empowers local governments to create regional planning councils to oversee planning and zoning. These councils consult with municipalities before developing a comprehensive regional plan, which must include the elements of transportation and infrastructure. These plans are compiled by the governor's office, and must be incorporated into statewide planning goals. The state also encourages the establishment of interstate and local planning commissions, but does not require their creation. The Impact Fees and Local Powers Act of 1990 enables counties and regional planning councils to assess impact fees on developers. The other significant related law is the Conservation and Preservation Easement Act, which encourages land conservation.

The lack of state-level growth management results, in part, from the commonly held belief in the state that West Virginia needs to seek, rather than limit, growth. Therefore, the state focuses its planning efforts on attempting to attract new and diverse industries through the Governor's Development Office.

Wisconsin. Wisconsin has implemented several approaches to managing urban growth and preserving open space since 1990. In 1999, the Governor backed enactment of comprehensive planning legislation to encourage 2,000 local governments to create land use plans. Localities have significant discretion in determining how and to what extent they will address the various elements of their comprehensive plans. Given these broadly defined parameters, the actual design and implementation of these plans by the localities determine

¹⁹⁴ American Planning Association, *Growing Smart: Statutory Summary for the State of Washington*. Updated 2000. Online. Available: <http://www.planning.org>. Accessed: February 15, 2002.

¹⁹⁵ *Ibid.*, pp. 42-54.

whether the plans will have an impact on land use practices.¹⁹⁶ This statute, widely known as the Smart Growth Law, mandates that any action of a local government affecting land use must be consistent with its comprehensive plan after January 1, 2010. In addition, local governments are encouraged to improve their plans using more sophisticated, integrated planning approaches, drawing on the incentive of a competitive grant program. Other available laws and programs include:

- ! Wisconsin Land Council;
- ! Planning and Transportation Planning Grants to local governments;
- ! Warren Knowles-Gaylord Nelson Stewardship 2000 Program;
- ! Natural Resources Land Endowment Fund;
- ! Grants to Nonprofit Corporations for Urban Land Conservation;
- ! Urban Forestry Grants;
- ! Urban Redevelopment Law;
- ! Boundary Change by Cooperative Plan and Agreement;
- ! Impact Fees;
- ! Comprehensive Planning; and
- ! Architectural Conservancy Districts.

Wisconsin's history with planning policies follows the economic and political trends of the last 30 years. In the 1970s the first wave of planning statutes addressed agricultural land preservation, zoning, and basic planning guidelines. Those policies were functional, with a focus on agricultural land preservation. For example, minimum lot size requirements attempted to discourage individuals from purchasing parcels of land too large for a single-family home and too small for a farm. By the 1980s, the economy lagged and the momentum diminished, and few new planning statutes were created or old statutes amended.

In the 1990s the state experienced economic and population growth, particularly in the southeastern region (where Milwaukee is located) and in other urban centers, which elevated interest in growth management and open space preservation. Features of previous land use policies were proving inadequate. For example, minimum lot size requirements no longer discouraged home ownership as wealthy residents purchased 40-acre lots. The state decided it needed new and improved strategies.

The impetus behind Wisconsin's Smart Growth Law was a combination of factors dealing with population and economic growth, addressing change at a regional level, and improving coordination among state agencies. Comprehensive planning has the potential to address all these pressures, although results are largely still in the future. The architects of the planning legislation strove to design a strategy that would motivate local governments to consider both impacts outside their own borders and relationships between localities and agencies. Financial incentives are used to encourage thinking at a regional or even state level.

The driving force behind this statute was several coalitions that formed to promote more predictable development patterns. The coalitions included key legislators, builders,

¹⁹⁶ Richard A. Lehmann, *Where's the Meat? A Reading and Analysis of the New Wisconsin Comprehensive Plan and Smart Growth Laws with Emphasis on the Extent of State Direction vs. Local Choice of Plan Content*, Wisconsin Chapter of the American Planning Association. Online. Available: http://www.wisconsinplanners.org/SmartGrowth/wheres_the_meat.htm Accessed: March 22, 2002.

realtors, environmentalists, county and local government associations, academics, and planners.¹⁹⁷ The development and real estate coalition formed in response to exclusionary zoning that prevented the construction of multifamily housing. Suburban communities would not allow developers to build condos, apartments, and particularly, “affordable housing”. This coalition, like the other coalitions, found it wanted clear definitions on land use regulation. However, while the smart growth advocates were interested in determining which land could not be developed, the real estate industry wanted to know which land could be.

Wyoming. In Wyoming, the state government does not directly address open space issues nor does it fund open space management programs. In 1995, however, the Governor convened a statewide conference, *The Wyoming Partnership: Natural Resources for Today and Tomorrow*, to discuss conserving Wyoming’s open lands and the quality of life they bring,¹⁹⁸ illustrating a growing awareness of the issue. This conference led to an Open Spaces Initiative.

Wyoming is a larger state, where 50% of the land is federally owned, and much of the privately-owned open space is used for agricultural. A significant amount of land has recently been acquired and developed by wealthy individuals for residences or second homes, who are attracted by Wyoming’s vastness and low taxes. One result is that open space has begun to disappear. The state’s culture and political history (freedom of “the range”; very low taxes; right to farm) helps to prevent adoption of legislation that would address this situation. With residents opposing tax increases and expending revenue to preserve or manage open space, state governmental involvement in preservation is a low priority. For example, the Department of State Parks and Urban Sites receives no assistance to expand existing sites or to preserve historic locations.¹⁹⁹ Wyoming does administer an Environmental Quality Act to control the various environmental-related activities in the state (mining; water; oil drilling).

Two recent changes have occurred in the state. First, the Governor’s 1995 conference produced a comprehensive guidebook to help residents conserve Wyoming’s open space. The guidebook is intended to increase awareness of options available. It provides information citizens can use about tools to help deal with these issues.²⁰⁰ Second, independent non-profit conservancies have appeared and are active, including: The Nature Conservancy–Wyoming; the Jackson Hole Land Trust; the Green River Valley Land Trust; and the Wyoming Stockgrower’s Agricultural Land Trust. They are well funded and are purchasing conservation easements or full fee ownership, and are generally maintaining these lands as productive open space.

¹⁹⁷ Philip C. Evanson, “Achieving Intergovernmental Planning Coordination by Strengthening Wisconsin’s ‘Smart Growth’ Law,” presentation at the WAPA 2001 Great Communities Workshop (June 12, 2001). Online. Available: <http://www.wisconsinplanners.org/SmartGrowth/index.htm>. Accessed: March 20, 2002.

¹⁹⁸ Governor Jim Geringer’s Open Spaces Initiative, *Ways to Conserve Wyoming’s Wonderful Open Lands— A Guide Book*. Online. Available: <http://www.state.wy.us/governor/openspace/openspaces.htm>. Accessed: February 10, 2002.

¹⁹⁹ Telephone interview by T.J. Costello with Bill Gentle, Parks Department, Cheyenne, Wyoming, January 20, 2002.

²⁰⁰ Ibid.