State Growth Management & Open Space Preservation Policies

Lyndon B. Johnson School of Public Affairs
The University of Texas at Austin
Policy Research Project Report

143

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Project directed by

Robert H. Wilson

Robert Paterson

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Policy Research Project Participants

Students

Cindy Rosales Bush, B.A. (Political Science, History), Southern University and A&M College

Thomas J (TJ) Costello, B.S. (Economics-Management), Ithaca College

Jennifer Daughtrey, B.A. (Journalism), Texas Tech University

Bobby Evans, B.A. (Political Science, American Studies), DePaul University

Emily Finnan, B.A. (Political Science, Sociology), University of New Mexico

Susan Gabrielson, B.A. (Political Science), University of Florida

Brad Gilmore, B.A. (Political Science, Spanish), Wake Forest University

Richard Keith, B.A. (Liberal Arts), The Evergreen State College

N. Jessica Kingpetcharat, B.A. (Political Science), Trinity University

Karen Livingston, B.A. (Sociology, Political Science), Beloit College

Sarah Lovering, B.A. (French, Spanish), University of Colorado

Monica Martinez, B.A. (Comparative Literature), UC Berkeley

Meg Moga, B.A. (History, Philosophy, Spanish), University of Scranton

Drew Murray, B.A. (Urban Studies), Trinity University

Mona Nichols, B.A. (History); B.B.A. (International Business), University of Texas at Austin

Natasha Ponczek, B.S. (Radio-TV-Film), University of Texas at Austin

Kate Suratt, B.S. (Political Science), Sam Houston State University

Jeffery Yorg, B.A. (History, Political Science), Webster University; M.A. (Political Economy), Washington University

Project Directors

Robert H. Wilson, Ph.D, Mike Hogg Professor in Urban Policy, Lyndon B. Johnson School of Public Affairs, The University of Texas at Austin.

Robert Patterson, Ph.D, Associate Dean for Research and Operations, School of Architecture, The University of Texas at Austin.

Table of Contents

List of Tables

List of Figures

Foreword

The Lyndon B. Johnson School of Public Affairs has established research on policy problems as the core of its educational program. A major part of this program is the nine-month policy research project (PRP), in which two or more faculty members from different disciplines direct the research of ten to thirty graduate students on a policy issue of concern to a government or nonprofit agency. This "client orientation" brings the students face to face with legislators and other public officials. The PRP introduces students to the special talents that are needed to conduct research in a dynamic policy environment. It also illuminates the occasional difficulties of relating research findings to political realities.

The Congressional Research Service (CRS) was the sponsor for the State Growth Management and Open Space Preservation Policies project. As Congress's agency for undertaking policy research on issues of national concern, CRS approached the LBJ School to explore the opportunity for joint research initiatives. This PRP was one of two sponsored by CRS in the 2001-2002 academic year. We believe that this initial collaboration has been mutually beneficial and we look forward to additional projects in the future. It should be noted, however, that this report does not necessarily reflect the views of the CRS. The findings of this project will be reviewed and reworked by the CRS for its own purposes.

The curriculum of the LBJ School is intended not only to develop effective public servants but also to produce research that will enlighten and inform those already engaged in the policy process. The project that resulted in this report has helped to accomplish the first task; it is our hope that the report itself will contribute to the second.

Finally, it should be noted that neither the LBJ School nor The University of Texas at Austin necessarily endorses the views or findings of this report.

Edwin Dorn
Dean

Preface

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. Policies that empower local governments, enhance the power of existing state agencies, strengthen or create new regulations, and initiate land management studies are all of concern to this study. This report describes the policy approaches each U.S. state has adopted since 1990 to address the issues of growth management and open space preservation.

The *State Growth Management and Open Space Preservation Policies* project is a first-time collaborative effort between the Congressional Research Service (CRS) and the Lyndon B. Johnson (LBJ) School of Public Affairs at the University of Texas at Austin. We wish to acknowledge our appreciation to Jeff Zinn, our project manager at CRS, for his support and encouragement in this innovative and experimental effort. Jeff Zinn proposed the research topic and collaborated with us in the elaboration of a work plan. This report, however, does not necessarily reflect the position of CRS.

We also wish to recognize John M. DeGrove and Henry Richmond, national experts on the issues of growth management policy, who served on an advisory committee for this project. John and Henry provided extremely useful suggestions on the first draft of our work. In addition, we wish to thank the many state officials and leaders that shared their knowledge and opinions on growth management efforts in their states. We hope this report will further their efforts by contributing to ongoing discussions of this important policy issue.

Chapter 1. Land Use Policy and Open Space

Growth management and open space loss of growing concern to both governmental and nongovernmental organizations. While land use planning resonates with states, this power and responsibility has traditionally been delegated to localities through state empowering bills 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 participants in the growth management policy agenda. Their responsibility for local infrastructure and service delivery costs as well as the impact of open space loss and blighted inner cities that they must face compels their interest in the growth management issue. While some communities have begun to tackle important land use issues, there is an overall lack of education on the issues and costs of unmanaged growth, and many communities have avoided altering 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 the urbanization of the nation's population and the new societal needs of the twentieth century, the federal government initiated several programs that today affect land use patterns in a multitude of ways. Sectoral policies in transportation, housing, agriculture, and the environment all play a significant role in how land is developed and used. Some within the federal government are 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.

State involvement in land use varies greatly from state to state, with each facing unique challenges and formulating unique responses. Some state governments have taken on a prominent role in land use policy and open space acquisition, while others have left the responsibility entirely to localities. States have generally begun to take a more active role in land use throughout the country and have begun to encourage regional cooperation. While localities are only capable of directly altering land use patterns within their own jurisdiction, regional organizations can develop plans that are mutually beneficial to surrounding committees. These regional organizations help control the negative externalities that neighboring communities can place on one another and facilitate development plans that create stronger localities throughout the larger region.

Various nongovernmental organizations are also active in pursuing growth management policies and open space protection. These organizations have acted as educators and watchdogs for governmental programs affecting land use. They are working to build coalitions to generate a growth management consensus in order to help protect open space, the environment, quality of life, and fiscal responsibility. Throughout all levels of government and through nongovernmental organizations, a rising interest in growth management and open space protection can be seen.

Urban Land Use Patterns and Loss of Open Space: The Policy Issue

Patterns of urban sprawl are evident in communities throughout the United States. Although different forms of sprawl appear from one locality to the next, it can often be identified by low-density development distant from a city's urban core. Sprawl can take the form of noncontiguous development and isolated, single-family homes. Typically uncoordinated, this type of development leads to single-usage of land, rather than allowing a mix of residential and commercial development to emerge.[1]

Open space can be identified in three general categories: 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 space encompasses areas both inside and outside urban areas. Inside urban areas, green space includes public open space, such as parks. Outside urban areas, green space refers to large tracts of undeveloped lands.

Causes of Unmanaged Growth and Open Space Loss

Urban sprawl and loss of open space result from a variety of social and economic factors as well as unintended consequences of public policies. Among the social and economic factors that must be considered are the preference for owning single-family homes with yards, the level of car ownership, and the rising standard of living within the United States.

Homeownership is a desirable objective and is the pursuit of many 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 development largely determines the land use patterns in an area. When homes and large developments are built distant from urban cores and its denser surrounding areas, sprawl emerges.

Virtually universal car ownership has fundamentally changed the patterns of land development in American communities. The difficulty of traveling drastically changed with the availability of automobiles. Car ownership has facilitated residential expansion into once isolated, undeveloped areas. With land prices in these outlying areas less expensive 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 WWII, has enabled more Americans to attain homeownership. The purchase of a home involves the consideration of different factors, including, 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 previously undeveloped areas. Although the provision of infrastructure is more expensive in these outlying undeveloped areas, these costs are averaged among all city residents. Those in

less populated areas further from the center city do not incur the true cost of services and infrastructure, thus lessening the cost of living further from the urban core.

Although economic and social factors contribute to sprawl, federal, state, and local policies must also be considered among the causes of urban sprawl and open space loss. Public policy in areas such as transportation, housing, and land use are perceived to be factors contributing to urban sprawl and open space loss. As discussed in Chapter 2, unintended impacts of federal policy affect patterns of urban development. Federal transportation policy has led to the expansion of roads and the highway system, opening rural lands and other lower-density areas to development by improving their access to center cities. With less-expensive land prices 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, particularly by 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 been a large contributor to sprawl. Zoning initially emerged in the early part of the twentieth century as a tool to separate land uses. These laws protected urban centers from heavy industry and manufacturing plants. Ultimately these zoning laws reinforced lower densities throughout communities. Today states and localities have inadequately addressed prevalent development issues. In many states old zoning laws still apply, even at a time when the sharp separation of commercial, industrial, and residential uses may no longer be needed. These laws prevent sustainable practices such as mixed-use development and urban infill, and they suppress the revitalization of urban areas.

Comprehensive planning has been inconsistent if not nonexistent in most areas. Typically, land use policy has not adequately addressed carrying capacity and has allowed growth that causes a reduction in public facility service levels.[2] At times it has allowed new public infrastructure to be built in areas where the city does not desire development. Land use policy has often failed to prevent loss of important viable agriculture land and natural resources by not preventing sprawl in valuable areas. 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

The additional costs imposed by sprawl are numerous. 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 include expensive and unsustainable infrastructure costs, blighted center cities, and a decrease in some aspects of the quality of life.

Green spaces are lost as cites become less compact and expand to undeveloped lands. Because this growth takes place in an unconstrained and uncoordinated way, development is scattered, causing an inefficient use of space and the conversion of more open space

than necessary. Agricultural lands are lost as developers build small-acreage homes in rural farming areas, buying viable agricultural land and subdividing the plots. While the impact may not be felt immediately on the entire farming community, as more farmland is purchased, farming becomes less viable in the area. The noise and other farming externalities become a perceived nuisance to the new homeowners, creating conflicting values in the area.[3]

Cultural/historical sites are also 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 not protected from the unnecessary destruction caused by low-density developments. Another cost of sprawl is damage to environmental lands and the loss of natural resources. Wildlife habitats are damaged; wetlands can be destroyed; forests and other resource lands are lost, and coasts become damaged and eroded without necessary protection. Studies have estimated that some communities can increase environmentally sensitive land savings by 20 percent or more under growth management systems.[4]

From the public investment perspective, sprawl is expensive to finance. The cost of financing roads, schools, water and sewage systems, additional infrastructure, and services to support these less-dense areas is more expensive per person than financing these services in higher-density areas.[5] It has been estimated that capital costs are a quarter 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 replacement of these less-efficient infrastructure systems adds to additional taxpayer burden.[6] Because infrastructure is less expensive when built for greater capacity and used by a denser population, and because facilities are less expensive when they are a shorter distance from existing infrastructure, the costs of building in less dense outlying areas must be considered.

Other costs of urban sprawl include blighted and decaying downtowns.[7] As more affluent residents and businesses leave for cheaper land and larger plots, center cities must contend with empty storefronts, open office space, and inactive streets. While healthy downtown areas are essential to the long-term success of an overall region, they have been allowed to slowly diminish.

Degradation of quality of life 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 causes frustrated and delayed commuters and costs individuals and society valuable time. This increase in car usage and distance traveled also results in increased auto-oriented emissions and perhaps in decreased air and water quality throughout the community.[8]

Loss of a sense of community also factors into the costs 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 distance has

led to less interaction with neighbors. Many also live in new communities that lack tradition and events that bring residents together. The combination of these sprawl externalities have contributed to a loss of social capital.[9]

Sprawl has many costs that are not immediately recognizable, including the loss of important lands. Infrastructure costs increase, urban cores decay, and overall quality of life decreases with the spread of sprawl and the loss of open space. These costs should be considered when land use and other policies are being formulated. While communities can benefit from growth, it is important that they effectively mange the way they grow if they desire to prevent the costs of sprawl and open space loss.

Research Methods and Process

The purpose of this study is to identify and characterize state initiatives directly related to growth management and open space preservation that were enacted, adopted, or undertaken in some other way since 1990. These include laws passed by state legislatures (including significant amendments to existing laws), voter initiatives, programs initiated without explicit enabling legislation, and executive orders. Included in this review of state laws is consideration of the many growth management issues, as defined by the research team, and identification of the approaches employed by state governments to address each issue. These issues and approaches are defined later in this introductory chapter and illustrate the present state of growth management and open space preservation techniques being used throughout the country.

The initial challenge in the project was to identify the set of policies. The research team determined that a survey would be the most effective instrument for obtaining the needed information. Relevant state agencies and other experts, such as nonprofit organizations, academics, and professional organizations, were identified as the target population for the survey, hereafter referred to as the Lyndon B. Johnson School Survey (LBJ School Survey). This method of creating and sending a survey provided current information and original material, since survey recipients were asked to offer their personal assessment of state policies. Respondents completing the survey were allowed the option of anonymity in order to encourage candor in the responses. This helped separate the issues of substantive policies from political ones. Most respondents chose anonymity and this report respects anonymity, for all respondents.

Respondents were asked to rate the seriousness of urban sprawl and the loss of environmentally sensitive land issues in the state, among others. 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 to address growth management issues was requested. To facilitate this process a list of previously identified policies was included in the survey. An initial mailing of 325 was made in early November 2001 to identified state and nonprofit individuals. A secondary mailing was conducted in early January 2002 to individuals who had not responded to the first survey as well as to an additional 75 newly identified individuals. 128 surveys have been received by the

research team. Table 1.1 summarizes the survey mailings and response rates for the 50 states.

Table 1.1
State Responses to LBJ School Survey

State	Survey Responses		Telephone Interviews	
	State Government Officials 93/244	Nongovernmental Organizations 36/86	State 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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

Note: The LBJ School Survey and the telephone interview protocol were key research tools utilized by the LBJ Policy Research Project on Growth Management and Open Space Preservation. Survey responses were received primarily through the U.S. Mail. Telephone interviews were conducted with contacts identified in the LBJ School Survey with individuals identified through secondary research.

Following the written survey, a telephone interview was conducted to solicit additional information on policies. Questions regarding the implementation approaches of state programs, the quality of outside assessments, and individuals' own opinions on the effectiveness of the policies were asked in this format. Through the initial telephone interviews, additional individuals were often identified and sent the written survey and often later contacted and interviewed over the telephone.

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 the actual legislation. Internet searches provided additional information, including inventories of state initiatives and studies of similar growth management subject matters. Nonprofit organization websites provided legislative reviews and often were helpful in identifying laws that were not found elsewhere. Library materials, law review articles, and newspaper archives searches were also employed in the policy research process.

The study team encountered a number of difficulties in the administration of the survey. The return rate for many states was lower than anticipated. Often the success rate of receiving a response from program directors, whether governmental or nongovernmental, depended on the size of the state. In smaller states, the possibility of a program director completing the survey was greater. In larger states, program directors typically were not available for the task but requested subordinates to complete the survey, which often resulted in the survey becoming misplaced in large departments. The forwarding of the survey to an identified individual became necessary. The events of September 11, 2001, also affected the mailing of the survey, with many northeastern states never receiving the first and second mailings.

Survey responses varied in comprehensiveness. Recipients often completed the opinion-based sections and left the more substantive sections, on specific policies, blank. Also, many survey recipients responded by saying that the time necessary to fill out the

survey was too burdensome. The telephone survey also presented challenges for the study team. Speaking directly with individuals proved difficult, as many survey recipients were unavailable or difficult to contact. For many states, it became necessary to make multiple phone calls in order to conduct the telephone interview. Yet once contacted, the information derived from speaking directly to policymakers provided valuable information to the study team. It was in this format that questions regarding triggering events, policy effectiveness, and assessments of state-level commitments were made. During the process the research team also consulted with Henry Richmond and John M. DeGrove, both eminent scholars in the growth management field, who served as the team's advisory board. The final step performed by the research team was the submission of each state's report to the governor's office of the state, to ensure accuracy and up-to-date information.

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, usually those with large states, consulting alternative sources of information was necessary for compiling a thorough state review. Despite the limitations of the information, the written and telephone surveys in conjunction with the supplementary information sources provided original information on the current policies being implemented by the 50 states. A comprehension of the current research on growth management was also achieved by the research team, which provided essential information for the state summaries and the project as a whole. As a quality control step, draft chapters that describe each state's experience with growth management and open space policy was mailed to the governor's office with a request for a review for factual accuracy. Nearly half of the state governors responded to this request, and any oversights or factual errors were corrected.

Explanation of Terms

State governments pursue growth management and open space policy in a multitude of ways. The priority given to these issues and the policy instruments chosen vary substantially across states. In order to structure this policy area for the purposes of this project, a number of categories and definitions had to be adopted and applied to the actions taken by state governments. Through the use of categories, the relative importance of various issues and of specific policy instruments can be established. Given that state governments recognize no common categories, the definitions adopted here reflect categories used in academic and policy literature as well as the experience of the research team.

Policy Issues of Growth Management and Open Space

One set of categories was created to disaggregate the general policy issues of growth management and 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** relates to the use of resource land, environmentally sensitive areas, and other critical open space that is not encompassed within the designations of coastal or agricultural land. 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, found below, allows for multiple approaches. The categories of approaches are:

- **Coordinated State Agency Planning:** collaboration 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:** requires planning actions by local governments, as in a state government legally requiring all localities to undertake and submit a comprehensive plan.

- **Authorized Local Planning:** enables, but does not require, local governments to take planning actions.

- **Land Use Regulation:** imposition by state governments of regulations that govern land use, 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 assessment, easements, and transfer of development rights.

- **Land Acquisition:** securing of land for the purpose of open space preservation. After the purchase of land or receiving land as a gift, the state creates legal provisions for its continued preservation in its present state.

- **Infrastructure & Facilities Provision:** guiding or meeting the infrastructure needs of an area and use of infrastructure investments as a land use policy tool.

- **Grants/Funds:** creation of funding mechanisms or allocation of special funds for growth management activities.

- **Information Provision/Technical Support:** provision of 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.

Structure of Research Report

This report analyzes states laws and policies dealing with growth management and open space preservation adopted or amended since 1990. The report explores whether growth management is an isolated concern in a few states or a nationwide issue being considered by most or even all states. Once determining that sprawl and loss of open space issues are of increasing concern across the country, the question then is how can states prevent errors of the past and improve approaches to land management policies. To answer this question the report summarizes information on how the states implement land use and open space policies and how effective they have been in their efforts. The report explores growth management and open space preservation at both the state and federal governmental levels with a chapter dedicated to each level of governmental activity.

Chapter 2, "Federal Policies Regarding Growth Management and Open Space Preservation Policy: The Intergovernmental Context," begins with a historical overview of federal involvement in land issues in the United States. It examines why local government is the custodian of land use planning and development management as well as why American cities have grown with low-density development patterns. Following the historical review is an assessment of the current state of federal involvement in land use planning and development management.

Chapter 2 also explores the extent to which federal policies are perceived to be a help or a hindrance in state land use across policy areas. Based upon the frequency of responses from the LBJ School Survey, a review of the current literature, and a study of the historical federal involvement in land use, four federal policy areas were identified as being of greatest importance: transportation, housing, environmental, and agricultural policy. The chapter reviews the origins of the policies and discusses the positive and negative effects in land use issues. It also considers how these federal policies may have affected land use development patterns and the degree to which they affect states' growth management efforts.

Chapter 3 of the report, "State Policy Overview and State Summaries," considers the subject of growth management and open space preservation from the state perspective. The first section of the chapter presents the results of the LBJ School Survey, where respondents offered their opinions on their state's policy focus, the seriousness of growth management and open space issues, and commented on the perceived effectiveness of their state's policy making. A comparison between governmental and nongovernmental responses indicates differences in perceptions. The 50 states' issues and approaches are summarized, drawing on the descriptions of individual states' activities included later in the chapter. Respondents were also queried on what they thought were the best means to minimize sprawl and to preserve open space. Here a glimpse of the next stage of states' methods for addressing growth management and open space preservation is offered, providing suggestions to states not yet active in this important subject matter.

The last section of Chapter 3 presents the profiles of each state. A profile includes a narrative summary of the state's past and present work in growth management and open space issues. These summaries vary from state-to-state and address a variety of concerns, such as reviews of influential past legislation and a discussion of the record of prominent elected officials (governors, state legislators, and even officials at the local level) that have affected the state's efforts. As appropriate, summaries include consideration of important coalitions, voter initiatives—which are becoming increasingly important in many states—and laws that have negatively affected the state's efforts to preserve open space and minimize sprawl. All summaries conclude with a consideration of the future policy direction of the state in regard to its growth management efforts.

Notes

[1]Arthur C. Nelson and James B. Duncan, *Growth Management Principles & Practices* (Chicago: American Planning Association, 1995), pp. 1-2.

[2] Ibid., p. 96.

[3] Rutgers, Brookings, Parsons Brinckerhoff, ECONorthwest, *The Costs of Sprawl-Revisited* (Washington, DC: National Academy Press, 1998), pp. 75-76.

[4] Ibid., pp. 78-79.

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

[6] Ibid., p. 6.

[7] Ibid., p. 7.

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

[9] Ibid., p. 87.

Chapter 2. Federal Policies Regarding Growth Management and Open Space Preservation Policy: The Intergovernmental Context

Introduction

Traditionally, land use planning and land use policy have been the responsibility of state and local governments. Before the 1970s, the federal role in land use planning and management included little beyond managing federal land such as national parks and military bases and dealing with land issues on a piecemeal basis in policy areas such as housing and highways. Since the 1970s, however, federal laws have increasingly affected policy decisions made by state and local governments. Land use planning and management and open space preservation have become serious issues addressed at every level of government. For this reason, the intergovernmental context of land use planning and regulation is one of many issues addressed in this report. 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 make.

The emergence of an urban society has led to a variety of federal programs and policies that affect land use. These include federal regulations that regulate pollution, federal spending on highways, and tax incentives for home ownership, among others. State governments also play many roles in land use planning and policy. They can implement statewide comprehensive planning regulations intended to manage growth and protect open space, work to preserve historic landmarks, and purchase land to protect it from future development. States authorize the creation of substate political jurisdictions and assign them various powers and responsibilities (e.g., cities, counties, and special districts). Local government power and duties, such as land use planning and regulation, are usually assigned by either a Dillon's rule or Home Rule approach. Under Dillon's rule, the states maintain an essential role in all governmental decisions, giving 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. In this capacity, local governments deal with land development efforts that require land use regulation as well as the infrastructure issues that accompany new growth. Local governments, therefore, must collaborate to ensure that their interests are taken into account during the policy-making process of their counterpart localities and vice versa. A regional perspective is difficult to accomplish with the multitude of localities that comprise the typical metropolitan area in the United States. Moreover, efforts to coordinate land use planning and policy from a regional perspective can be complicated by the fact that the powers assigned to local governments can vary considerably, as between counties and cities.

The purpose of this intergovernmental section is to evaluate the issue of growth management in both federal and state government. It addresses federal policy in land management and open space preservation from the perspective of the states and examines both the positive and negative effects of federal policies on states' land management efforts. Also included are the respondents' opinions compiled from the LBJ School Survey on the effect of federal policies on state policy making.

Role of the Federal Government in Growth Management and Open Space Protection

Historical Overview

The role of the federal government in growth management and open space protection has been largely shaped by the history of our nation's colonization. During colonial times, citizens conquered the American continent by claiming the land as their own and establishing the basic tenet of property rights. After the American Revolution, land ownership in America became even more attractive, as it was free from English land tenure restrictions and landowners could sell land and enjoy the benefits of property ownership.[1] As additional lands were acquired by the United States from Spain, France, and other countries, Congress authorized for their exploration, survey, and settlement.[2] In 1812, Congress established the General Land Office in the Department of the Treasury to oversee federally owned lands. As the nation's land base expanded further west, Congress encouraged settlement by enacting a wide variety of laws, including the Homesteading Laws and the Mining Law of 1872, which have all since been repealed or superseded by other statutes.[3] In the late nineteenth century, federal land management priorities shifted from the settlement of public lands to their preservation. During this time, the first national parks, forests, and wildlife refuges were established.[4] In 1946, the Bureau of Land Management (BLM) was created in the Department of the Interior by merging two agencies— the General Land Office and the U.S. Grazing Service.[5] Today, BLM manages approximately 264 million acres of land, 12 percent of the land in the United States. A majority of this land is located in the West, with about one-third of the total in Alaska.[6]

With the expansion of the land base of the United States came an overall increase in population. Beginning in the late 1800s, this population became concentrated in cities as the American economy shifted from agriculture to manufacturing as a result of the Industrial Revolution. This shift in concentration caused the conditions in cities to deteriorate because of the pollution of factories and overcrowded tenements. Consequently, many people began to leave cities in search of a better environment. In the 1920s, the availability of the automobile increased the mobility of people, thereby inciting a massive shift of population from the city to the suburbs. By 1970, more people lived in suburbs than cities and rural areas combined.[7] This shift in population has characterized the design of our housing, shopping, transportation, and workplaces. This population redistribution is projected to continue.[8]

Even with the population surge and the expansion of the nation's urban areas, the role of the federal government remained limited due to states' rights established long ago. There is no mention of land use control in the U.S. Constitution. The Constitution's 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 use without just compensation.[9] Technical constraints also limit the federal government's role in land use. The sheer size of the United States and the number of differences in topography, culture, and economies across states poses an operational challenge. Further limiting the role of the national government in growth management is the political value placed on 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.

Despite the lack of specific federal land use policies, several federal policies and programs have had a tremendous impact on the suburbanization of America. In a 1999 survey conducted by the Fannie Mae Foundation,[10] urban experts were asked to rank the top ten influences on the American city over the past 50 years. The 1956 Interstate Highway Act and the Federal Housing Administration's (FHA) mortgage financing program were the two top-ranking influences cited. The Housing Act of 1949 was ranked fourth. Both of these programs created federal incentives that substantially influenced development patterns in U.S. cities for decades to come.

For example, under the Interstate Highway Act, federal gas tax revenue funded the majority of the investment of new highway construction while localities incurred only a small portion. By contrast, local governments were expected to assume a much higher percentage of any investment in mass transit, which would have allowed cities to grow in a more condensed area.[11] Another example of the indirect effect of federal programs on growth are the FHA-insured mortgages which date from the 1930s. These mortgages encouraged new housing on the suburban fringe and refused to insure mortgages on older houses in most urban neighborhoods, thereby reinforcing residential development outside urban boundaries.

While the indirect effects of some federal policies have encouraged growth, there are some federal policies that were purposefully created to assist in growth management and open space preservation. The U.S. Department of Housing and Urban Development was established in 1965 and contributed roughly $12 billion to urban planning, water and sewer facilities, open space acquisition, and public transit.[12] This was the first time housing and planning was considered at the cabinet level.[13] The 1968 Douglas Commission appointed by President Johnson considered sprawl and possible solutions, including urban growth boundaries. This increasing concentration of land use at the federal level led to attempts to enact the National Land Use Policy Act of 1970 (NLUPA), which would have provided federal aid to states devising statewide land use plans and creating procedures to protect environmentally sensitive lands.[14] The bill never garnered sufficient support for passage and all subsequent bills proved politically futile.[15]

Between 1960 and 1980, the federal government passed a series of laws that focused on the environmental sensitivity of lands. The Archaeological Resources Protection, Coastal Zone Management, Coastal Barriers, Clean Air, Clean Water, Endangered Species, Flood Disaster Protection, National Environmental Policy, and National Historic Preservation Acts were all enacted to protect sensitive land and resources.[16] These laws are not principally concerned with national growth management policy, since each one is a single-issue law focusing on a single environmental issue.[17] 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 were important in establishing a national concern for the effects of land use and have been paralleled at the local and state levels.

The State of Federal Growth Management and Implications for the Future

The Clinton administration was instrumental in launching two major Smart Growth initiatives at the federal level. The Livability Agenda, initiated in January 1999, aims to curb urban sprawl and promote quality of life by providing local governments with the tools and resources necessary to pursue open space and regional smart growth strategies. The Lands Legacy Initiative is a $1 billion program that seeks to protect land resources and expand parks and green spaces by increasing the funding available to programs associated with land acquisition and natural resource protection.[18]

The Bush administration has not funded these initiatives at the levels proposed by the previous administration, but has begun its own growth management campaign concentrated in brownfield redevelopment. Brownfields are abandoned, underused, or underutilized properties that are known or suspected to be contaminated. In January 2002, President Bush signed into law the Small Business Liability Relief and Brownfields Revitalization Act, which provides liability protection for prospective purchasers, contiguous property owners, and innocent landowners for the cleanup of the land. This protection attracts private developers who can develop this land into infill projects within urban areas. The bill also authorizes increased funding for state and local programs that assess and cleanup brownfields.[19]

Several bills introduced in the 107th Congress attempt to promote growth management and open space protection. The Conservation and Reinvestment Act (CARA, H.R. 701) will dedicate over $3 billion annually for natural resource protection through the Land and Water Conservation Fund (LWCF) and the Urban Park and Recreation Recovery Program. CARA will also provide funding to urban forestry, historical preservation, and other wildlife protection programs. The Community Character Act of 2001 (H.R. 1433) will provide grants to states to be used in developing land use planning legislation, supporting planning in states with updated enabling legislation, and planning by multistate regions or tribal governments.[20]

Even though the federal government has played a limited role in growth management, policies enacted have had some effect on the ability of individual states to

manage their growth and protect their open space. The following section will gauge the effectiveness of federal policy as viewed by the states.

The Role of Federal Policy: Views of the States

The first two questions posed to respondents in the LBJ School Survey relate to the effectiveness of federal policy in assisting with growth management efforts at the state level. Although the answers to these questions are purely the opinion of the states' respondents, they provide interesting insight into the states' satisfaction with growth management policies implemented by the federal government. The first question asked respondents if they agreed with the following statement: "Federal policies of the past decade have been effective in preventing or minimizing urban sprawl." (See Table 2.1.)

Table 2.1
"Federal Policies of the Past Decade Have Been Effective in Preventing or Minimizing Urban Sprawl"

	Percentage of Responses (%)		
	Total	State Government *(n=81)*	Non-StateGovernment *(n=33)*
Strongly Agree	12	14	9
Agree	2	1	3
Disagree	59	59	58
Strongly Disagree	27	26	30

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

An overwhelming majority of total respondents to the LBJ School Survey, 86 percent, disagreed that growth management policy provided by the federal government has proven effective, with 27 percent of those respondents strongly disagreeing. State government and non-state government representatives responded alike as to their disagreement with the effectiveness of federal policies in controlling urban growth, 59 percent and 58 percent, respectively. Non-state government respondents were slightly more pessimistic in their view of the effectiveness of federal policies; 30 percent strongly disagreed compared to 26 percent of state government respondents. These responses might be viewed as a statement to federal officials that states are not satisfied with the quality or effectiveness of federal growth management policies. This statement suggests a need for a dialogue between the states and the federal government on how best to

improve the effectiveness of federal policies aimed at preventing or minimizing the effects of growth.

Only 14 percent of total respondents agreed that the federal government has been effective in its growth management efforts. State government respondents were slightly more optimistic than non-state government respondents in their view of the effectiveness of federal policies, with 14 percent strongly agreeing that federal policy has proven effective compared to 9 percent of non-state government respondents. These responses justify a need for the federal government to pay attention to how states are implementing federal policies and whether this may be cause for the presence (or lack) of effectiveness. This process might begin with the federal government creating a dialogue with those states that feel federal policies have been effective. This conversation could provide insight into how different implementation methods might have an effect on the performance of federally initiated growth management policies.

The second question asked respondents to 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?" (See Table 2.2.)

Table 2.2
"The Effect of No Changes in Federal Policy Sprawl"

	Percentage of Responses (%)		
	Total	**State Government** *(n=80)*	**Non-State Government** *(n=33)*
Better	3	4	0
Worse	65	60	76
Same	33	36	24

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

A clear majority of total respondents, 65 percent, felt that urban sprawl would get worse with no changes in federal policy. There is a noted difference in perception between nongovernmental organizations and government respondents on the effect of no changes in federal policy on sprawl. Seventy-six percent of non-state government respondents felt sprawl would get worse with no changes and 60 percent of state government respondents felt this same reliance on the federal government, a difference of 16 percent. The respondents who felt sprawl within their state would get worse if federal policy stayed the same seem to indicate that the federal government may have a role in helping states and localities address the issue of sprawl and that without fulfilling this

role in the future, conditions will only get worse. Again, by asserting that conditions would worsen, we might conclude that these respondents feel the federal government has a beneficial role to play in the implementation of federal policies, and without innovation, conditions in their states would degrade. A majority of the respondents in the LBJ School Survey were from the state chapters of national non-state government organizations such as 1,000 Friends or Sierra Club. These nongovernmental entities are typically keen on monitoring the activities of the federal government as related to their organization's concerns. This overall knowledge and national view of the growth management issue could have provided reasons for the difference in response.

Roughly one-third of total respondents, 33 percent, felt that sprawl would stay the same without changes in federal policy. This response could indicate a perceived lack of involvement and influence that the current federal policy has on sprawl and growth management as viewed by state government respondents. Thirty-six percent of state government respondents felt that sprawl would stay the same. This response may reflect the historic reliance on state and local governments for implementation of growth management policies. State governments might view sprawl as a state issue and therefore federal policies are either unwanted or of limited importance. Non-state government respondents didn't feel as strongly about the irrelevancy of government policy. Twenty-four percent felt that sprawl would stay the same without changes to policy, a difference of 12 percent compared to state government respondents.

Only 3 percent of respondents felt that no change in federal policy would actually make growth management more successful in their state. From this response, we might conclude that these states 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 the negative effects of federal policy on a state's urban growth, and therefore any federal involvement is considered detrimental to the success of state attempts to curb urban growth. Interestingly, no state government respondents felt a lack of change in federal policy would help growth management in their state. Four percent of non-state government respondents felt that no change was actually beneficial to the state.

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. The following sections of this chapter will be organized according to these subject areas.

Transportation

Transportation policy is one of the arenas where federal programs 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 be virtually impossible without the automobile and highway system. Thus, transportation infrastructure is a decisive factor in growth management and open space preservation policies. In recognition of this fact, state and local policymakers increasingly look to transportation

policy as part of the solution to current growth management issues. Recent increases in funding for mass transit systems demonstrate the evolving relationship between federal transportation policies and state and local land use planning.

At the end of World War II, the federal government chose to fund the development of an extensive interstate highway system. The Interstate Highway Act of 1956 led to the construction of 41,000 miles of highways in the United States.[21] Passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1990 initiated a new phase of transportation policy making. A number of LBJ School Survey respondents indicated that ISTEA and its subsequent legislation, the Transportation Equity Act for the 21st Century, made notable improvements in supporting efficient land use planning. Yet despite such improvements and the resulting optimism among state and local officials, a majority of respondents stated that the federal government continues to impede state and local initiatives by funding transportation policies that fundamentally contradict growth management efforts.

Highway funding that displaces revenue for mass transit systems was cited as a major cause of urban sprawl. Federal funding for the development of new roads, which often allows access to more land for development, was also cited as a major impediment to effective planning. State and local policymakers from the LBJ School Survey advocated for the maintenance of existing roads and greater funding for mass transit as a way to effectively manage growth.

President George Bush signed ISTEA into law in 1991. In an effort to incorporate environmental measures into transportation policy, ISTEA marked a momentous change in federal policy. Shifts in funding alone demonstrate the remarkable change in policy:

- States were required to spend $1 billion of an annual $20 billion grant of federal highway funds on air pollution control projects.
- Spending on road repair grew from $5.8 billion in 1991 to $16 billion in 1999.
- Spending on mass transit almost doubled, from just over $3 billion in 1990 to close to $6 billion in 1999.
- Spending on bicycle and pedestrian projects grew from just over $7 million in 1990 to more than $222 million by 1999.[22]

In addition to the momentous shifts in funding, governance within transportation policy systems changed substantially. Metropolitan Planning Organizations (MPOs), which had existed for a number of years, were granted much greater authority 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 DOTs made the final decisions in the allocation of federal funding. ISTEA requires that the federal government certify transportation planning in metropolitan areas with populations of greater than 200,000. The certification process provides an assessment of how well a

given MPO worked with other transportation organizations, local governments, citizens, and state DOTs to reach certain planning requirements.[23] Local officials are also granted more discretion in developing transportation policies that may encourage efficient land use planning.

Enacted on June 9, 1998, the Transportation Equity Act for the 21st Century (TEA-21) sought to build upon the policies created by ISTEA and provided even greater authority and flexibility to regional planning bodies for 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 decision to fight urban sprawl," this program represents a specific instance where the federal government offers assistance for growth management. Furthermore, the MPO certification process, described above, now requires public involvement as a matter of statute. And most importantly, with regard to intergovernmental cooperation and compliance, TEA-21 requires the federal government to renew the certification of MPOs every two years in order to maintain full eligibility for federal highway and transit funding.

When asked how the federal government might enable states to better prevent or minimize sprawl, increased spending on multimodal transportation systems and reduced funding for highway systems was a prominent response from survey respondents. Many respondents also expressed support for an increased gas tax as a mechanism to assess payment for the actual costs of commutes which contribute to congestion, demand for highway maintenance, and environmental degradation. The most common response to how the federal government can help growth management efforts was greater spending on mass transit. A majority of our survey respondents believe that the historical preference for highway building has been detrimental to growth management and that alternative modes of transportation must be supported if efforts to manage growth are to be effective.

The shift in transportation policy by the federal government is likely the reason for increased optimism on the part of state and local officials. While a number of state and local officials continue to view federal transportation policy as a hindrance to effective growth management efforts, a notable number acknowledge the progress of more recent federal initiatives. This conflicting sentiment symbolizes a relationship that continues to evolve between state and local planning officials and the federal government concerning transportation policies in the United States.

Housing

Consideration of the relationship between transportation and growth management quickly brings up the issue of housing because business commuters often travel to and from their place of residence. If their residence is a good distance from where they are traveling, they may be adding to problems associated with growth and loss of open space.

Homeownership is a very important issue in the United States. According to the 2000 U.S. Census[24] the homeownership rate in the U.S. is 66.2 percent. 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.[25] Federal policy to support homeownership emerged in the 1930s and today, through the income deduction for interest payments on home mortgage loans, represents one of the country's largest tax expenditures.

While there are certainly positive aspects to federal housing policy related to purchasing new homes, such as helping first time homebuyers to purchase a home, the production of new housing over the restoration of existing housing has the potential to encourage development further away from downtown, where the land is less expensive and infrastructure is not yet in place to meet the needs of the incoming residents. Residential land use patterns can exacerbate urban sprawl if distances increase between new housing development (primarily single-family, detached homes in inexpensive suburban areas) and areas where people work. When adequate public transit is not available this increase can cause traffic congestion, air pollution, and other problems related to suburban development to worsen.

LBJ School 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 indicate that FHA and VA loans for single-family housing as well as the federal income tax mortgage deduction favor homeownership over multifamily housing and may cause growth and loss of open space-related problems due to higher land consumption rates of lower-density housing patterns. Federal policy that encourages new homes over rental units or the rehabilitation of existing housing was also listed as a problem.

A recommendation commonly made by respondents as a way for the federal government to approach growth management issues caused by past housing policies is to pass the Historic Homeownership Assistance Act.[26] This act features a 20-percent federal income tax credit to homeowners who rehabilitate or buy a qualified historic house, up to a maximum credit of $40,000.

Legislation that would connect homeownership programs with growth management issues, rather than considering the issues as independent, may be one solution to the problems indicated by respondents in the LBJ School Survey. While making this connection could be a starting point for a federal housing policy that encourages growth management issues, homeownership will continue to be a major issue in the United States whether this connection is strengthened or not.

Environment

The federal government also affects growth management policy in states through environmental protection legislation. The environment is one of the areas most affected by federal regulatory measures. In the 1970s, the federal government became more actively involved in protecting the environment. Considering the Nixon administration's proposal for federal land use regulations, Russell Train, the chairman of the Council on

Environmental Quality, said 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." [27] Subsequently, a number of acts were passed that continue to regulate environmental quality and, indirectly, land use.

Landmark environmental legislation enacted in the 1970s and later included the Clean Air and Water Act, the Land and Water Conservation Fund, the Coastal Zone Management Act, the Wilderness Act, the Endangered Species Act (ESA), the National Environmental Policy Act, and the Federal Land Policy Management Act. The Clean Air and Water Act fostered the creation of the Coastal Zone Management Act, which encourages coastal states, including the Great Lakes states, to develop 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.[28] The ESA protects endangered species by prohibiting actions that harm or harass endangered species in any way and allows the secretary of the interior to establish additional critical habitat areas on private and public land that can be developed only on a very limited basis.[29] The National Environmental Policy Act requires all federal agencies to prepare environmental impact statements before they enact measures that will have significant environmental effects.[30] The Land and Water Conservation Fund and the Federal Land Policy Management Act were created to ensure the preservation of usable land and water and encourage sustainable development throughout the country.

In the 1990s, the federal government became interested in addressing growth management issues and the environment as they relate to resource protection and other environmentally sensitive issues. The Clean Air Act was amended to strengthen the link between transportation policy and air quality, requiring the integration of Clean Air Act standards into transportation planning. Recently, the federal government has demonstrated initiative again in addressing protection of the environment as it relates to land use and growth management. In 2001 the Bush administration, in an effort to continue the initiatives made by the Clinton administration, appropriated funds for major environmental protection components of the proposed 1999 Land Legacy Initiative.[31] These efforts to address growth management related issues in addition to other federal legislation have encouraged states to adhere to growth management principles in the area of environmental protection. Following the lead of federal initiatives, states have also employed brownfield redevelopment policies as a tool for growth management and open space preservation.

As a result of this active role in regulating land use activities as they relate to the protection of the environment, sensitivity to federal regulatory controls has become an important aspect of growth management initiatives at the state and local levels. In an effort to adequately address the importance of the federal role in addressing environmental protection as it relates to growth management, our study included questions relating to the effectiveness of such legislation at the state level. The study sought to evaluate the perceived effectiveness of federal policies through open-ended questions that asked whether or not these policies impede growth management. Of the

survey recipients who responded, only 14 percent claimed that federal environmental policies, or lack thereof, were impeding management of sprawl in their states. Areas of federal regulation that impede states' abilities to manage growth that were reported in the surveys include federal regulations of wetlands, coastal areas, and waterways. Respondents also claim that federal policy on the sale of low-quality land prohibited their states from adequately planning for urban sprawl.

Agriculture

As with the environment, farmland is also highly affected by urban growth and federal government policies. Farmland lost to urban sprawl has been measured at one million acres a year.[32] Farmland is increasingly seen in economic terms: "The highest or best use of an economic resource, like a land attribute, is that use for which the highest price will be paid to the resource owner."[33] This perspective does not consider the value of the land to society and contributes to increasing loss of prime farmland to housing and commercial developments.

Urban sprawl encroaches upon farmland by inflating property value of the land, thereby making it extremely attractive to farmers to sell their land at profit when housing developers come knocking. Urban sprawl also encroaches upon farmland when neighborhoods expand near the farms, which increases the likelihood of nuisance lawsuits against farmers. Homeowners near farms, for example, may object to the use of noisy machinery or the smells of manure.

Even though the federal government's ability to regulate local land use policy is weak, federal policies affect agricultural land use. Federal legislation to preserve farmland and reduce pollution from agricultural runoff results in a form of federal land use regulation. In the Farmland Protection Program, established in the 1996 Farm Bill, the secretary of agriculture works with state or local governments to purchase conservation easements. Participation by farmers is voluntary. The 1996 Farm Bill has provisions that:

- Protect between 170,000 and 340,000 acres of farmland.
- Authorize up to $35 million in total federal funding.
- Require land to be subject to a pending offer from a state or local farmland conservation program in order to participate.[34]

In the pending 2002 Farm Bill, Congress continues to work to create programs that conserve agricultural land. The goals of the 2002 Farm Bill relating to conservation include:

- Conserve and enhance natural resources associated with agriculture and forestry and help farmers, ranchers, and landowners increase stewardship efforts, protect working land from development, and meet requirements contained in federal, state, and local environmental laws.

- Provide increased support for agricultural conservation, while striking a proper balance between compensation for land retirement and voluntary incentive-based programs for land in agricultural production.

- Encourage and facilitate partnerships and joint efforts involving agricultural producers and landowners, private organizations, and federal, state, and local governments in order to address national, regional, and local resource concerns, including providing increased financial assistance and technical assistance by the public and private sectors.

- Expand opportunities for private landowners to voluntarily maximize environmental and conservation practices on forested lands and improve the knowledge, understanding, and use of sustainable forestry practices on both public and private lands.[35]

Federal regulation of agriculture also relates to environmental concerns. Agricultural runoff is one of the leading causes of pollution in the nation's waterways. Due to the difficult nature of tracking this non-point source pollution back to its source, the federal government has struggled for years to find a solution to this persistent environmental hazard. Provisions of the Clean Water Act, although not addressing non-point source pollution directly, are used to regulate it minimally.

The Food Security Act of 1985 (FSA) showed an increasing sensitivity to the environmental consequences of land use management. FSA requires farmers on highly erodable lands to adopt conservation plans to control runoff and discourages farmers from planting on wetland converted to cropland.[36] Some of these plans may include easements near waterways between the cropland and the water to better hold the soil. The Farm Service Agency and the Natural Resources Conservation Service collaborate in the Conservation Reserve Program to provide guidelines for conservation buffers for farmers.[37]

Farmland protection programs are used by most states to support farmers. Conservation easements, right-to-farm laws, or protection from local zoning ordinances and nuisance lawsuits are all used in agricultural states such as Illinois, Indiana, and Kansas.

Conclusion

While the federal government does not have sole authority over land use polices, it does enjoy influence over related issues including transportation, housing, environmental, and agricultural policy in the United States. The impact of federal policies is substantive enough that federal decision makers must consider the impact of their decisions in these others areas on land use policy. In the LBJ School 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.

This chapter of the report interpreted the effect of the federal government on state growth management efforts. The purpose of this chapter was to demonstrate the intergovernmental aspect of growth management and open space preservation by linking federal policy initiatives mentioned in the LBJ School Survey, such as housing and agriculture, to growth management issues. The chapter provided a brief overview of the history of federal land use policy, continued with a description of recent events in the federal response to growth management, and concluded with a presentation of the LBJ School Survey results regarding the effectiveness of the federal government in assisting growth management at the state and local levels. The next section of the report will address growth management and open space preservation policies at the state level.

Notes

[1] Henry Richmond, *From Sea to Shining Sea: Manifest Destiny and the National Land Use Dilemma*. Pace University School of Law. Online. Available: htttp://www.pace.edu/lawschool/landuse/Richmond.html. Accessed: March 25, 2002.

[2] U.S. Bureau of Land Management, *BLM Facts*. Online. Available: http://www.blm.gov/nhp/facts/index.htm. Accessed: March 20, 2002

[3] Ibid.

[4] Ibid.

[5] The U.S. Grazing Service was established in 1934 to manage the public lands best suited for livestock grazing, in accordance with the Taylor Grazing Act of 1934.

[6] Bureau of Land Management, *BLM Facts*. Online. Available: http://www.blm.gov/nhp/facts/index.htm. Accessed: June 3, 2002.

[7] Florida State University, *The Emerging Federal Role in Growth Management*. Online. Available: http://www.law.fsu.edu/journals/landuse/Vol152/Rylander-final.pdf. Accessed: March 25, 2002.

[8] Richmond, *From Sea to Shining Sea* (online).

[9] Jerold S. Kayden, *National Land-Use Planning in America: Something Whose Time Has Never Come*.Washington. University in St. Louis. Online. Available: http://law.wustl.edu/Journal/3/pg445to472.pdf. Accessed: March 20, 2002.

[10] 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.

[11] Ibid.

[12] 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.

[13] 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: http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1104_burchell.pdf. Accessed: March 5, 2002.

[14] Ibid.

[15] Kayden, *National Land-Use Planning in America* (online).

[16] Burchell et al., "Smart Growth" (online).

[17] Kayden, *National Land-Use Planning in America* (online).

[18] Burchell et al., "Smart Growth" (online).

[19] 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.

[20] Sprawl Watch Clearinghouse, *Federal Policies*. Online. Available: http://www.sprawlwatch.org/policies.html. Accessed: March 25, 2002.

[21] Percivel, Miller, Schroeder, and Leape, *Environmental Regulation: Law, Science and Policy* (New York: Aspen Law and Business, 2000), p. 761.

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

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

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

[25] 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), pp. 97-100.

[26] U.S. Congress, House, *A Bill to Amend the Internal Revenue Code of 1986 to Provide a Credit against Income Tax to Individuals Who Rehabilitate Historic Homes or Who Are the First Purchasers of Rehabilitated Historic homes for Use As a Principal Residence*, House Bill 1172, 107th Congress, 1st Session (2001).

[27] Percivel et al., *Environmental Regulation*, p. 767.

[28] State of Michigan, Department of Environmental Quality, *Michigan Coastal Management Program*. Online. Available: www.deq.state.mi.us/lwm/grt_lakes/czm/czm.html. Accessed: September 21, 2002.

[29] Arthur Nelson et al., "Special-Area Protecton," in *Growth Management Principles and Practices* (Chicago: American Planning Association, 1995), p. 61.

[30] Percivel et al., Enviornmental Regulation, p. 769.

[31] Jeff Zinn, "Managing Growth and Related Issues in the 107th Congress," CRS Issue Brief, Congressional Research Service (Washington, DC: The Library of Congress, 2001), pp. 6-8.

[32] American Farmland Trust, *Why Save Farmland?* Online. Available: http://www.farmland.org/what/why.htm. Accessed: March 23, 2002.

[33] Michael Peddle, *Farmland Protection Policy: The Effects of Growth Management Policies on Agricultural Land Values.* Center for Agriculture and the Environment (1997). Online. Available: http://www.farmlandinfo.org/cae/wp/wp97-7.html. Accessed: March 23, 2002.

[34] United States Department of Agriculture, *1996 Farm Bill Information*. Online. Available: http://www.usda.gov/farmbill/cons.htm. Accessed: March 23, 2002.

[35] Farm Bill Network, *Objectives for the New Farm Bill*. Online. Available: http://www.fb-net.org/FB/2002/Harkin-LugarP.htm. Accessed: March 23, 2002.

[36] Percivel et al., *Environmental Regulation*, p. 766.

[37] Farm Bill Network, *Conservation Reserve Program and Buffers*. Online. Available: http://www.fb-net.org/buf-spcs.htm. Accessed: March 23, 2002.

Chapter 3. State Policy Overview and Summaries

Since the late 1960s state governments have expanded planning efforts in response to a variety of issues related to growth management and open space preservation. Federal policies affect these issues in multiple ways, and the perceptions of state officials to these policies were discussed in the previous chapter. While the effects of federal policies are 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. Policy intervention to address issues such as coastline preservation or natural habitat protection had occasionally been initiated at the federal level or in some Home Rule local governments. But by the mid-1960s, the states' predominantly dormant posture toward planning started to shift when states recognized the consequences of uncoordinated local land use policies. The states implemented 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 early state level planning was that only highly populated states were active in creating land management polices. For example, California began adopting new land use policy in the late sixties and early seventies,[1] far before the issue was even considered in less populated states. As this report illustrates, in the 1990s most states have been active, if not aggressive, in pursuing growth management policy. This study identified 354 laws or programs adopted after 1990, excluding basic zoning legislation.

Analysis of the state level of participation and role in growth management is commonly described as occurring in waves.[2] 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 the late 1980s states continued to develop policies to facilitate coordinated land use planning. [3] Growth management and open space preservation issues gained national prominence due largely to the experiences of practitioners and publications demonstrating 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.[4] This third wave places greater emphasis on comprehensive planning, either voluntary or mandated, at the local level. Proposals include a range of elements identified as essential considerations for a well-developed plan and plan implementation. These include consideration of issues such as affordable housing, infrastructure, natural resource protection, urban revitalization, and interagency and intergovernmental coordination.[5] The state's role in growth management programs becomes primarily one of providing an effective system of incentives and disincentives to support local and regional entities with plan development and implementation. The incentive and disincentives include judicial and regulatory sanctions as well as technical and financial assistance.[6]

The most recent policy trend in many states—comprehensive planning at the state level—merged more strongly in the late 1980s and in the 1990s. Integrated statewide planning encourages localities to consider issues beyond their boundaries and to coordinate their plans both horizontally and vertically with other governments and departments. Various models distinguish states based on specific features of their comprehensive planning policies. States vary in regard to whether the plans are mandated or voluntary, whether incentives and disincentives are included, and the degree of regulatory authority granted to the local planning entity.[7] Many of these state-level plans and 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.[8] This chapter summarizes similarities and differences in state level planning efforts in the United States. (Appendix A categorizes states according to the level of policymaking activity and by the political venue in which leadership is demonstrated.)

Section I of this chapter presents the results of the LBJ School Survey regarding the foci of state policies of growth management and open space preservation, the seriousness of these issues, and the perceived effectiveness of state policies. In addition, based on the inventory of state laws and programs, this section also provides summary information on the issues addressed and approaches utilized in growth management and open space policies. The section concludes with recommendations made by LBJ School Survey respondents regarding these issues.

Section II of this chapter consists of profiles of each of the 50 states. The profiles provide an overview of the state's policy framework relating to urban growth management and open space protection, legislative histories, major program and initiative descriptions, and related nongovernmental or federal activity. In order to ensure the accuracy of state profiles, the Office of the Governor in each state was requested to review the material for factual accuracy and to suggest comments or corrections where an inaccuracy was observed. Sixteen state governor offices responded to this quality control request.

Section I. State Policy Overview

The Focus of State Policies: Growth Management versus Open Space

Despite the broad increase in concern for growth management issues across the states, there is considerable variation in policy focus across the states. The LBJ School Survey identified two dimensions of land use: one connected to cities and urban sprawl, and another concerned largely with nonurban or urban-fringe issues such as the loss of open space. The survey instrument asked whether these are of equal importance in the state. Nearly a majority of state agency respondents (47 percent) indicated that their state places equal weight on the two issues, suggesting that in these states the two issues may be related. However, many respondents indicated that their states focus principally on open space (44 percent) and a smaller number indicated a focus on urban sprawl (18 percent). These results reflect a range of priorities among states, likely to be explained by

unique circumstances such as geography, urbanization patterns, and economic structure in individual states.

Non-state government respondents (see Table 3.1) understood the focus of state efforts to be somewhat different than did state officials. Fewer respondents perceived policy in their states as focusing equally on the two areas (33 percent as compared to 53 percent among government respondents). More perceived states' efforts to be highly focused on preserving open space (44 percent) than did the government respondents. These differences in perception may result from non-state government respondents working in a single policy arena with a more narrow focus than state officials.

Table 3.1
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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

State officials deemed most growth management issues, including urban sprawl, loss of sensitive and of agricultural lands, and zoning practices, to be very serious issues (50, 45, 43, and 47 percent, respectively; see Table 3.2). The issue of apparently less concern to state officials is the loss of resource land. Resource land may be more fully valued in the market and thus not threatened by urban development. The issue of second-highest concern was zoning practices. This response suggests that, in the opinion of state officials, existing growth management tools may be insufficient for handling the serious issues of development and loss of open space. Overall, the LBJ School Survey results clearly indicate that growth management and open space preservation are high concerns in state government (see Table 3.2).

Table 3.2
Seriousness of Growth Management Issues in States (in %)

(State Government Officials: n=86, Non-State Government Officials: n=36)

	Very Serious		Moderately Serious		Not Serious	
	State Government	Non-State Government	State Government	Non-State Government	State Government	Non-State Government
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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

The effectiveness of state policies was addressed in the LBJ School Survey. Despite the seriousness of growth management issues in states, a majority of respondents considered growth management policies not to be effective (see Table 3.3). This proved to be the view of most state officials and an even higher share of non-state government respondents. The perceptions concerning the effectiveness of open space preservation policies were somewhat better. Although growth management is increasingly seen as an important statewide issue, in many states policies have not been developed or are not being effectively enforced to meet the challenges that growth brings.

Table 3.3
Effectiveness of State Policies (in %)

(State Government Officials: n=85, Non-State Government Officials: n=36)

	Growth Management Policies		Open Space Preservation Policies	
	State Government	Non-State Government	State Government	Non-State Government
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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

Policy Issues Addressed by State Programs

Since no common set of changes 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 Chapter 1). Each of the 354 state policies was categorized according to the issure (or issues) addressed. A policy may address more than on issue. For example, a Smart Growth task force may well address a number of issues, including infrastructure management, land use management, and agricultural land preservation. The frequency with which issues are being addressed in individual states and in the nation as a whole are provided in Table 3.4.

Table 3.4
Growth Management and Open Space Preservation 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**
TOTALS	**160**	**150**	**110**	**93**	**91**	**78**	**69**	**59**	**354**
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

	Natural Resource Protection	Land Use Management	Agricultural Land	Urban Redevelopment	Cultural Historical Preservation	Infrastructure Management	Coastal Conservation	Hazardous Places	Number of State Policies
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
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

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

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 land use history, demographics, and other common characteristics, such as lengthy coastline, may well share similar priorities on specific issues. For instance, a state with a lengthy coastline would have a high frequency of coastal conservation issues to address. Similarly, a predominantly rural state will likely address a high number of agricultural land issues.

The three most prominent issues addressed by state government are natural resource protection (19.7 percent), land use management (18.5 percent), and agricultural land (13.5 percent). 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. In other words, sprawl and unmanaged growth tend to degrade quality of life and the environment. Furthermore, the rise in environmental concerns may provide an avenue for state policymakers to package growth management and open space preservation initiatives so that citizens both understand and support effective planning. Land use management, the second most frequently addressed issue, exemplifies the overall concern of state policymakers over the effectiveness of existing land use patterns. State policymakers appear most concerned with initiatives that promote efficient growth and minimize negative externalities. Finally,

the loss of agricultural land is a great concern for many states. As more land is developed and viable agricultural land is lost, this issue continues to gain the attention of state policymakers who wish to protect farms.

There are a number of explanations for the relatively low frequency of certain policy issues, including Infrastructure Management (9.6 percent), Coastal Conservation (8.5 percent), and Hazardous Places (7.2 percent). Infrastructure management, for example, is an issue that exemplifies the intergovernmental nature of land use. Many infrastructure programs, including transportation, receive substantial federal and local government funding and are therefore not a priority for state initiatives. For instance, water and sewer lines are usually funded by local governments. Coastal Conservation is a category that is necessarily limited to those states that contain a coastline. Furthermore, many coastal conservation programs were created during the 1980s and are therefore excluded from this study. Finally, Hazardous Places is a category in which the federal government again takes an active role. The EPA, for example, is a federal agency that actively pursues brownfield redevelopment. The federal government is also actively involved in Superfund redevelopment, which aims to clean up hazardous places in primarily rural locations. Issues receiving less attention at the state level may not necessarily be viewed as less important problems by the state, but other levels of government may be addressing those issues. Thus, states focus attention on issues that fall most clearly in their own jurisdiction and over which states feel they have the greatest capability for effective action.

Approaches Employed to Address Policy Issues

This study created a set of categories and definitions for the various approaches used in state government programs to manage growth and protect open space (see Chapter 1 for definitions). Each of the 354 state policies were categorized by the approach (or approaches) adopted in the programs (see Table 3.5).

The names assigned to the planning techniques reflect the three distinct approaches. A distinction between *mandated* local planning (column 8) and *authorized* local planning (column 9) is drawn based on whether local planning is voluntary or not in the state program. There is also a clear distinction between these two methods. In contrast, coordinated state agency planning (column 5) indicates a participation across state agencies.

One could further analyze the reasons an individual state adopts certain types of approaches. States with a high proportion of agricultural land may tend to employ the land acquisition approach to preserving valuable farmland. In a more subjective fashion, the table may be used to determine what types of approaches are used most often by those states viewed as active advocates of growth management and open space preservation policies to determine whether some approaches reflect an aggressive state response.

The three approaches most commonly used by states to manage growth and preserve open space are Information Provision/Technical Support (16.7 percent), Market

Incentives/ Disincentives (15.1 percent) and Grants/Funds (15.0 percent). The frequent use of Information Provision/ Technical Support, in contrast with the comparatively low percentage for *mandated* local planning (6.2 percent), may suggest that states prefer a more indirect means of assisting in growth management and open space preservation initiatives. States are willing to assist and supervise in growth management efforts, but less willing to mandate action and/or demand compliance.

Market Incentives/Disincentives, the second most frequent approach, is a technique in which certain types of behavior may be encouraged through indirect means, usually by affecting the cost of a certain action. The incentives/disincentives approach does not *prohibit* any particular behavior; rather it imposes a higher cost on those seeking to engage in activities that are not encouraged by the state. The use of incentives is also found in the third most used approach, Grants/Funds. In many instances programs relying on grants provide a means for the government to allocate money, thereby addressing a problem but through encouraging action to be taken by intermediary entities. The popularity of these primarily "hands off" approaches may also be explained by the relative autonomy granted to local governments in the realm of land use planning. Furthermore, the fiscal constraints of many state governments may limit their ability to allocate substantial funding to growth management and open space preservation initiatives. Fiscal constraints and a reluctance to intervene aggressively may explain the relatively low utilization of infrastructure and facilities provision and of mandated local planning.

Table 3.5
Growth Management and Open Space Preservation 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**
TOTALS	**103**	**93**	**92**	**70**	**67**	**64**	**50**	**39**	**37**	**354**
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
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

	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
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

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

Note: The research presented is inclusive of laws adopted or amended after 1990.

The categorization of programs by issue and approach can be used to examine the extent to which state initiatives are targeted. The number of issues addressed by a single state program varies greatly (see Table 3.6). A number of states have passed comprehensive land use legislation that seeks to address several issues at once. But much more common are state programs addressing one particular issue (see Table 3.7). Thus, while some active states have passed comprehensive programs, most states are more frequently inclined to address growth management in an issue-by-issue, incremental fashion. This strategy may be most politically viable. Legislation limited in scope and focused to a particular issue would likely have a greater chance of passing the state legislature. It is also likely that these more limited programs are less expensive than a statewide land use policy. Thus budgetary restrictions also may limit states to passing legislation that addresses one issue at a time.

Table 3.6
Number of Issues Addressed per State Program

Number of Issues	Frequency
1	107
2	87
3	45
4	30
5	20
6	6
7	7
8	11

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

Table 3.7
One-Issue Template Frequencies

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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

The consideration of programs addressing multiple issues leads to a question concerning the likelihood of a particular issue being commonly integrated into comprehensive programs. For example, is agricultural land preservation likely to be addressed in a single purpose program?

Policy Recommendations from the States

In an open-ended question, the LBJ School Survey encouraged respondents to offer recommendations to state governments related to minimizing sprawl and preserving open space. Over 100 individuals made recommendations concerning the minimization of

sprawl, and these were categorized (see Table 3.8). Of these respondents there were 70 from government-affiliated agencies and 30 from non-state government organizations. While at higher percentages for non-state government respondents, both non-state government respondents and state government respondents focused on three principle recommendations of roughly equal importance to states when crafting land use policy:

- states should develop integrated comprehensive plans and Smart Growth Policies,
- reform the tax system and fund disbursement practices, and
- create and/or enhance market incentive/disincentive programs for sprawl.

These three policies illustrate the diversity of approaches available to states and may suggest the need for multipronged strategies for addressing the issue. By establishing a comprehensive plan, governments would be required to address the issue regionally, thus overcoming limitations of past practices. The reform of the tax system and adoption of market incentives may be seen as a means of engaging the private sector in the issue, thus creating a partnership between government and nongovernment sectors.

The major differences between the governmental and nongovernmental respondents occurred in the strength of preference for the top two recommendations and in support for establishing and strengthening current purchase and transfer of development rights (TDR) laws. In the latter, several government respondents recommended it while no non-state government respondents made this recommendation.

Table 3.8
Recommendations to Further Minimize Sprawl (in %)

	Total	State Government n=70	Non-State Government n=30
Establish a Mandatory State Comprehensive Plan and Smart Growth Policies	12	9	17
Reform State and Local Tax System & Fund Disbursement Practices	11	9	15
Create/Enhance Market and Financial Incentives/Disincentives for Sprawl	9	9	10
Increase & 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 & 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 Current 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 Current 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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

Respondents were asked to offer recommendations to state governments on means to better preserve open space. Seventy-nine individuals made recommendations, including 57 respondents from state government agencies and 22 respondents from non-state government entities. Again, both non-state government and state government respondents focused on three principle recommendations of roughly equal importance to states when crafting open space preservation policy (See Table 3.9). These recommendations include:

- 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 current purchase and transfer development rights laws.

In funding and supporting agricultural and open space acquisition and preservation efforts, states act directly in this policy area. In contrast, increasing and reforming a state's tax incentive structure to preserve open/green/agricultural spaces provides market incentives and disincentives. Transfer of development rights (TDR) 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 3.9
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 & Preservation Efforts	17	16	18
Increase and Reform Tax Incentive Structure to Preserve Open/Green/Agricultural Spaces	13	13	15
Establish and Strengthen Current 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 Current 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, Growth Management and Open Space Preservation—A National Survey, Fall 2001-Spring 2002.

Section I Conclusions

The LBJ School survey elicited perceptions on state-level policies within individual states. These views were aggregated to determine patterns of critical issues and common strategies in growth management across states. As an increasing number of states engage in growth management and open space protection, particular issues and approaches emerge as priorities. With varied amounts of experience in growth management and open space preservation, and differing degrees of urgency in addressing these issues, states are inadvertently positioning themselves along a spectrum of state planning. A fourth wave of state-level planning is taking shape, in which states will be characterized along a continuum of emerging leaders to not active. For some states, growth management policy carries a 30-year history, whereas others are taking their first ambitious steps in the 1990s with comprehensive planning approaches and a growing interest in protecting natural assets against unplanned growth.

The depth of expertise on planning policies will broaden with the heightened activity of the 1990s as new approaches are tested and implemented in the field. The effectiveness of approaches, the interconnectedness of growth management issues, the fiscal impact of unplanned growth, and the economic value of preserving agricultural and resource land are all lessons to be gained from examining this activity at the state level. Each state offers some indication of the policy development challenges and the feasibility of particular approaches based on their unique political, geographic, and economic characteristics. As governors and state agencies take an active interest in planning issues, the role of the federal government will be examined to determine how it can further facilitate this process. One important finding of this research, however, is that these policies are the common responsibility of multiple governments, linked both vertically and horizontally in attempting to resolve pressing problems.

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 examining local and regional approaches to planning. The data presented on states included the policy focus; effectiveness of policies; and the approaches implemented to address the policy issue. From this information, the cost of sprawl and the issues related to growth management and open space preservation covered in Chapter 1 proved true from state to state and were representative of issues that resonated nationwide. These findings, detailed below, indicate that while states may differ in their issues and approaches, there are several core values and themes governing policy development.

The state's 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 are more likely to employ a range of tools toward the goal of land preservation and valuation of resource land.

- **Dramatic population growth:** states that experienced significant population growth and development in their urban centers sought to coordinate and manage growth to minimize the impact on the periphery regions and hinterlands.

- **Political climate:** 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 (Appendix A explores in more detail the political leadership in growth management and open space policy making).

- **Economic development goals:** states have recognized the value of strategic growth for their economies, and the negative externalities, whether this creates useless plots of land from poorly planned development or changes the character of the community and surrounding rural areas by allowing the market to dictate growth. Encouraging local government entities to engage actively in the full spectrum of issues related to

the development of their community and to consider the effects on surrounding regions has become a goal for many state programs. Planners and state agencies work toward coordinating their goals in order to maximize the long-term economic benefits of growth.

- **Environmental concerns:** states with valuable natural resources are responsible for not only preserving a state asset, but in many cases, a national asset as well. In states with a long coastline, preservation policies may be implemented at the federal, state, and local level. States are also aware of the benefits to their economy in preserving natural resource land for tourism.

- **Managing fiscal impact:** states implementing growth management and open space preservation programs recognize the fiscal impact of accommodating unplanned growth. Funding new infrastructure and increasing tax burdens to accommodate development places a strain on the tax base and existing resources.

States will use multiple approaches targeted toward a particular planning issue.

Some growth management policies are more effective than others. Ineffective policies can be the result of several factors, including:

- Policies and regulations that are put into place and not followed,

- policies and regulations that are not clearly understood,

- previously effective regulations that are diluted to the point of ineffectiveness, or

- policies without penalties.

State-level planning occurs primarily because localities and agencies find coordinating efforts or facilitating that process difficult without a regulated process or framework in place. State policies frequently encourage localities and agencies to examine the statewide or regionwide impacts of their policies. The state is positioned to determine the planning and preservation goals for the state and to recommend methods for implementing coordinated solutions to growth issues. It also has the authority to develop and implement approaches from the top down in order to establish a threshold for the state and to address issues that are too large for a lesser entity to address.

Policy focus varies across states, and public officials, agencies, NGOs, and various coalitions may disagree on priorities for the state. Nonetheless, Smart Growth initiatives, task forces, and commissions on state planning issues frequently stimulate a productive dialogue and encourage each level of government to examine the impacts of existing planning policy frameworks, or lack thereof. No one agency or layer of government, including the federal government, acts in a vacuum in this field of study. Growth management and open space preservation exists at the crossroads of multiple issues, including affordable housing, private property rights, agricultural land preservation,

public transportation, and historical preservation. State-level planning has emerged in response to the need to coordinate these and to do so in a way that is sustainable.

In the following section, each state's approach to state-level planning is summarized. A historical context is provided, although programs and policies implemented in the 1990s are the primary focus. Each overview of a state's policy framework includes implementing agencies, legislative history, description of major programs, and any other material relating to that state's growth management and open space preservation policies.

Notes

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

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

[3] Ibid.

[4] Ibid., pp. 137-138.

[5] 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.

[6] 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.

[7] Bollens, "State Growth Management," p. 4.

[8] Percivel, Miller, Schroeder, and Leape, *Environmental Regulation: Law, Science and Policy,* 3rd edition, (New York: Aspen Law and Business, 2000), p. 770.

Alabama

Alabama's planning system is largely based on local control, and consequently very few laws address growth management at the state level. The state lags behind its neighbors, including Tennessee, Georgia, and Florida, in reforming state comprehensive planning laws that date back to the 1920s.

The only program found with an explicit concern for growth management or open space preservation in the state is the Forever Wild Program, created in 1992. 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.[1].

In 1999, the Forever Wild program initiated the purchase of more than 47,000 acres of land in the Mobile-Tensaw Delta, 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. The Delta was also designated by the World Wildlife Fund as an area of worldwide ecological importance.[2] The purchase is the largest single land purchase for conservation in the state's history.[3].

In recent years, Alabama has attempted to enact planning and land-use related bills, but efforts have proven unsuccessful. In 1999, a bill to provide for county-level planning and zoning authority and an amendment of the state constitution to grant municipalities home rule powers over land use and development were proposed, but not passed.

In 2000, Governor Don Siegelman established the Alabama Commission on Environmental Initiatives. The commission's top priorities included the development and implementation of a comprehensive environmental education plan, an increased focus on advancing water policy, and a Smart Growth collaboration with Alabama's Commerce Commission.[4] The commission recommended the establishment of a Smart Growth commission in order to address sprawl in the state. Due to budget shortfalls and the 2002 elections, the recommendation had not been placed on the legislative agenda as of April 2002.[5]

In 2002, Governor Siegelman furthered his involvement in growth management efforts by sponsoring a two-day Conference on Smart Growth and Brownfields Redevelopment held at Birmingham Southern College. The conference was attended by 200 officials, experts, and business leaders who discussed ways to boost land-use planning in order to better combat the effects of sprawl in Alabama.[6] The conference is an important step in creating an awareness of growth issues affecting the state. Concerns with urban sprawl in Alabama were recently raised by a report from the U.S. Census Bureau ranking Alabama the first in the nation in the percentage of people who drive to work by themselves.[7]

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 administering federal grants in the areas of job creation, infrastructure, public safety, and energy efficiency and conservation.[8]

Notes

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

[2] BAMA Environmental News, *Gov. Announces 47,000 Acre + Mobile Delta Purchase.* Online. Available: http://www.bamanews.com/BEN-052899.html. Accessed: April 12, 2002.

[3] Email from Lance Brown, Deputy Policy Director, State of Alabama Office of the Governor, "Sprawl and Land Planning–Alabama," to Robert Wilson, April 11, 2002.

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

[5] American Planning Association, *Growing Smart: Alabama.* Online. Available: http://www.planning.org/growingsmart/States/Alabama.htm. Accessed: January 15, 2002.

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

[7] American Planning Association, *Growing Smart: Alabama* (online).

[8] Alabama Department of Economic and Community Development, *Improving the Quality of Life for All Alabama Citizens.* Online. Available: http://www.adeca.state.al.us/adeca/pages/pages_stm/adecadefault.stm Accessed: December 15, 2001.

Alaska

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

The federal government has a strong role in determining the use of land in Alaska since over 66 percent of Alaska's 242,795,761 acres are federally owned.[1] One-third of Alaska's land mass 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), which designated over 100 million acres of new conservation system units and additions to existing units. Alaska now has 60 percent (50 million acres) of the entire National Parks System and 86 percent (about 76.8 million acres) of the entire National Wildlife Refuge System.[2]

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.[3] With an average population density of 1 person per square mile (in contrast to the average population density of the whole United States of 75 persons per square mile), urban sprawl does not arise as an issue for most local authorities. Alaska's largest cities of Anchorage (population 258,782), Fairbanks (83,928) and Juneau (30,684) are able to adopt growth management regulations as they deem necessary and all have implemented comprehensive land use regulations.[4]

Legislation regarding the Coastal Zone Management Program, originally passed in 1978, was updated in 1990, and the U.S. Congress and Governor Tony Knowles have focused attention on infrastructure provision and economic development across Alaska. The Denali Commission, for example, was established by Congress in 1998 as a federal-state partnership designed to provide critical utilities, infrastructure, and economic support throughout the state. Among the commission's efforts are the promotion of rural development through job training and energy infrastructure provision, and an educational initiative for increasing the capacity of rural communities to create and implement local plans.[5] The governor has pushed for the enactment of measures to meet the infrastructure needs of rural Alaskans and is a strong supporter of opening the Arctic National Wildlife Refuge to "environmentally responsible" drilling.[6] These federal and gubernatorial efforts are likely to have important implications for growth management and open space preservation in the state.

Notes

[1] U.S. Geological Survey, "1995 National Oil and Gas Assessment and Onshore Federal Lands," Open-File Report 95-75-N prepared by Donald L. Gautier, Gordon L. Dolton, and Emil D. Attanasi (Reston, VA, January 1998). Online. Available: http://energy.er.usgs.gov/products/openfile/OFR95-75-N/Data.htm. Accessed: December 6, 2001.

[2] U.S. Congress, House Committee on Resources, *Alaska National Interest Lands Conservation Act*. Online. Available: http://www.house.gov/resources/106cong/fullcomm/anilca990208.htm#issues. Accessed: November 21, 2001.

[3] Alaska Stat. Secs. 44.47.010, 44.46.010, and 46.03.010.

[4] Denali Commission Alaska, *Spotlight on Alaska*. Online. Available: http://www.denali.gov. Accessed: December 6, 2001.

[5] Ibid.

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

Arizona

Arizona is one of the fastest-growing states in the nation. Yet despite demographic trends, Arizona exhibited a rather conservative approach to growth management and open space preservation policies until the late 1990s. With the aid of an active governor, Jane Hull, Arizona passed two major growth management acts, the first in 1998 and the second in 2000. Arizona's approach to growth management continues to evolve in reaction to demographic trends and appears to be taking a more proactive stance with the aid of gubernatorial leadership.

Local governments in Arizona have historically been responsible for land use planning. The Arizona Department of Commerce, through its Community Planning Office, monitors activity throughout the state, although current statutes provide little authority for the enforcement of legislative mandates.

Approximately 13 percent of Arizona's land base is comprised of state trust lands.[1] These lands were granted to the state by the federal government upon Arizona's establishment as a territory in 1863.[2] The federal government did not, however, grant all federal land to the state and thus continues to administer approximately 14.2 million acres of land in Arizona.[3] Having three distinct types of land ownership including state trusts, Bureau of Land Management, and privately owned lands, Arizona experiences difficulty in trying to consolidate parcels of land for either managed growth or conservation purposes. In the northern half of the state, this type of ownership actively contributes to checkerboard development patterns. State officials believe that exchanging or purchasing federally owned land would allow the state to plan more effectively and manage growth, yet the federal government is often reluctant to forego ownership of its land.

The late 1990s marked a new era in land use policy in the state of Arizona. Expanding its initial growth management legislation, the Growing Smarter Act (1998), Arizona passed Growing Smarter Plus (2000), a controversial initiative that the governor described as making "Arizona a national leader in land use and growth management."[4] Critics, on the other hand, describe the act as meaningless and ineffective. A primary point of concern in the original act was that communities chose how they would like to pursue Growing Smarter initiatives but no enforcement or evaluation procedures were incorporated 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 in 2000. Its primary tools are in-fill incentive districts, purchase of development rights (no transfer of development rights as of 2001), and a required updating of zoning laws in order to be in compliance with the legislation. Praised by the governor as giving localities strong tools for managing growth, Growing Smarter Plus employs the use of 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 has weakened localities by instituting a plan that

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 continuously attempt to strengthen the Growing Smarter legislation by placing initiatives on the ballot for citizens to decide. In November 2001, for example, environmentalists successfully placed Proposition 202 on the ballot. The proposition, which would have created local growth management plans including mandated growth boundaries, received significant support when first made public, yet failed to pass at the ballot box. The defeat of Proposition 202 was an illuminating example of the political tug-of-war currently taking place in Arizona. Although antisprawl sentiments remained high throughout the state, opponents of the ballot initiative prevailed and successfully defeated the proposition. This defeat demonstrated that in Arizona, maintaining local control of future destinies is of utmost importance.

On February 22, 2001, the governor announced the creation of the Growth Management Oversight Council whose task it is to "monitor the effectiveness of Arizona's growth management statutes and offer suggestions for their improvement."[5] Arizona appears to be entering a new stage in its growth management and open space preservation agenda as the state shifts its focus to improved enforcement and monitoring of policies by means of enhanced authority to state and local officials. Although the future of growth management in Arizona remains uncertain, with an active governor (Jane Hull) continuing to devote attention to the issue and interest groups' activism continuing to rise, growth management is likely to be an important issue in Arizona for much of the foreseeable future.

Notes

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

[2] Arizona State Land Department, *Overview of the Arizona State Land Department*. Online. Available: http://www.land.state.az.us/asld/htmls/aboutsld.html. Accessed: April 12, 2002.

[3] Arizona Bureau of Land Management, *Fast Facts about Arizona*. Online. Available: http://azwww.az.blm.gov/fr_faqs.htm. Accessed: April 12, 2002.

[4] "Governor Signs Growing Smarter Plus Legislation," Governor Jane Dee Hull News Releases, Phoenix, AZ, February 21, 2000.

[5] "Governor Appoints Growing Smarter Oversight Council," Governor Jane Dee Hull News Releases, Phoenix, AZ, February 22, 2002.

Arkansas

Planning and zoning authority in Arkansas exists primarily at the city and county level.[1] While there is no central state agency devoted to growth management and open space preservation, a few agencies indirectly address the issues. For example, the Department of Environmental Quality addresses preservation through watershed management plans and the Arkansas Department of Economic Development facilitates strategic planning sessions in communities to assist them in prioritizing their goals and objectives.

Among the laws and policies that Arkansas has implemented related to growth management are the Conservation Easement Act of 1983[2] that allows for the acquisition of easements, thus preserving open space, and a brownfield redevelopment law that provides incentives to people who acquire abandoned industrial, commercial, or agricultural sites that may require environmental and/or hazardous material cleanup.[3] After the Brownfields Economic Redevelopment Initiative was announced by the Environmental Protection Agency (EPA) as part of the EPA Region 6 brownfields program, the Arkansas Legislature enacted the Arkansas Brownfields Law in 1997 with a great deal of support and enthusiasm.[4]

County planning boards and plans are optional. The state encourages multicounty planning primarily to enhance economic development and coordinate government services.[5] Planning and Development Districts provide technical assistance to local governments. Like counties, city governments in Arkansas have the option to work together to facilitate coordinated areawide planning.

Notes

[1] Arkansas Code Annotated, Title 14, Chapter 56, Section 401 et seq.

[2] Arkansas Code Annotated, Title 15, Chapter 20, Section 401 et seq.

[3] Arkansas Code Annotated, Title 8, Chapter 7, Section 1101 et seq.

[4] Arkansas Department of Environmental Quality, *Inactive Sites Branch: Hazardous Waste Division.* Online. Available: http://www.adeq.state.ar.us/hazwaste/branch_inactive.htm#Brownfields. Accessed: March 27, 2002.

[5] Arkansas Code Annotated, Title 14, Chapter 56, Section 401 et seq.

California

California has frequently adopted growth management legislation despite having a decentralized planning structure.[1] Legislation in the 1990s and early 2000s ranges from amendments strengthening previous growth management policies to innovative laws intended to limit growth and protect open space.

The unprecedented 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.[2] The Williamson Act of 1965, the most well-known policy of this early growth management era, sought to protect open space through conservation easements. Since the early 1980s over 16 million acres have been enrolled statewide through the act.[3] The Santa Barbara oil spill of 1969 became 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.[4] Passed in 1970, the California Environmental Quality Act (CEQA) was modeled after the federal Environmental Quality Act and required state and local agencies to make policies mindful of their environmental effects.[5] Government agencies are now required to study the effects of policymaking, provide means of mitigating the environmental impact, and report to the public.[6] In 1971, AB 1301, a landmark general plan law, required local governments to engage in planning, yet it did not enhance the state's own planning authority.[7] It imposed procedural and organizational requirements but no policy requirements.[8] A year later California voters, concerned about coastal access, approved Proposition 20, the Coastal Protection Initiative. At the time 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 long-term planning management.[9]

In 1978, Californian voters passed the historic Proposition 13, which restricted the property tax rate and limited the ability of local governments to reassess property to only when the property is sold. The effects of this legislation have had a profound impact on California government and school districts. Policymakers claim that cities have begun to favor retail development over residential development because of its ability to generate higher tax revenue.[10]

In the 1990s and early 2000s the impact of the ceaseless growth began to be felt in many metropolitan areas. In the Los Angeles region, for example, the remaining open areas are undevelopable because the land is either protected, federally owned, too valuable as agricultural land, or would be too difficult to develop because of terrain.[11] With population projections of an additional 24 million residents in the next 40 years the state faces ongoing challenges.[12] Increased development has affected other quality-of-life issues. Between 1970 and 1990 the state's population grew by 50 percent, but the total number of miles traveled by cars and trucks grew by 100 percent.[13] This increased

dependence on automobiles contributes to urban sprawl as people move farther and farther out of the urban core.

Since 1990, growth management legislation has included new policies as well as strengthening preexisting 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 in 2001 amended the government code to allow lot line adjustments for only one to four parcels. New legislation was used to address urban sprawl. New certification procedures sought to limit development on the periphery of cities while low-interest loans facilitated urban redevelopment. Protection of California agricultural and environmental land involved the use of conservancy programs, tax credits to landowners, direct purchases on the part of the state, and matching funds to local governments, and nonprofit organizations.

Various bond measures in the early 2000s were presented to voters with the objective of preserving open space and increasing investment in parkland. The Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 earmarked $2.1 billion from 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, a bond measure involving an additional $2.6 billion for open space and parkland investment.

The last decade has seen increased activism and interest in land development and sprawl issues.[14] Coalitions, made up of residents, nonprofit organizations, academic institutions, private sector companies, and governmental bodies, are increasingly common and are studying the impacts of development and population growth. Reports such as *See Beyond Sprawl* from the Greenbelt Alliance and Bank of America[15] and *Sprawl Hits the Wall* from the Southern California Studies Center with the Brookings Institution Center on Urban and Metropolitan Policy[16] are two such examples of coalition work studying the problems and providing policy recommendations.

State government itself 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.[17] The Smart Growth Caucus, formed by Representative Wiggins in January 2000 and comprised of 31 state legislators, addresses the issue specifically and released a report, *Growth Challenges in the Golden State*, in 2001.[18] The Commission on Regionalism, created in November 2000 by Speaker Hertzberg, published a report in February 2002, *The California Dream: Regional Solutions for 21st Century Challenges,* which identified the need for regional efforts to address statewide problems, especially development and open space preservation.[19]

Population projections, widespread development, shrinking open space, and diminishing environmental quality fueled the increased priority placed on Smart Growth management in the late 1990s and early 2000s. State legislators and local government

officials are engaging in studies with the entire California political landscape, including the private sector, nonprofit community, academic institutions, and common citizens, in an effort to address the growing concerns. The future of growth management in California can be expected to have a more regional governmental approach in response to the increasing severity of the problems involving open space preservation and growth management.

Notes

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

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

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

[4] Pincetl, *Transforming California*, p. 157.

[5] Ibid., p. 184.

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

[7] Nelson and Duncan, *Growth Management*, p. 26.

[8] Ibid., p. 26.

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

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

[11] The Southern California Studies Center, *Sprawl Hits the Wall,* p. 30.

[12] California Smart Growth Caucus, *Growth Challenges Facing the Golden State* (1992). Online. Available: http://www.assembly.ca.gov/sgc/SGbriefing_book.htm. Accessed: March 19, 2002.

[13] 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.

[14] Ibid.

[15] Ibid.

[16] The Southern California Studies Center, *Sprawl Hits the Wall,* p. 30.

[17] 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.

[18] California Smart Growth Caucus, *Growth Challenges Facing the Golden State* (online).

[19] So, Hand, and McDowell, *The Practice of State and Regional Planning,* p. 230.

Colorado

Colorado has a very strong tradition of local control with respect to land use and growth management.[1] Land use planning regulations, such as zoning, sign codes, and building codes are, for the most part, locally determined.[2] Past attempts to establish "top down" control of development have run counter to this tradition, and were inevitably defeated either in the legislature or the ballot box.[3]

Nonetheless, Colorado has been at the forefront in enacting planning reform and Smart Growth measures to address its explosive growth.[4] 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. Governor Bill Owens 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.[5]

Governor Owens 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.[6] This program was specifically designed to aid local governments in negotiation of land use conflicts in order to more efficiently implement growth management legislation.[7]

Governor Owen called a second special session 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." The package included:

- Requirement that fast-growing and high-population cities and counties develop a comprehensive land use plan.[8]
- Creation of a dispute resolution mechanism for local governments whose plans conflict.[9]
- Authorization of impact fee authority for all of Colorado's cities and counties.[10]
- Reform of the state's flagpole annexation laws to limit the ability of cities to annex territory far outside their boundaries.[11]

In addition to this, 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 on short notice.[12]

The Department of Local Affairs is the statewide agency responsible for implementing planning programs and statutes.[13] The department's Office of Smart Growth acts as a clearinghouse for information and assistance to local governments for their Smart Growth planning efforts.[14]

Notes

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

[2] Colorado Department of Local Affairs, Office of Smart Growth, *Land Use Planning In Colorado*. Online. Available:http://www.dola.state.co.us/SmartGrowth/Documents/Land%20Use%20Planning%20In%20Colorado.pdf. Accessed: February 15, 2002.

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

[4] American Planning Association, *Planning for Smart Growth: 2002 State of States – Colorado*, pp. 41-43. Online. Available: http://www.planning.org/growingsmart/states2002.htm. Accessed: February 10, 2002.

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

[6] American Planning Association, *Planning for Smart Growth: 2002 State of States – Colorado* (online).

[7] Colorado Department of Local Affairs, Office of Smart Growth, *Intergovernmental Land Use Dispute Resolution Program.* Online. Available: http://www.dola.state.co.us/SmartGrowth/ADRMediators/introduction.htm. Accessed: January 22, 2002.

[8] Colorado House Bill 01S2-1006 (2001).

[9] Colorado House Bill 01S2-1020 (2001).

[10] Colorado Senate Bill 01S2-015 (2001).

[11] Colorado House Bill 01S2-1001 (2001).

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

[13] Colorado Department of Local Affairs, *Help Colorado Communities.* Online. Available: http://www.dola.state.co.us/. Accessed: January 5, 2002.

[14] Colorado Department of Local Affairs, *Help Colorado Communities.* Online. Available: http://www.dola.state.co.us/SmartGrowth/index.htm. Accessed: February 5, 2002.

Connecticut

Connecticut has once again become active in growth management. Its growth management programs are created and implemented both at the state and local level but focus primarily on statewide planning. Because Connecticut's population increased yearly at a 3.6 percent rate between 1990 and 2000, the state recognizes the need for Smart Growth initiatives and plans. Connecticut's goal is to have at least 7 percent of land in the state dedicated as open space. Of that 7 percent, at least 10 percent will be state lands and the remaining portions held by local governments and conservation organizations.[1]

Connecticut initiated statewide planning in 1976 when policymakers developed the Conservation and Development Policies Plan for Connecticut, which remains the base for current initiatives.[2] In the 1970s, the legislature passed a number of laws protecting environmentally sensitive areas such as coasts and wetlands. In the 1990s some of these laws were revised and the regulatory authority of the state was strengthened. Connecticut's Coastal Management Act, for example, was revised in 1995 to promote collaborated planning efforts among state agencies for coastal preservation. Moreover, the legislature revised the Inland Wetlands and Watercourses Act in 1997, extending protection to wildlife and fishery habitats.

The state's renewed activism also includes a focus on 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 Conservation and Development Policies Plan for Connecticut must be renewed every five years.[3] 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, the lead state agency for the plan, to ensure that regional plans are consistent with the statewide plan.[4]

Connecticut's objective is to have all state agencies involved in implementing the Conservation and Development Policies Plan for Connecticut. The Office of Policy and Management 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 the statewide efforts for growth management and give special attention to open space acquisition and preservation. Municipalities are also active and show initiatives for preserving agricultural lands. Federal/state relationships in Connecticut are evident in the implementation of the Coastal Zone Management Program and other projects employed to protect and preserve environmentally sensitive areas.

Notes

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

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

[3] Ibid.

[4] State of Connecticut Office of Policy and Management, Policy Development and Planning Divisions, *Conservation and Development Policies Plan for Connecticut, 1998-2003* (Hartford, CT, 1997), p. 2.

Delaware

Delaware places a high priority on land management, as evidenced by the abundance of legislation passed and revised in the 1990s and 2000s. During this time period Delaware instituted multiple programs to preserve its open space generally and its agricultural land specifically. 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 confirm Delaware's leadership in growth management.

Delaware's recent involvement in land management began in 1989 when then-Governor Tom Carper introduced his first of many land management policies. The Delaware Land Protection Act created a permanent trust to preserve open space in the state, and since its creation over 30,000 acres have been protected.[1] This act was one of Governor Carper's first growth management legislative actions and established this as an area of concentration for his tenure.

In 1994, the governor reestablished the Cabinet Committee on State Planning Issues and charged it with ensuring effective and coordinated planning throughout Delaware.[2] The cabinet quickly became active in promoting various studies and legislation. In 1994 and early 1995 it attempted to determine Delawareans' views of what their state should look like in the year 2020.[3] The committee gathered opinions on development, economic issues, infrastructure, and quality of life issues and presented them in a report titled "Shaping Delaware's Future."[4] The Shaping Delaware's Future Act of 1995 incorporated the committee's study recommendations and requires counties to submit comprehensive land use plans to the Office of State Planning and Coordination.[5]

Following this legislation, the cabinet committee began to reexamine its own role in state policy making and released a report in 1999 of its findings: *Managing Growth in the 21st Century: Strategies for State Planning and Spending.* This report sought to provide the cabinet a framework to help manage growth while promoting revitalization with the understanding that land management is mainly the responsibility of local government.[6]

Under Governor Carper, Delaware's important 1978 Land Use Planning Act, known as LUPA, was revised in 1996. LUPA originally sought to facilitate coordination between local governments in their planning and development patterns. The revision required 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 would also in turn be forwarded to eleven other state agencies to allow for their review as well.

Coalitions between government and nonprofit organizations have also been an important initiator of state policies. In 1997, Delaware hosted the Land Use Planning Summit sponsored by the Delaware Public Policy Institute to study the issue of land

management in the state. The forum made eleven policy recommendations in the following legislative sessions, however, only three of the eleven bills were passed, HB 394, HB 395, and HB 396.[7] The three approved varied in their approaches to provide improved land management and yet were similar in their focus on regional planning coordination. HB 394 expanded the membership on the Advisory Panel on Intergovernmental Planning and Coordination to provide a forum for regional planning. HB 395 made all planning data available to planning agencies at the state, regional, and local levels and to the public to facilitate responsible development. HB 396 encouraged regional planning and required municipal governments to plan for housing and population growth.

In 2001, Lieutenant Governor Ann Minner assumed the position of governor when Tom Carper resigned the position. As governor, Minner continued the priority of land management established by her predecessor. One of her first acts was an executive order calling for the state to provide leadership on land use issues by setting an example.[8] It required state agencies to develop implementation plans by August 2001 based upon the goals expressed in the Shaping Delaware's Future report.

Following the executive order, in March 2001 Governor Minner presented an ambitious initiative, Livable Delaware, which included four separate pieces of legislation and established a Livable Delaware Advisory Council.[9] The council's main responsibility was to promote the Livable Delaware policy and also to develop planning standards, monitor the progress of land management efforts, and handle disputes among the different levels of government. Legislation to support Livable Delaware included graduated impact fees, comprehensive plan implementation and annexation standards, a change in the existing open space formula legislation, and brownfield matching grants.[10]

Individual policies were also passed in the 1990s and early 2000s. Conservation easements and transfer of development rights were commonly used for open space, agricultural land, and historic preservation in the state. To enable the state to purchase additional land through the Farmland Preservation Fund and the Water Conservation Trust Fund, the cigarette tax was earmarked in 2001 to exclusively fund environmental protection. These many policies and the efforts of two consecutive governors demonstrated Delaware's commitment to addressing open space preservation and growth management issues in the 1990s and early 2000s.

Notes

[1] Office of State Planning Coordination, *Office of State Planning Coordination*. Online. Available: http://www.state.de.us/planning/. Accessed: January 24, 2002.

[2] Office of State Planning Coordination, *The Cabinet Committee of State Planning Issues*. Online. Available: http://www.state.de.us/planning/coord/ccspi.htm. Accessed: April 1, 2002.

[3] Sprawlwatch, *Delaware*. Online. Available: http://www.sprawlwatch.org/deleware.html. Accessed: March 26, 2002.

[4] 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.

[5] American Planning Association, *Planning for Smart Growth: 2002 State of the States*. Online. Available: http://www.planning.org/growingsmart/States/Delaware.htm#4. Accessed: March 26, 2002.

[6] 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.

[7] Office of State Planning Coordination, *The What's Up Column*. Online. Available: http://www.state.de.us/planning.about.htm. Accessed: March 24, 2002.

[8] Livable Delaware, *Livable Delaware*. Online. Available: http://www.state.de.us/planning/livedel/. Accessed: February 15, 2002.

[9] Ibid.

[10] Office of State Planning Coordination, *Office of State Planning Coordination* (online).

Florida

Florida employs comprehensive growth management strategies in order to encourage the efficient delivery of public goods and to protect open space. These strategies, developed in more than a dozen pieces of key land management legislation, enable and require regional planning councils, cities, and counties to develop comprehensive growth management strategies in compliance with state policy.

The issue of growth management first seriously arose in the state in the early 1970s when the Florida Comprehensive Planning Act of 1972 was established. Although not fully adopted until 1985, this piece of legislation still promoted the intergovernmental coordination of growth management, provided strategies for implementing the state plan, and included guidelines for determining appropriate growth and appropriate transportation plans. Also during this time, the Florida Environmental Land and Water Management Act of 1972 and the Area of Critical State Concern Program were passed. Both pieces of land use legislation enable the state to preserve open space by actively regulating growth that threatens coastal conservation and natural resources of statewide significance.

In spite of Florida's early interest in growth management and open space issues, not until 1985, under Governor Bob Graham's leadership, was the first enforceable piece of major legislation passed to both reduce urban sprawl and preserve open space. Although the Land and Water Management Act of 1972 and the Area of Critical State Concern Program are both important conservation and land preservation pieces of legislation, they do not encompass the broad growth management vision of the State Comprehensive Plan (1985) and the Local Government Comprehensive Planning and Land Development Regulation Act (1985). While the State Comprehensive Plan is a nonregulatory document providing long-range policy guidance for orderly growth and development, the Local Government Comprehensive Planning and Land Development Regulation Act requires all 67 counties and 407 municipalities to adopt comprehensive growth management plans consistent with the goals of state and regional plans. 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 act is its concurrency policy, "a legal requirement that local governments may not issue a development order unless the order will not degrade mandated service levels for six kinds of public facilities."[1] This policy helps prevent growth in areas where infrastructure levels are not adequate to sustain additional development and helps encourage orderly and efficient growth patterns. Rule 9J-5, 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 efficient provision of public facilities and services, the separation of urban and rural uses, and the protection of agriculture and natural resources in order to ensure that local governments meet consistency standards.

The policies passed in the 1970s and 1980s still play a key role in the management of growth and development and the preservation of open space. Many of the policies have been significantly revised since the beginning of the 1990s, helping the state meet new growth management challenges. In addition, two major land acquisition programs have been established, Preservation 2000 and Florida Forever, providing a combined $6 billion over 20 years. This record amount of funds is being used to acquire environmentally sensitive lands and other significant open space.

Florida's Department of Environmental Protection serves as the coordinator of the state's largest land acquisition programs, while the Department of Community Affairs (DCA) serves as the key growth management-implementing agency. The DCA encompasses divisions that address every aspect of growth management: 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 primary tools used to guide growth and development includes planning and regulatory approaches and open space acquisition. The DCA reviews local comprehensive plans and plan amendments for compliance with Florida's growth management legislation and coordinates with local authorities as well as Florida's eleven regional planning councils. Other review agencies, including the regional planning councils, water management districts, the Departments of State, Transportation, Environmental Protection, and Agriculture, and the Florida Fish and Wildlife Conservation Commission also review comprehensive plans and amendments and issue recommended objections to the DCA. Within the established time frame, the DCA issues a public notice of intent to find the plan and/or plan amendment either in or not in compliance with state policy. If the DCA finds the plan or amendment not in compliance, the local government must take remedial actions to bring the plan or amendment into compliance to avoid an administrative hearing. The DCA provides technical assistance and some planning grants to help local communities formulate compliant comprehensive plans, but state funding for comprehensive plan development has never met the level needed for most communities to fully develop and implement a program.

At the local level, comprehensive plans are produced by city planners and approved by city council members. After city adoption, plans must be approved by the state. These plans can be amended by city governments up to two times per year, sometimes reducing their ability to truly manage growth in a comprehensive and lasting way. Much of the effectiveness of Florida's growth management efforts relies upon solid local planning and enforcement. The DCA has no regulatory authority to enforce provisions in adopted plans, but state legislation does provide for citizen involvement by allowing any aggrieved or adversely affected party the opportunity to appeal a development order issued by a local government that is not consistent with the adopted comprehensive plan.

Florida's growth management system has recently been criticized by Governor Jeb Bush. In February 2000, the Governor's Growth Management Study Commission released its report on suggestions for better growth management practices and approaches. Included in the report were suggestions for larger reliance on individual city and county growth management plans, with less state and regional oversight, and

streamlining the review of comprehensive plan amendments. As of the end of 2001 no substantial changes had been passed, but questions still must be asked about how proposed legislation could alter the future of Florida's growth management system.

Notes

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

Georgia

In Georgia, comprehensive planning occurs primarily at the regional and local level. The cornerstone of the state's planning program is the mandatory preparation 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 passage of the Georgia Planning Act of 1989 initiated the coordinated planning program, which identified Georgia's 159 counties and 529 cities as "Qualified Local Governments." Local governments must maintain that status in order to remain eligible for a range of state and federal assistance programs. The Georgia Department of Community Affairs (DCA) implements the program by maintaining a schedule for required comprehensive plan updates and reviewing comprehensive plans submitted by local governments.

The Georgia Regional Transportation Authority (GRTA) also plays a major role in land use planning in Georgia. Created by the General Assembly in 1999, GRTA 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 those counties in Georgia that have been designated nonattainment under the federal Clean Air Act standards. In order to accomplish its mission, GRTA works closely with the Georgia Department of Transportation, the Georgia Environmental Protection Division, the Atlanta Regional Commission, the State Road and Tollway Authority, and more than 80 governments in the 13-county nonattainment area.[1]

In addition to the state's comprehensive planning mechanism, several laws and policies focus on managing growth and controlling sprawl, including the Georgia Development Impact Fee Act (DIFA) and the Georgia Greenspace Program. The DIFA provides guidelines for local governments to impose exactions on developers to help finance the expansion of their infrastructures. These impact fees require new growth and development projects to fund a proportionate share of the cost of public facilities needed to serve these projects. The Georgia Greenspace Program provides formula grants to eligible counties if they develop and implement plans to permanently protect at least 20 percent of the county's geographic area as natural, undeveloped green space.

Environmental legislation attempts to protect Georgia's natural resources and open spaces. This legislation also encourages coordinated planning by requiring state agencies to collaborate on meeting set standards. The Environmental Planning Criteria passed in 1991 establishes minimum standards for land use, the Mountain and River Corridor Protection Act of 1991 encourages local governments to take action to control pollution of protected rivers, and a successful lawsuit to compel development of Total Maximum Daily Loads requires state agencies collaborate so that maximum loads are not exceeded.

Georgia's momentum toward managing growth and protecting open space is largely a product of its current governor, Roy Barnes. Governor Barnes includes transportation, greenspace, and air and water quality among his most important issues and has played a major role in the establishment of the GRTA and the Georgia Greenspace Program.[2] For this reason, programs like the ones listed in this overview are likely to continue. Governor Barnes was first elected in 1998 and will stand for reelection in 2002. If reelected, he will be term-limited in 2006.

Notes

[1] Georgia Regional Transportation Authority, *Georgia Regional Transit Authority News.* Online. Available: http://www.grta.org/. Accessed: April 2, 2002.

[2] Office of Georgia Governor Ray Barnes, *Barnes Administration Initiatives*. Online. Available: http://www.gagovernor.org/initiatives.html. Accessed: April 2, 2002.

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.

Hawaii, unlike some states, shares significant responsibility for public education, health, welfare, zoning, transportation, and planning with its four counties. Eighty-one percent of the state's population lives in its primary urban city, Honolulu, while eight islands constitute the state's four counties. As a result, Hawaii relies on a strong state government system to maintain consistency in implementing its state policies and objectives.

Prior to developing its statewide planning process in 1963, 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 any other state, is entirely surrounded by water, preservation of environmental quality hinges on preservation and protection of the state's watersheds. With very short distances between the upper reaches of a watershed and the area where waters discharge into the ocean, land use within watershed areas has a major impact on coastal water quality and environmental health.[1]

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

The State Planning Act, revised in 2000, identifies the state's standards for protection of agricultural and coastal lands and serves as a foundation for all counties with regard to zoning requirements and development objectives. The State Planning Act establishes a statewide planning system that is intended to link state programs to stated policy goals and objectives in an effort to promote implementation consistency and conformance.[2] The policy linkages are established, but the authority and responsibility for implementing any particular tool are established under separate statutes and assigned to specific agencies in those statutes.[3] Furthermore, the State Planning Act provides natural resource-related agencies with the tools to implement the state's planning objectives. In the 1990s, Hawaii added conservation easement designation, transfer development rights, tax increment financing, and the Real Property Tax Law for Dedicated Lands to the land use tools available in the state.

The Department of Business, Economic Development, and Tourism (DBEDT) is the lead department in implementing the State Planning Act. The DBEDT houses the Office of Planning for statewide planning initiatives, the Land Use Commission, and the Coastal Zone Management Program. The Land Use Commission, under constant criticism by developers, classifies land for specific agricultural, commercial, environmental, and cultural use. The Land Use Law governs what is permissible within each land use district. However, the counties determine the specific uses and administer the zoning and permitting processes that determine the specific use of lands within each identified district.[4] Based on these designations, if a county requests state review of a particular permit application under review by the Land Use Commission, agencies such as the Department of Agriculture, Department of Transportation, Department of Natural Resources, and key offices in the DBEDT provide their evaluation and input as to whether or not the development project complies with the state's overall policy planning objectives. Unfortunately, there is little actual coordinated effort between these departments for comprehensive reviews of development projects.[5]

Notes

[1] 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.

[2] Ibid.

[3] Ibid.

[4] Ibid.

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

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 in Idaho.

Growth management and open space protection have not historically been high public policy priorities in Idaho. However, the state's Land Use Planning Act has been in effect for 23 years and was revised in 1999 to update the planning structure. This act allows city and county governments to establish their own planning and zoning policies relatively unhindered by the state government.[1]

The Planning and Zoning Commission updates the state's comprehensive plan to balance property rights land use, natural resources, and hazardous areas. Additional long-range plans are maintained by the Department of Parks and Recreation, for protection and development of areas of scenic beauty, and the governor's office, for the protection of the state's natural resources.[2]

Each city and county has the ability to plan and zone based on local criteria. Each locality must adopt a map identifying an area surrounding the urban area that is 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.[3]

Notes

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

[2] Ibid.

[3] Ibid.

Illinois

Illinois adopted statewide Smart Growth measures that include state laws and federal-state funding through the governor's Illinois Tomorrow program in April 2000. The Department of Commerce and Community Affairs is the statewide planning body. Counties and municipalities are bestowed authority and incentives to engage in local planning through a number of state-level grant programs.[1]

Most of Illinois, however, is farmland, so many of the state's laws have historically dealt with agricultural land protection. Many of the current laws regarding growth management have been passed since 1998.

In 1999, Governor Ryan spearheaded the Illinois FIRST (Fund for Infrastructure, Roads, School and Transit) program, which provided $12 billion over five years to build and repair the state's infrastructure, including roads, highways, transit, brownfield redevelopment, and resource preservation.[2]

A Balanced Growth Cabinet was established by executive order in 2000, composed of representatives on various state agencies whose programs affect balanced growth. The cabinet submits recommendations to the governor for additional programs and policies that will promote coordinated planning strategies. In April 2000, Illinois Tomorrow was launched.[3] The Governor's Office implemented the growth management initiatives, which contain 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.

Key legislation in the Illinois Tomorrow program includes the Open Space Land Acquisition and Development Act, the Agricultural Areas Conservation and Protection Act, and the Farmland Preservation Act.[4] The main implementing agencies of these laws and programs are the Department of Agriculture, Department of Natural Resources, Environmental Protection Agency, and Department of Commerce and Community Affairs. The governor has actively pursued federal funding for the Illinois Conservation Reserve Enhancement Program, Conservation 2000, and Illinois Rivers 2020 programs.

Many of the Illinois Tomorrow programs provide grants to communities for development of local land use planning initiatives, such as the Open Lands Trust Grant Program, Balanced Growth Capacity Building Program, Corridor Planning Grant Program, Community Development Assistance Program, and Brownfields

Redevelopment Loan Program. These programs encourage local governments to initiate planning efforts to improve urban growth patterns.

Notes

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

[2] 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.

[3] Illinois Governor's Office, *Illinois Tomorrow Program Overview* (online).

[4] Ibid.

Indiana

Most growth management and open space preservation initiatives take place at the local level in Indiana. The state considers land use decisions a local matter, but provides information, technical assistance, and advice to local governments concerned about their growth patterns. Localities can make use of enabling legislation—designed to encourage better land use management—that consists of tax assessments[1] and authorized planning.[2] Although emphasis is on preservation of agricultural lands,[3] the state also has open space preservation and environmental concerns, voiced mostly through task force recommendations and studies rather than legislation. Indiana does, however, have one state-run program to protect sensitive natural areas for recreation and habitat purposes, the Indiana Heritage Trust Fund.[4]

In 1997, Governor Frank O'Bannon commissioned the Hoosier Farmland Preservation Task Force, which subsequently studied land use trends, causes of farmland conversion to nonagricultural uses, and the consequences of farmland conversion. The task force made a number of recommendations to the governor and the legislature, including adopting local ordinances that would encourage greater housing density and developing 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.

The Department of Natural Resources oversees the Indiana Heritage Trust Fund.[5] The other groups that deal with land use issues are housed in the Office of the Commissioner of Agriculture and in the Governor's Office, reflecting the state's awareness of the effects of unmanaged growth on agricultural land as well as the governor's interest in the issue of land use.[6]

Notes

[1] 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.

[2] Indiana Code, Sec. 36-7-4-205.

[3] Indiana Code, Sec. 14-34-4-9.

[4] Indiana Code, Sec. 14-12-2-1.

[5] Indiana Code, Sec. 14-12-2-1.

[6] 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.

Iowa

Antisprawl advocates in Iowa waged an educational and legislative campaign for state-level planning and growth management in 2001 and 2002. The state has lost 99 percent of its native prairie and wetlands, two-thirds of its forest land, and is losing 26,000 acres of farmland annually.[1] Statewide nonprofit groups such as 1000 Friends of Iowa, the Iowa Environmental Council, and the Iowa Natural Heritage Foundation 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.[2] Some private conservation programs exist, but the Iowa Natural Heritage Foundation suggests that these programs are not widely used.[3]

Conservation issues in Iowa gained popularity in the late 1980s. The Iowa Open Spaces Protection Plan of 1988 recommended a 10 percent increase in the amount of "protected" lands by 2000. The actual increase in publicly owned spaces was roughly 12 percent from 1989 to 2000. This plan made a number of other recommendations, but a state official indicated that these have not been carried out and the plan needs to be updated.[4]

In 1989 the Iowa Legislature approved the Resource Enhancement and Protection Program (REAP). REAP funds a variety of programs, including soil and water enhancement, conservation education, and historic preservation. Currently, 43 percent of the program's $9 million budget goes toward open space conservation.

Specific consideration of sprawl at the state level in Iowa has recently resurfaced. A resolution of the Iowa Legislature created the Commission on Urban Planning, Growth Management of Cities, and Protection of Farmland in 1997.[5] This working group was composed of 21 members with backgrounds in planning, development, design, agriculture, transportation and conservation. The commission spent two years collecting information on Iowa's land use policies and patterns. Among the recommendations in the commission's 1999 report were:

- Development of a statewide land use inventory.
- Development of a council composed of state agency representatives to establish, maintain, and revise a state strategic development plan.
- Requiring cities and counties to prepare plans.[6]

Iowa legislators attempted to address these goals in 2002. The Land Management Planning Act (referred to as the "Planning Bill"), which proposed statewide land use planning, was introduced in the Second Session of the 79th Iowa General Assembly. 1000 Friends of Iowa strongly supported the bill. The organization's executive director, who serves as a state representative from Des Moines, coauthored the bill. This

legislation recommended identification of statewide goals for development of land, encouraging cities and counties to pursue antisprawl objectives in their planning.[7] The bill was never brought to a vote of the full house, having been killed in committee in late March 2002.

Notes

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

[2] Iowa Code Annotated, Sec. 457A.

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

[4] 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.

[5] House Concurrent Resolution 21, Iowa House of Representatives, Iowa General Assembly (1997).

[6] 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.

[7] Iowa House File 2567, 79th General Assembly, 2nd session (2002).

Kansas

Of the 52,366,735 acres of land in the state, 88 percent was devoted to farmland in 1997.[1] Due to this large amount of farmland, Kansas has many agricultural land preservation policies. The state uses regulations dealing with conservation easements, right-to-farm laws, property tax relief, and limitations on local government authority to regulate agricultural land to protect farmers and farmland.[2]

Kansas has few state policies dealing with planning and urban sprawl. Rather, planning is concentrated on a county and city level. The Kansas Department of Commerce and Housing has some planning functions, but most relate to economic development.[3] 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.[4]

In 1998, Kansas began the process of developing the Transportation 2000 program in response to the federal ISTEA. This program focuses its transportation efforts on economic development and explicitly avoids regulation of statewide planning:

> Few things have as great an impact on regional form and transportation as do local policies.... Some areas of the country, particularly the coasts, are using a heavy-handed approach to planning transportation and land use which vests broad powers of taxing and land use controls with transportation decision-makers. This is an approach which would have little acceptance in Kansas at the current time.[5]

Transportation 2000 does not explicitly regulate local land use; however, it does provide additional money for public transportation and rail improvements.[6]

Notes

[1] Farmland Information Library, *Kansas Information.* Online. Available: http://www.farmlandinfo.org/fic/laws/state/stks.html. Accessed: March 23, 2002.

[2] Ibid.

[3] American Planning Association, *Growing Smart.* Online. Available: http://aalto.arch.ksu.edu/jwkplan/ksapa/kansas.pdf. Accessed: March 23, 2002.

[4] Kansas Department of Community and Housing, *Mainstreet Program.* Online. Available: http://kdoch.state.ks.us/ProgramApp/index.jsp. Accessed: March 23, 2002.

[5] Kansas State Transportation Department, *Transportation 2000 Report.* Online. Available: http://www.ink.org/public/kdot/burtransplan/kstranplan/cp/cp4.pdf. Accessed: March 23, 2002.

[6] Ibid.

Kentucky

In the 1990s Kentucky has undertaken its most visible and ambitious planning efforts at the state level.[1] The governor of Kentucky, Paul Patton, established the Smart Growth Task Force in May 2001 in order to develop 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.[2]

Development, particularly unplanned growth into rural and agricultural areas, has occurred as a result of Kentucky's growth rate over the last 20 years. Between 1982 and 1997 Kentucky's growth in developed areas outpaced the national average by 27 percent.[3] Population data from the 1990s indicate population growth varies across the state, with some nonurban counties experiencing robust growth. Nonmetropolitan county growth has been attributed to net in-migration, rather than natural population growth. The rural-urban balance shifted during the 1990s, with slightly more residents living in nonmetropolitan counties.[4]

The natural areas of Kentucky are a valued resource for tourism, recreation, and agriculture. Farmland loss occurred at the second-fastest rate in the country during the late 1990s.[5] While population growth originates around the urban centers, state officials have recognized the economic and environmental impact of unplanned growth on surrounding agricultural and rural areas. After a series of studies and public forums on growth management and its impacts on the environment, infrastructure, economy, and natural resources, the Governor's Smart Growth Task Force continues to develop approaches to address this policy priority for the state.

Kentucky 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 to create a statewide and regional planning framework (KRS 100.113). Kentucky statutes authorize the creation of planning units with the expectation that a planning commission will be formed to oversee the planning process (KRS 100.133). The Smart Growth Task Force is considering reestablishing the State Planning Office with staff and funding to coordinate state agency programs.[6]

The Smart Growth Task Force proposes a variety of approaches for managing urban growth, including expediting the accreditation of the University of Louisville's planning degree program. 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. The state has embarked on an awareness- raising campaign, but the implementation of many of these programs is either in progress or still in the planning stages.

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 this land use management campaign has been instrumental to its success thus far, but many of the program's recommendations have yet to become legislation. At a minimum the task force effectively articulated to a range of state agencies the importance of well-managed growth planning to reduce costs and preserve the state's assets.

Notes

[1] 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.

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

[3] Ibid., p. 3.

[4] Michal Smith-Mello, "This Rural Place," in *Reclaiming Community, Reckoning with Change* (Kentucky: The Kentucky Long-Term Policy Research Center, 1995), pp. 7-16. Online. Available: http://www.kltprc.net/index/toreports1.htm. Accessed: January 16, 2002.

[5] 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.

[6] Kentucky Smart Growth Task Force, *A Report of the Governor's Smart Growth Task Force*, p. 16.

Louisiana

Growth management and open space preservation are not policy priorities at the state level in Louisiana. 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 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 of the state and the constitutional emphasis on local control.

Louisiana does not have a state planning agency. Planning authority is distributed across various state agencies, and the Department of Administration oversees research that evaluates the development of state resources and local planning efforts. Regional planning commissions have the authority to develop planning policies for parishes. All municipalities and parishes are allowed, but not mandated, to create a planning commission. Commissions are expected to prepare a master plan for their jurisdiction, but internal coordination and consistency are not required in the development of these plans.[1] The highest level of coordinated planning occurs through regional planning commissions, but the extent of their success is predicated upon local government cooperation and participation.[2]

Louisiana's coastline is considered a national asset. The rate of coastal land loss in Louisiana averages 25 to 35 square miles per year. This represents 80 percent of the coastal wetland loss in the all of the continental United States. In 1978 the Louisiana State and Local Coastal Resources Management Act established a state coastal management program overseeing the regulation of developmental activities that affect wetland loss. The resulting program became a federally approved coastal zone management program in 1980. In 1989 the Louisiana Legislature passed Act 6, which established the Wetlands Trust Fund and the first Wetland Restoration Plan for Louisiana, and an amendment creating the Coastal Restoration Division within the Louisiana Department of Natural Resources. In 1990, the U.S. Congress passed the Coastal Wetlands Planning, Protection, and Restoration Act (Breaux Act, Public Law 101-646, Title III) to provide federal funding for state restoration activities.[3] The result of these partnerships among state and federal agencies is the Coast 2050 plan completed in 1998. This plan strives to sustain the coastal ecosystem in such a way that supports and protects the environment, economy, and culture of southern Louisiana and the nation.[4]

The Louisiana Department of Natural Resources' Office of Coastal Restoration and Management is responsible for the administration of the state's newly adopted Coast 2050 plan which outlines federal, state, and local collaborative efforts to save the coast. The preservation of the Louisiana coastline and maintaining the quality of the state's water resources have been critical environmental and health issues for Louisiana. The

programs designed to address these issues are widely supported, with some contention from industry and development stakeholders.

These intergovernmental legislative and political efforts to preserve natural resources are the result of a variety of environmental, regulatory, and economic forces, but none of these directly relate to growth management. At this time, the regional and local approach to growth management is sufficient to address emerging issues due to unplanned growth. The court system handles most disputes, which again 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, and will likely not undertake state level statutes.

Notes

[1] 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.

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

[3] Coastal Restoration and Management, "Coastal Restoration Division Annual Project Reviews December 2000." Online. Available: http://www.savelawetlands.org/site/reports/annual/2000annual_1.pdf. Accessed: February 12, 2002.

[4] 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

Governor Angus King (Independent) is a strong supporter of Smart Growth efforts in Maine.[1] Within the state administration, Maine's State Planning Office (SPO) takes a leading role in the issue of urban sprawl. The SPO, under director Evan Richert, issued two reports in the late 1990s that draw attention to state policies encouraging sprawl.[2] This advocacy has proved timely, as popular concern over sprawl appears to be increasing in Maine.[3] Maine's state government has extensive powers over land use, planning and zoning all unincorporated areas.[4]

Since the late 1980s, Maine's 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.[5] The act codifies Maine's 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 Maine Coastal Program, which encompasses all cities and towns that have land along the coast or a tidal waterway, was established in 1978. The SPO administers this program, which functions as a partnership among local, regional, and state agencies. The program also collaborates with local land trusts and economic development groups in an effort to achieve a balanced, comprehensive approach to coastal management.[6]

In addition to various state programs to keep land in productive forestry, farming, and fishing use,[7] Maine has a well-established program that purchases land for recreation and conservation. Since its establishment by voter initiative in 1987, the Land for Maine's Future Program has acquired approximately 65,000 acres from willing sellers. Various components of this program have enjoyed the support of Maine's past three governors.[8] One of the more innovative approaches to growth management in Maine addresses the issue of "school sprawl." Many New England towns have found that residential and commercial sprawl soon follow the sitting of a school in a previously rural location.[9] Maine addresses this trend through the Revolving Renovation Fund for rehabilitation of older public school facilities (1997).[10]

Other Maine legislation establishes financial incentives to curb sprawl. Examples include Growth-Related Capital Investments for coordination of state capital spending with growth management goals (2000);[11] and the Municipal Investment Trust Fund for improvement of municipal infrastructure (2000).[12] These programs were established by Maine's Smart Growth Initiative passed by the legislature in 2000,[13] which enhanced numerous aspects of Maine's Smart Growth Program. The Smart Growth Initiative funded the SPO for grant programs designed to assist municipalities and regions in addressing sprawl-related issues and devising Smart Growth solutions.[14] A state budget shortfall cut the number of these programs from five in 2001 to two in 2002.[15]

Notes

[1] 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.

[2] 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.

[3] "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: http://www.smartgrowth.org/news/bystate.asp?state=ME. Accessed: February 24, 2002.

[4] Title 12, Maine Revised Statutes Annotated, Secs. 683-685.

[5] Title 30A, Maine Revised Statutes Annotated, Sec. 4314.

[6] Maine State Planning Office, *Maine Coastal Program*. Online. Available: http://www.state.me.us/mcp/about_mcp.html. Accessed: May 16, 2002.

[7] Land and Water Resources Council, *Report on the Use of Incentives to Keep Land in Productive Farming, Fishing, and Forest Use*. Online. Available:http://www.state.me.us/spo/lwrc/pdf/Rural%20Land%20Incentives%20Report.pdf. Accessed: February 24, 2002.

[8] Maine State Planning Office, *Land for Maine's Future*. Online. Available: http://www.state.me.us/spo/lmf/. Accessed: February 24, 2002.

[9] Mark Sinclair, "School Sprawl in Vermont," *Conservation Law Foundation: Hot Topics* (May 2001). Online. Available: http://www.clf.org/hot/school_sprawl_in_vermont.htm. Accessed: May 16, 2002. State of Maine, Department of Education, School Facilities Programs, *Preliminary Site Analysis Resource* (March 2001). Online. Available: http://www.state.me.us/education/const/Preliminary%20Site%20Analysis.pdf. Accessed: February 24, 2002.

[10] Title 30A, Maine Revised Statutes Annotated, Sec. 6006F.

[11] Title 30A, Maine Revised Statutes Annotated, Sec. 4349A.

[12] Title 30A, Maine Revised Statutes Annotated, Sec. 6006D.

[13] Maine Public Law 776 (2000).

[14] Maine State Planning Office, *Community Planning and Investment Program Grants for FY 2001 – Winter Round*. Online. Available: http://www.state.me.us/spo/cpip/2001grant/Introduction.htm#_ftn1. Accessed: February 24, 2002.

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

Maryland

Maryland has a very active growth management program and is recognized as an early adopter of statewide, incentive based efforts to reverse the patterns of sprawl.[1] Maryland 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.

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. Coastal areas began to be protected with the creation of the Shore Erosion Control Program and subsequent coastal zone protections. The highly acclaimed Agricultural Land Preservation Program,[2] established in 1974, protected farmland through the purchase of conservation easements. The multistate Chesapeake Bay Agreement, initiated in 1983, establishes an intergovernmental commitment to restoring the bay involving businesses, local governments, citizens, and organizations.

A large amount of growth management legislation 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. A premise of the act is 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.[3] Under the act, local governments are required to adopt comprehensive plans with certain visions, goals, or policy statements that serve as a guide to growth.[4] Local governments may plan and zone in their jurisdictions and can create a planning commission.

The 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.[5] The act does not require state approval or certification of the local comprehensive plans, but localities are responsible for holding public hearings and distributing copies of the plan to all planning commissions and all state and local jurisdictions responsible for the finance or construction of public projects necessary to implement the plan.[6]

Governor Parris N. Glendening has been instrumental in the development of Maryland's recent Smart Growth initiatives and neighborhood conservation strategies. The governor made Smart Growth his top priority as chairman of the National Governors' Association. In 1997, the governor 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 is largely accepted by local governments.[7]

In 2001, the governor promoted a package of Smart Growth bills, garnering national attention and further consolidating Maryland as a model for Smart Growth implementation. One of the programs initiated is the Maryland GreenPrint Program. This initiative allows for the purchase of easements on agricultural lands and creates an integrated system that links preserved areas in order to increase their environmental quality.[8] 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.

Maryland's Smart Growth program relies on the cooperation of all state agencies whose actions affect the location of growth in the state, coordinated through the Governor's Office of Smart Growth and guided by Executive Order 01.01.1998.04. The Office of Smart Growth 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.[9] The Maryland Department of Planning plays the central role in implementing state planning laws. Other key agencies include the Maryland Departments of Natural Resources, Transportation, Environment, Housing and Community Development, Agriculture, Business and Economic Development, and General Services.

Notes

[1] "Smart Growth Initiative Receives Innovations in American Government Award," Institute for Government, Harvard University, 2000 (press release). Online. Available: http://www.innovations.harvard.edu/release/2000winners/smart-growth.html. Accessed: February 5, 2002.

[2] State of Maryland Department of Agriculture, *Maryland Agricultural Land Preservation Foundation.* Online. Available: http://www.mda.state.md.us/agland/main.htm. Accessed: January 25, 2002.

[3] State of Maryland Office of Planning, *The Planning Act.* Online. Available: http://www.op.state.md.us/general/planact.htm. Accessed: January 15, 2002.

[4] 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.

[5] Ibid.

[6] Ibid.

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

[8] American Planning Association, *Growing Smart—Maryland.* Online. Available: http://www.planning.org/growingsmart/States/Maryland.htm. Accessed: January 15, 2002.

[9] Ibid.

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.[1] The state seems to be equally concerned about preserving and maintaining community character, historic preservation, and protection of natural resources.

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.[2] An abundance of advisory land use legislation was passed during the period from the late 1960s to the late 1970s, such as the Zoning Act,[3] the designation of regional planning districts,[4] and the Subdivision Control Law.[5] 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.[6]

Governor Weld, Lt. Governor Cellucci, and then-Senator Bob Durand were proponents of growth management tools in the 1990s, including legislation such as the 1996 Open Space Bond Bill, the Rivers Protection Act, and Executive Order 385. In 1996, Governor Weld issued Executive Order 385, "Planning for Growth," to encourage state agencies to incorporate sustainable development and protection of resources into their everyday operations. When State Senator Bob Durand became the secretary of the Executive Office for Environmental Affairs (EOEA), he helped initiate the Community Preservation Act,[7] which had been debated by legislators for at least 18 years before it passed.[8] The act, described as a "municipally-driven, smart growth initiative," allows communities to increase their property tax rate by up to 3 percent to create a Community Preservation Fund, which is backed by state matching funds.[9] The fund's resources can be applied toward cultural and historic preservation, open space preservation, and developing and maintaining affordable housing.

Most recently, Governor Jane Swift has successfully preserved more than 100,000 acres of land by bringing it under "Article 97" protection.[10] This effort has been greatly assisted by increasingly cooperative relationships between EOEA and its fellow agencies such as the Department of Environmental Management, the Department of Food and Agriculture, the Department of Fisheries, Wildlife, and Environmental Law Enforcement, and the Metropolitan District Commission as well as cities and towns, private landowners, and the nonprofit community. However, 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 Executive Office of Environmental Affairs 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.

Notes

[1] Massachusetts Department of Housing and Community Development, *Executive Order 418*. Online. Available: http://www.massdhcd.com/eo418/homepage2.htm. Accessed: January 22, 2002.

[2] 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.

[3] Massachusetts General Laws, ch. 40A, Secs.1-17.

[4] Massachusetts General Laws, ch. 40B, Secs. 9-18.

[5] Massachusetts General Laws, ch. 41, Secs. 81K-81G.

[6] 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.

[7] Executive Office of Environmental Affairs, *Community Preservation Act*. Online. Available: http://141.154.98.52/content/cpa.asp. Accessed: April 10, 2002.

[8] Trust for Public Land, *Interest Swells in Community Preservation Act (MA)*. Online. Available: http://www.tpl.org. Accessed: April 10, 2002.

[9] Executive Office of Environmental Affairs, *Community Preservation Initiative*. Online. Available: http://141.154.98.52/#. Accessed: April 15, 2002.

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

Michigan

Michigan is becoming more active in addressing growth management issues. The state has passed few legislative actions promoting statewide planning, but has adopted a number of acts enabling local and regional governments with growth management authority. At the state level, Michigan's initiatives concentrate on the protection of environmentally sensitive areas such as its wetlands and preservation of its agricultural lands, but it has no statewide land use goals.

Initiatives for the protection of wetlands and coastal areas in Michigan began in 1974 and resulted in the passage of the Goemare-Anderson Wetland Protection Act in 1979.[1] 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. A number of coalitions and foundations to promote initiatives for planning appeared but their activism was not sustained. In 1995 growth management consortiums at the county level emerged. These consortiums were able to pressure the state legislature to introduce land use legislation in 1994 and 1996.[2] Their effectiveness is reflected in the passage of the 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 geographical areas of development. In the south, or Detroit metropolitan area, the state faces growth management crises such as urban sprawl. In the north, or Upper Peninsula, the state is faced with controversy over its steps to preserve open spaces and environmentally sensitive areas. The latter is especially true in the passage of the local wetland ordinances.[3]

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, acts like the Brownfield Redevelopment Financing Act, the Natural Resources and Environmental Protection Act, and the Neighborhood Enterprise Zones Act have been passed to further address growth management issues like land conservation and redevelopment. In 1998, voters passed the Clean Michigan Initiative that approved tax increases to preserve open space and acquire parks and wildlife habitats.[4]

The Michigan Department of Agriculture, which collaborates with the federal government, the Department of Natural Resources, and the Department of Environmental Quality (DEQ) 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. Initiatives taken to

address growth management are usually executed at the local level. At the federal level, Michigan protects environmentally sensitive areas through the implementation of the Clean Water Act, supplements the Federal Historic Preservation Tax Incentive with grants through the local Historic Preservation Program, and works with the U.S. Department of Agriculture for the preservation of agricultural lands.

Notes

[1] Michigan Compiled Laws Annotated, Secs. 281.701-722. Online. Available: http://www.michiganlegislature.org/documents. Accessed: December 20, 2001.

[2] "A Symposium on Regulatory Takings: The Takings Issue in the Local Government and Watershed Context." *The Detroit College of Law Review* (Spring 1995), p. 17. Online. Available: Lexis Nexis Academic Universe, http://web.lexix-nexix.com/universe/. Accessed: December 20, 2001.

[3] Ibid., pp. 21-23.

[4] "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.

Minnesota

The State of Minnesota adopted in 1997 a community/regional-based planning framework to guide county and municipality community-based plans. Developed interjurisdictionally, plans must consider overarching planning goals of the state and promote coordination and public participation. However, given the recent adoption, the outcomes are not yet effectively assessed.

Prior to the system implemented in 1997, many Minnesota communities did not have up-to-date local plans to guide decisions on land development, land use, transportation planning, and environmental impacts.[1] State law provided little guidance to municipalities in establishing local and/or regional plans, nor was much funding provided to help localities develop up-to-date comprehensive plans.[2] 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.

The context changed in 1997 when the Minnesota State Legislature passed the Community-Based Planning Act. This act established a new framework that encourages counties and municipalities to collaborate in preparing comprehensive community-based plans. This framework provides financial and technical assistance for local planning and articulated an initial set of eleven statewide goals that all community plans must consider (although these goals were repealed in 2001).[3]

The act 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 community-based plans for the state. These reviews should ensure that all plans consider the statewide goals and promote cooperation among neighboring communities and local public involvement in creating the plan.[4] Local governments participating in this program are strongly encouraged to include an implementation section that identifies activities necessary to carry out the plan.

In 2000, Governor Jesse Ventura started to institute policies collectively called Smart Growth. Smart Growth focuses on three main principles. First, economic growth is good and Minnesota wants it where people live and not to pursue policies that restrict or impede growth. The second principle revolves around preserving the environment. Most people want open space close to where they live. Citizens believe that public amenities are worth preserving and the governor believes the government must have a role in that preservation. The third principle provides for fiscal restraint of the State of Minnesota's infrastructure provisions in order to determine "the best use of Minnesota's dollars."[5] The future will determine how these new initiatives will work with existing laws, and if they truly succeed in controlling growth.

Notes

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

[2] Ibid.

[3] Minnesota State Statutes Annotated, 4A.01-10.

[4] Minnesota Planning, *Community-based Planning in Minnesota* (online).

[5] Metropolitan Council, *Metropolitan Council*. Online. Available: http:// www.metrocouncil.org/mnsmartgrowth/sg_whatis.htm. Accessed: March 28, 2002.

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). State officials indicate that economic growth has traditionally taken priority over environmental concerns.[1] Yet, rapid growth in the coastal area has recently generated some interest in balancing natural resource protection with economic development.

The Mississippi Legislature recognized the importance of the coastal wetland 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 areas exist for a project, and compensation is required in the form of preservation, restoration, or creation of wetlands in return for the loss or degradation of the coastal wetlands habitat. According to the DMR, since the enacting of this law wetlands loss has slowed tremendously.[2]

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 gaming cruise vessels to remain docked on the Mississippi River or the Gulf and operate casinos. 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 growing in the state.[3]

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

Actions taken since 1990 created an acquisition program for coastal wetlands and established a funding structure for conservation and enhancement of public access to the coastal tidelands. Under the Mississippi Coastal Preserves Program (1992), the DMR has acquired title to 23,300 acres of a designated 83,000 acres of crucial coastal wetland habitat.[4] The Tidal Trust Fund Program (1994), meanwhile, creates grants from the funds derived from lease rentals of tidelands (by casino operators, for example) to assist efforts of acquisition and preservation of, as well as increased public education concerning, these sensitive lands.

Federal policy has played a role in the state's creation of Wetlands Mitigation Banks that serve to fulfill requirements set by the Federal Highway Administration for receiving federal aid. The wetlands banks are established through the acquisition of public or privately owned wetlands by gift, purchase, or from an approved organization in order to mitigate wetlands losses from activities undertaken to meet transportation needs.

Notes

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

[2] Mississippi Department of Marine Resources, Coastal Preserves Program, ***Mississippi's Coastal Wetlands*** (Biloxi, MS, 1999) p. 3.

[3] 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.

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

Missouri

The State of Missouri has few statewide initiatives for growth management and protection. In fact, very few statewide laws, even indirectly, address the subject of growth management. Some state laws address regional and local growth management, but even those are not comprehensive.

The State and Regional Planning and Community Development Act designates the Office of Administration as the official state planning agency, but only to provide planning assistance and technical information to counties, municipalities, metropolitan planning areas, and regional planning commissions.[1] The state has vested the planning power in the counties, providing them substantial discretion in developing their plans. Even though all municipalities are authorized to plan and zone, the state does not require a comprehensive plan nor does it set up consistency requirements for plans across the state.[2] However, the state does have the Missouri Commission on Intergovernmental Cooperation, Community Growth, and Revitalization Committee, which was created by executive order in 1985. This committee is comprised of five private citizens, four legislators, six cabinet members, and representatives from local government organizations such as cities, counties, elected officials, regional planners, and others. This agency serves as a vehicle of communication between various levels of government and acts to resolve shared problems, including growth-related issues.

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 work to clean up their sites. The Neighborhood Preservation Act (1999) and Historic Preservation Tax Credit (1998) established tax incentives for development in specific city districts.

Governor Bob Holden took office in 2001 and subsequently offered various initiatives concerning growth management, but with limited results. During his first legislative session, Governor Holden proposed a task force to study growth management and recommendations, but that proposal was later rescinded due to significant urban, suburban, and rural opposition. Governor Holden did release an Executive Order calling for the state to focus on various cities' downtown areas when procuring office space. Other than these attempts, Missouri stands in the same position with regard to growth management as it has for decades.

Notes

[1] Missouri Revised Statutes Annotated, ch. 251, sec. 170.

[2] Missouri Revised Statutes Annotated, ch. 89, sec. 030.

Montana

In Montana, county governments are assigned principle responsibility for growth management and open space protection. State involvement, however, may increase in the near future.

Montana's state government addresses open space preservation by participating in the purchase and sale of conservation easements that protect environmentally sensitive areas and areas popular for recreation. The Montana Agricultural Heritage Act, adopted in 1999, contributes funding to the purchase of agricultural conservation easements including family farms, ranches, and forestlands with significant public value. The act also provides watershed protection, wildlife habitat protection, and aesthetic benefits. The Office of State Planning Comprehensive Environmental Cleanup and Responsibility has responsibility for requiring liable parties to participate in hazardous substances cleanup. It has also implemented Transplan 21, an effort by Montana's Department of Transportation to establish a clear set of policy goals and priorities for addressing statewide transportation needs, based upon funding levels that Montana can support.

While these programs address issues related to growth management and open space preservation, counties are the key jurisdiction for controlling growth and protecting open space. After adopting a comprehensive plan for growth policy that meets the requirements of Montana Code Annotated, Section 76-1-601, counties may plan and zone on their own. 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 the growth policy. 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, the board must prepare a growth policy.[1]

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 management legislation been proposed in the legislature, based on an American Planning Association report analyzing Montana's land use laws.[2] The Montana Smart Growth Coalition, composed of 27 nonprofit public interest organizations, requested the study to assess the need for statutory reform.

Notes

[1] 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.

[2] 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.

Nebraska

Urban growth management and open space protection is the responsibility of local government in Nebraska. Recent initiatives at the state government level focus on providing financial support for counties to develop comprehensive plans and preserving 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 a primary-class city or metropolitan-class city must form a planning commission.

At the state level, the Department of Economic Development awards federally funded Community Development Block Grants (CDBG) for planning to local governments where a minimum of 51 percent of the citizens have low to moderate income. Planning activities that receive funds include studies, data gathering, and preparation of strategic or comprehensive plans.[1] Since 1994, the grants have been used to fund the preparation of over 60 comprehensive plans.[2] 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 dollars in grants on preserving and restoring wetlands, protecting lakes from pollution, and developing recycling programs and markets. Given the high demand for NET resources, in 2001 Governor Mike and First Lady Stephanie Johanns created the Natural Nebraska Fund to augment the resource base for NET.[3]

In 2002, the NET awarded the Joslyn Institute of Omaha a three-year grant to work with state and local public officials and stakeholders to begin talks to develop strategies for growth in the Interstate 80 corridor between the cities of Omaha and Lincoln. The 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.[4] No evaluation of their efforts has been completed at this time.

Notes

[1] Community and Rural Development, *Community Planning Resources.* Online. Available: http://crd.neded.org/cpr. Accessed: November 12, 2001.

[2] 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.

[3] Office of the Governor, "Governor and First Lady Announce Campaign to Support the Natural Nebraska Fund" (March 14, 2001). Online. Available: http://gov.nol.org/Johanns/News/march01/naturalne.htm. Accessed: February 2, 2002.

[4] The Lower Platte River Corridor Alliance, *The Lower Platte River Corridor Alliance.* Online. Available: http://www.lowerplatte.org/docs/misgoals.html. Accessed: January 19, 2002.

Nevada

Nevada, the fastest-growing state in the nation as of 2001, is also home to the fastest-growing city in the nation, Las Vegas.[1] Due to its unique land history, including substantial federal land ownership, Nevada has historically exhibited a conservative approach to growth management but has become more proactive in recent years due to demanding demographic challenges.

Approximately 86 percent of the land in Nevada is public and managed by the federal Bureau of Land Management (BLM). The federal government, furthermore, is reluctant to forego ownership of this land. As a result, state officials historically have shown little interest in land use management because such a small proportion of land is left to their discretion.

Nevada last updated its public land use policy in 1985. In this document, officials promoted "the management principles of multiple use and sustained yield."[2] An update of the public land policies was drafted in 2002, incorporating the principles of *Elibra*, a Latin word meaning "balance and stewardship." Specifically, the new policies seek to continue acquiring federal lands by state and local governments, coordinate exchanges and acquisitions among each level of government, and protect beneficial uses such as watershed protection and wildlife habitats.

Local governments in Nevada exhibit a dual mindset with regard to growth management. In one respect, 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, as described earlier, has historically been unwilling to take action on the issue of land use management. Yet at the same time, local governments exhibit apprehension about the restrictions that could result from state intervention.

Las Vegas, although not home to the state capital, is known to dominate the state legislature. Because Nevada is not a home-rule state, policies enacted by the legislature are the rule for the entire state. As a result, the progrowth sentiments of the Las Vegas area, whose representatives hold greatest power within the legislature, influence state policy. This tends to frustrate officials in other regions more interested in growth management and environmental protection policies but without the political leverage necessary to succeed in the state legislature. The progrowth sentiment found in Las Vegas generates tension between officials from southern Nevada (where Las Vegas is located) and those from the environmentally sensitive Washoe County/Lake Tahoe region in the northern portion of the state.

Another unique, yet important, feature of Nevada land use that affects the Las Vegas metropolitan area is the 1872 Mining Law, an act which grants a claim to anyone who can extract minerals from land upon settlement. The Homestead Acts, from which

the Mining Law derives, have been repealed by the federal government except the Mining Law itself. The result has been vast land speculation in the areas surrounding Las Vegas. Growth management experts within the state believe that repealing this federal law would be an important step in managing growth and preserving open space in Nevada, especially in the southern half of the state.

Growth management and open space preservation initiatives in Nevada are expected to evolve as demographic conditions demand action. The 69th Session of the Nevada Legislature (adjourned July 7, 1997) was known as the "Growth Session." During this session, the Southern Nevada Strategic Planning Authority was created. This legislation granted powers to local governments to institute strategic plans and included provisions for regional planning coordination and growth boundaries.[3]

The year after the "Growth Session" the U.S. Congress passed the Southern Nevada Public Land Management Act. This act sought to address the problems caused by the high percentage of federal land ownership in Nevada and the difficulty it causes when trying "to promote responsible and orderly development."[4] This legislation provided that BLM land in southern Nevada could be sold for development and the proceeds from such 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 in which the State of Nevada and the federal government have responded to the state's unique land management situation in a collaborative fashion. The relationship between the State of Nevada and the federal government continues to develop, yet partnerships such as the one described above are a vital component of growth management and open space preservation within the state.

Notes

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

[2] The Nevada Division of State Lands, Public Lands Policy Update, *Background, Process and Schedule.* Online. Available: www.state.nv.us/lands/policies/process.htm. Accessed: January 10, 2002.

[3] 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.

[4] U.S. Congress, House of Representatives, *An act to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada,* House Bill 449, 105th Congress, Second Session (1998).

New Hampshire

New Hampshire has a strong, coordinated state and local system for growth management and open space protection. The state utilizes a Smart Growth strategy and emphasizes historic preservation as a major part of its comprehensive plan.

New Hampshire has experienced a significant loss of farmland, forests, and habitat over the last 25 years, along with disintegration of many the state's country villages and historic town centers.[1] By 1994 the state had created an Office of State Planning and had implemented a comprehensive development plan.[2]

The state passed a series of laws in 2000-2001 that enhance efforts to protect open space, historic areas, and farmland. 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.[3]

The 2000-2001 legislation provides 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. Furthermore, New Hampshire has recently strengthened its state master planning requirements for communities to encourage growth management and land use planning and zoning processes.

Notes

[1] New Hampshire Office of State Planning, *Report to Governor Shaneen on Sprawl* (Concord, NH, December 1999, pp. 1-6). Online. Available: http://www.state.nh.us/governor/sprawl.pdf. Accessed: May 23, 2002.

[2] 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.

[3] Ed Bolen, Kate Brown, and David Konschnik, *Smart Growth: State by State—New Hampshire.* Online. Available: www.uchastings.edu/plri/spring2001/PDF. Accessed: February 7, 2002.

New Jersey

The State of New Jersey has a long history of sprawl management and open space preservation. New Jersey's active planning has been shaped by the state's unique geography, bounded by New York City, Philadelphia, and a developable coastal region. Furthermore, the state contains sensitive wetlands, unique woodlands, and watershed areas. The basis for New Jersey's current activity in open space management is its State Plan developed in 1985.

In 1985, New Jersey approved the State Planning Act that required the formulation of a State Plan to preserve and maintain the state's abundant natural, cultural, economic, and social assets and its quality of life. The plans 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, development and renewal."[1] The State Plan is comprehensive and sets as a goal coordination and stimulation 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 State Plan. The plan calls for periodic review and assessment of New Jersey's progress and achievements over time and has been modified by the State Development and Redevelopment Act and reapproved (most recently in 2001).

With regard to the effect of federal policy on New Jersey's efforts, in addition to standard complaints or praises (such as mixed reviews on federal tax policy) in the LBJ School Survey, some responses were unexpected. First, the Federal Emergency Management Agency (FEMA) was perceived to be a hindrance, especially for the Coastal Area Facility Review Act (CAFRA). It seems that FEMA allows rebuilding in hazard or danger areas (i.e, flooding and erosion). Respondents mention that CAFRA was served well by the National Oceanic & Atmospheric Administration's Coastal Zone Management program. Federal environmental policy was considered a help to New Jersey's land management efforts in areas such as state environmental protection areas, Garden State Trust Fund, transportation, and brownfields development

Federal transportation policies were viewed as a hindrance in a number of surveys, with one respondent stating, "While NJ receives a sizable share of transportation money, transportation funding for new and expanded roadways is not adequately tied to sprawl." Three additional federal policies were discussed positively, with many respondents looking favorably on intergovernmental revenue transfers, oversight of the Garden State Trust with encouragement by the LWCF and UPARR programs, and FLM help with state efforts on environmental protection.[2]

Within New Jersey itself, the Department of Community Affairs, the State Planning Commission, and the State Department of Environmental Protection are lead agencies and the major bodies overseeing open space management. Working with these agencies, New Jersey localities have also been extremely active in preserving open space and managing growth. The ability of localities, through local referendum, to allocate a small percentage of property tax revenue directly to an open space purchasing fund facilitates preservation efforts. These funds have been used to acquire thousands of acres by local governments. Two exemplary municipalities are Princeton and South Brunswick Township. There are many additional programs instituted by individual localities and the state has numerous grant and partnership programs designed specifically to assist these localities to acquire and manage their open space and sprawl issues. Finally, the Governor's Office has and will continue to be an incubator of ideas pertaining to this issue. As recently as 1999, the Governor's Office supported a statewide forum entitled "Living with the Future in Mind" that identified the concerns of the citizens of the state with regard to use of land and environmental issues.[3]

As of 2001, New Jersey had preserved approximately 1.1 million acres of open space through such means as acquisition and conservation easements. Much of this land has been acquired through the Department of Environmental Protection (DEP), with the responsibility primarily in the hands of the DEP's Green Acres Program, established in 1961 to meet New Jersey's growing recreational and conservation needs.[4]

The Green Acres 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 still existed in the state. Then-Governor Christie Whitman proposed a constitutional amendment to create the trust and it was approved by voters in 1997. The creation of the trust allows $98 million of sales tax revenue per year through 2009 (plus an additional authority to issue $1 billion additional worth of bonds) to be utilized to acquire, preserve, or remove from the list of developable land 1 million additional acres of open space.[5] This has the potential to double the state-controlled open space and save half the open space still in private hands. The trust is New Jersey's primary mechanism to preserve open space. It works in collaboration with other state agencies, local governments, and nonprofit organizations as well as individual landowners (especially with regard to farmland). The Green Acres program staff assists the state and localities with real estate, legal matters, financing options, and simple land management.

Notes

[1] 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.

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

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

[4] New Jersey Department of Environmental Protection and the Green Acres Program, *Fast Facts*, Trenton, NJ, September 6, 2001.

[5] The Garden State Preservation Trust Act, July 30, 1999 (press release).

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 commissions[1] and planning districts[2] on the regional, county, and municipal levels. Most recent land use legislation protects historical sites[3] and helps counties acquire land.[4]

State land use legislation in New Mexico consists nearly entirely of enabling legislation. Planning and zoning laws issued 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."[5]

Passed in 1991, the Land Use Easement Act attempts to preserve open space and natural resources.[6] The 1995 Subdivision Act attempts to manage growth and ensure public health standards.[7] Later, a law was passed that will enable 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.[8]

The state agency most actively involved in planning and growth management is the State Department of Finance and Administration.[9] The other entities involved in the administration of planning and land use laws are local planning commissions and county clerks.

Notes

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

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

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

[4] County Indebtedness Constitutional Amendment (1996), New Mexico constitutional amendment, Article IX, Sec. 10F.

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

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

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

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

[9] State of New Mexico, *Department of Finance and Administration*. Online. Available: http://www.state.nm.us/clients/dfa/index.html. Accessed: March 2, 2002.

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 growth with environmental protection.[1] Influential in the state's approach is the tradition of home rule, based on the state constitution's restriction of the powers of the state legislature to act in relation to local government's property, affairs, and administration.[2]

In the 1990s major sources of funding for land acquisitions and other environmental projects, such as brownfield cleanup, coastal conservation, and historic preservation, were created. The $1.75 billion Clean Water/Clean Air Bond Act, proposed by Governor Pataki and approved by voters in 1996, and the Environmental Protection Fund, established in 1993, allowed the state to make visible strides toward protecting open space in recent years. The governor showed support for these programs in 2002 by proposing their full funding at a time when many other programs face budget cuts. Since 1995 the state has acquired fee title to or conservation easements over nearly 250,000 acres of natural and recreational resource lands, including the permanent conservation of 139,000 acres in the Adirondack Park.[3]

Agricultural land preservation has also been a focus of legislation since 1990, as seen in the clarification of the review process of agricultural districts, the addition to right-to-farm protections, the creation of agricultural and farmland protection grant projects, and a nonpoint source abatement and control project to maintain viable agricultural operations.

Efforts have also focused on the area of historic preservation in the form of the renewal and creation of grant programs, specifically the Historic Preservation Matching Grant Program (1993) and the New York State Heritage Area Program (revised 1994). Coordination with the City of New York to control the development of the watershed areas surrounding the reservoir system that supplies the city with its water has been underway since 1997.

The governor has taken the lead in encouraging partnerships between local and state governments involving growth management efforts. Citing the existence of "State programs, statutes and regulations [that] may inhibit revitalization and encourage sprawl" and recognizing the "strong tradition of home rule,"[4] Governor Pataki created the Quality Communities Interagency Task Force in 2000. The task force was asked to inventory key local, state, and federal programs that affect community development, preservation, and revitalization goals of the municipalities and make recommendations to improve these programs as well as strengthen the capacity of local governments to develop and implement land use planning and community development strategies.[5]

In February 2001 the task force presented its 41 recommendations, which include, for example, authorizing Open Space Districts as a local government conservation tool and

extending tax credits for farmland preservation.[6] The task force has provided critical leadership in establishing direction for future growth management and open space protection action by the state, and while the governor has introduced legislation to implement a number of its recommendations, the legislature has not yet passed any into law.

Notes

[1] Quality Communities Interagency Task Force, *State and Local Governments Partnering for a Better New York* (Albany, NY, January 2001), Appendix 2.

[2] 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.

[3] 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.

[4] Quality Communities Interagency Task Force, *State and Local Governments Partnering for a Better New York,* Appendix 2.

[5] Ibid.

[6] Ibid.

North Carolina

According to the U.S. Census Bureau's *State Population Rankings Summary 1995 and 2025*, North Carolina ranks as the 11th most populous state in the nation.[1] Having to protect coastal wetlands as well as scenic mountain ridges, officials in North Carolina utilize a variety of tools to plan for efficient growth, especially at the state level. The creation of a Smart Growth Commission on January 30, 2000, furthermore, was an attempt by state policymakers to strengthen the tools already in place and increase the options available to state and local officials for managing growth and protecting open space.

Basic land use laws have existed for several decades in North Carolina. Beginning in 1974 with the passage of the Coastal Area Management Act (CAMA), 20 coastal counties were required 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."[2]

As a modified Dillion'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 create farmland preservation and easement programs, yet only two counties—Wake and Forsythe—have enacted such preservation programs.

North Carolina's growth management history was described by one state government official as experiencing "a number of false starts."[3] Since the late 1980s, some politicians have advocated growth management policies, yet broad political support has not yet appeared. For example, no state or regional framework is in place to guide local governments in their land use planning. Furthermore, approximately one-half of all local governments in North Carolina lack land use plans.

Many of the more successful growth management programs in North Carolina involve the use of trust funds. These initiatives include the Clean Water Management Trust, the Farmland Preservation Trust Fund, and the Parks and Recreation Trust Fund. In 1999, for example, the Farmland Preservation Trust Fund protected twelve easements totaling 1,981 acres. In its most recent session, the state legislature allocated $1.7 million for farmland preservation.[4]

Many state programs, on the other hand, especially those concerning infrastructure provisions, have actively contributed to inefficient growth patterns. For example, of the approximately $1.7 billion of state funds invested in North Carolina's highways per year, only about 1 percent is spent on public transit.[5] Mass transit is often viewed as a means to promoting more compact urban land use patterns, while highways are often viewed as contributing to sprawling development.

In an effort to respond to growing concerns of sprawl and unmanaged growth, the North Carolina General Assembly created, in January 2000, the Commission to Address Smart Growth, Growth Management and Development Issues. The North Carolina General Assembly also passed the Million Acres Initiative in the year 2000, an act aimed at the preservation of open space through voluntary acquisitions of land and conservation easements by federal, stale, local, and nonprofit organizations. The North Carolina Farm Bureau, furthermore, has instituted a land use committee to address increasing conflicts between rural and urban areas caused by growth.[6]

North Carolina has witnessed a fair amount of activity in the realm of growth management in recent years, although most state legislators still do not deem it a high priority. The general assembly's decision to create a commission on growth may, however, reflect growing interest in the issue and could be the beginning of more aggressive growth management policies. With over a million people moving to the state during the 1990s,[7] officials within the state are beginning to realize the importance of effective growth management, and the commission on growth is one important example of increased interest and responsiveness.

Notes

[1] U.S. Census Bureau, *State Population Rankings Summary.* Online. Available: http://www.census.gov/population/projections/state/9525rank/ncprsrel.txt. Accessed: April 1, 2002.

[2] John M. DeGrove, *Land Growth and Politics* (Washington, DC: Planners Press, 1984), p. 370.

[3] Telephone survey by Bobbi Evans with North Carolina state official who requested anonymity, February 4, 2002.

[4] Brookings Institution Center on Urban and Metropolitan Policy, *Adding It Up: Growth Trends and Policies in North Carolina,* a report prepared for the Z. Smith Reynolds Foundation (Washington, DC, July 2000), p. 19.

[5] Ibid., p. 9.

[6] 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.

[7] 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.

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, growth management has not been a high priority at the state level. Urban sprawl and open space protection are not broadly perceived to be problems. As a result, the issue has not risen to the forefront of state policy. To the extent any action has been taken, it has occurred at the municipal level.

Following a decline in its population in the 1990s, North Dakota is actively seeking population growth. While 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, economic growth and population growth, rather than growth management, have been the intent of these policies.

Ohio

The LBJ School Survey responses by state leaders in government, nonprofit, and academic organizations indicate that urban sprawl is of relatively serious concern in Ohio. Loss of farmland appears to be the state's most critical growth-related issue.[1] Agriculture is Ohio's leading industry, contributing $73.3 billion to the economy annually and supporting one in every six jobs.[2] Accordingly, state-level growth management, while not a coordinated effort, has focused principally on agricultural lands. The state's secretary of agriculture, Fred Dailey, is a high-profile advocate of farmland preservation. Groups of concerned citizens have also raised awareness of farmland preservation and other growth management ideas through educational campaigns.[3]

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 hinders the case for statewide comprehensive planning. Further complicating state involvement in growth management is the deep-seated tradition of home rule in Ohio's cities and towns.

In 1997, the Office of Farmland Preservation was created by statute within the Ohio Department of Agriculture (ODA). The office coordinates and funds local farmland preservation programs and also collaborates with state agencies to identify state actions that threaten farmland. A statute first enacted in 1977 and last amended in 1999 allows the designation of Community Reinvestment Areas. This policy provides financial encouragement for urban containment through tax incentives for areas where private investment has historically been deficient.[4]

State legislation in 1998 enabled donated agricultural land to be placed under easement by the ODA.[5] In 2001, legislation created and funded the ODA's Agricultural Easement Purchase Program. This program will spend a projected $25 million from 2002 to 2005 to help local governments and nonprofit agencies purchase agricultural easements.[6]

A constitutional amendment passed by voters in 2000 allowed the creation of 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 same statute that established the Agricultural Easement Purchase Program.[7] This statute also created the Clean Ohio Council, whose membership includes the director of the Ohio Environmental Protection Agency; two state senators; two state representatives; and seven members appointed by the governor who represent local governments, business interests, and environmental advocacy organizations. The Clean Ohio Council will select the 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 Clean Ohio Fund in consultation with the Ohio Environmental Protection Agency.[8] Local agencies are preparing applications for funding as of March 2002. The fund will make its first awards

in July 2002.[9] An ODOD official notes that while the redevelopment activities financed by the Clean Ohio Fund may contribute to growth management, the fund was established to address overall quality of life rather than land use issues.[10]

Notes

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

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

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

[4] Ohio Revised Code, Secs. 3735.65–3735.70.

[5] Senate 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.

[6] House 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.

[7] Ibid.

[8] Ohio Department of Development, *Brownfields/Clean Ohio Fund.* Online. Available: http://www.odod.state.oh.us/ud/CleanOhioFund.htm. Accessed: February 24, 2002.

[9] Email from John Magill, Assistant Deputy Director, Office of Urban Development, Ohio Department of Development, to Drew Murray, February 20, 2002.

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

Oklahoma

Oklahoma has no statewide growth management plan. Cities are given authority by the state to adopt capital improvements and city plans, neither of which is mandatory. Generally, land use planning in the state is decentralized.[1]

In the mid-1980s, the state enacted several development programs and increased power to existing state agencies to maintain employment in Oklahoma and to attract new economic potential 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.[2]

Notes

[1] 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.

[2] American Planning Association, *Growing Smart Project Statute Summaries.* Online. Available: http://www.planning.org/ Accessed: February 15, 2002.

Oregon

Oregon's growth management strategy, a "top-down" approach, has earned the state recognition as the original state model for centralized planning.[1] The state requires city and county governments to develop and utilize comprehensive plans that must be approved by the state. By law, plans must be consistent and coordinated at all levels of government (state, county, city, special districts).

Oregon's efforts at growth management and open space preservation took form in 1973 in a landmark statewide comprehensive planning law, the first of its kind in the United States. Now 29 years old, the Land Use Planning Act of 1973 continues to provide the framework for all planning in the state. Governor Tom McCall, who commented on a "shameless threat to our environment and to the whole quality of life, an unfettered despoiling of the land," was instrumental in developing the 1973 act.[2] Soon after, he and Henry R. Richmond established 1,000 Friends of Oregon, a watchdog group that facilitates public input for planning and land use issues.

In 1978 Oregon created the only elected regional government in the nation, called Metro. Metro is responsible for growth and planning policies in the region, which encompasses three counties and 24 cities, including Portland, the state's largest city.[3] This regional approach improves the effectiveness of growth management by addressing concerns that cross political jurisdictions and allowing for comprehensive planning.

Building on the 1970s initiatives, the state remains committed to land use planning through legislation and programs. In the 1990s, the legislature passed several pieces of legislation related to growth management in each legislative session and Governor Kitzhaber has actively enhanced growth management coordination through several executive orders and initiatives.

Several programs implemented in the 1990s revolve around transportation. The Oregon Transportation Plan, the overarching policy plan for multimodal transportation systems, supports approved land use plans, although local governments are ultimately required to amend their plans to be consistent with the plans of the Oregon Department of Transportation (ODOT). One element of the Transportation Plan, the Oregon Highway Plan, seeks to connect land use and transportation to achieve long-term shared objectives. It focuses on the relationship between highways and patterns of development both on and off the highway 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 local communities 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 is the coordination of efforts at (and between) the state and local levels. The Community Solutions Team, created by Governor Kitzhaber, brings together the directors of five agencies to coordinate actions on growth management and community development, and other such teams work at the regional level. The Oregon Plan for Salmon and Watersheds also requires that each affected agency send a representative to the monitoring team. The requirement for consistency in all land use plans at all levels of government leads to extensive coordination among state agencies and with local governments.

Oregon's laws and programs place emphasis on, and pursue, the protection of resource lands. ORS 196 provides for the conservation of wetlands through a statewide wetlands inventory and provision of technical assistance to local communities. ORS 308A addresses 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 the above programs were established to implement one of the 19 Statewide Planning Goals.

Federal policies on growth management issues have also affected Oregon's efforts. 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. 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. A large portion of Oregon is federal land, and with a long, entirely publicly owned coastline, it follows that federal land management and environmental policies would be considered important to Oregon's efforts. Federal policies that hinder programs, according to the LBJ survey, include tax policy and federal transportation policy. Interestingly, LBJ survey respondents listed federal transportation policy as both hindering and helping on ORS 197 (Comprehensive Land Use Planning Coordination).

Several state-level entities, as well as local governments, implement growth management and open space preservation laws. The all-volunteer, seven-member Land Conservation and Development Commission (LCDC), supported by the Department of Land Conservation and Development, coordinates state and local planning, adopts state land use goals, verifies that local plans pursue the state goals, and oversees the coastal zone program.[4] The Department of Land Conservation and Development 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.[5] The Division of State Lands has the charge of promoting conservation and best use of wetlands. The State Department of Parks and Recreation has responsibility 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 Governor John Kitzhaber signed an executive order entitled "Use of State Resources to Encourage the Development of Quality Communities" 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.[6]

Oregon remains committed to the principles of growth management and appears poised to remain a model for growth management practices.

Notes

[1] 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.

[2] Text of Oregon Governor Tom McCall's address to the 1973 Legislative Assembly, January 8, 1973. Online. Available: http://www.lcd.state.or.us/history.html. Accessed: January 15, 2002.

[3] Molly O'Meara, "How Mid-Sized Cities Can Avoid Strangulation," *World Watch Magazine*, September/October 1998. Online.
Available: http://www.usinfo.state.gov/products/pubs/archive/livcom/two.htm. Accessed: January 15, 2002.

[4] Department of Land Conservation and Development, *Land Conservation and Development Commission (LCDC) and LCDC Advisory Committees*. Online. Available: http://www.lcd.state.or.us/lcdc.html. Accessed: January 17, 2002.

[5] University of California Hastings College of the Law, Public Law Research Institute, "Smart Growth: State by State" database (online).

[6] Office of the Governor, *Judicial Appointments and Executive Orders*. Online. Available: http://www.governor.state.or.us/governor/legal/execords/eo97-22.pdf. Accessed: January 25, 2002.

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.[1] The Pennsylvania General Assembly passed this new system's legislative centerpiece, a bill to amend the Municipalities Code, in 2000.

Prior to the 1990s, Pennsylvania passed few measures to address growth management and open space preservation. The state is rich in agricultural lands, possessing 7.3 million acres, and rich in forest land, which covers 15.5 million state acres, or 50 percent of the state.[2] 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.[3]

Since beginning in the early 1980s, Pennsylvania's Farmland Preservation Program has become a national leader in farmland preservation. In 1981, Act 43 was passed, permitting farmers to petition local governments for the creation of Agriculture Security Areas (ASAs). In 1987, Pennsylvanians voted to allow $100 million in bond issuance to finance the Agricultural Conservation Easement Purchase Program. In 1988, Act 149 was passed, amending the Agricultural Security Law to create the Agricultural Conservation Easement Purchase Program. The first easement purchase was made with state funds in Lancaster County in 1989. As of April 2002, the program has permanently preserved more than 225,000 acres, more than any other state in the nation.[4]

In 1995, Pennsylvania journalist Tom Hylton, who won the Pulitzer Prize for his editorials on community planning, recommended policies for discouraging sprawl and creating better communities in his book, *Save Our Land, Save Our Towns—A Plan for Pennsylvania.*[5] Hylton founded an organization, also called Save Our Land, Save Our Towns, to advocate better state growth management policies. This group, along with another influential organization, 10,000 Friends of Pennsylvania, successfully raised public awareness of growth management issues and played a pivotal role in passing growth management legislation.[6]

In 1994, citizens elected Tom Ridge governor. A moderate Republican and a proactive environmentalist, Ridge made growth management and open space preservation priorities for his administration.[7] 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.[8] Further, the report recommended that local level planning commissions were crucial in developing recommendations for promoting responsible land use patterns.[9]

In 1999, Ridge developed a foundation for future growth management systems by issuing his Land Use Planning 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.[10]

Also in 1999, the Pennsylvania Historical and Museum Commission joined Preservation Pennsylvania, a nongovernmental organization, in launching a campaign to develop a five-year plan for historic preservation in Pennsylvania. Specifically, the plan calls for expanding the use of preservation as an economic development strategy and for strengthening preservation planning at the local level.[11] In 2002, both groups continue to secure funding and legislative support for their initiatives.

During the 1990s, the Pennsylvania General Assembly adopted several measures to address open space and environmental protection as well as urban renewal. The state's first efforts focused on farmland and open space acquisition, brownfields redevelopment, and tax-free zones to revitalize communities.

In 1995, the commonwealth passed measures to establish the state's Land Recycling Program, which encompasses the Industrial Sites Reuse Program and the Infrastructure Development Program. The 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 restorative efforts.[12]

The Pennsylvania General Assembly also acted to promote urban renewal through its Keystone Opportunity Zone Program, established in 1998. The 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.[13]

The state passed two key growth management measures to address issues in Governor Ridge's 1999 Land Use Planning directive, specifically environmental protection and local government planning. The Environmental Stewardship and Watershed Protection Act, later known as the state's Growing Greener Programs, allows for the investment of nearly $650 million over the following five years in farmland and open space protection; state parks refurbishment; abandoned mines and watersheds cleanup; and water and sewer systems upgrades.[14]

Accompanying the Growing Greener Program is Pennsylvania's Growing Smarter Initiative, the cornerstone of the state's current growth management approach that is designed to encourage counties and municipalities to coordinate their planning and implementation efforts and to offer better planning tools and implementation funding.[15] Announced in February 2000, the program doubles the commonwealth's investment in land use planning and technical assistance; adds strategic amendments to the Municipalities Planning Code; and calls for a top-to-bottom review of state government

programs and policies to ensure agency programming and decision-making support in local land use planning.[16] Funding for Land Use Planning Assistance, one of the components of the governor's Growing Smarter Initiative, more than doubled between FY 1999-2000 to FY 2000-2001, and funding for FY 2001-2002 is $4.6 million.

Acts 67 and 68 of 2000 implemented another component of the governor's Growing Smarter Initiative. These amendments support and encourage communication, coordination, and consistency of land use issues at all levels of government. They also require that state agencies be permitted to comment upon local government planning and zoning. Finally, Acts 67 and 68 strengthen multimunicipal planning and permit the designation of growth and rural resource areas through intergovernmental cooperative planning and implementation agreements.[17] To increase public awareness of the Growing Smarter Initiative, the Governor's Center for Local Government Services has also implemented a Growing Smarter Action Plan, which is designed to support responsible land use planning by giving county and municipal governments the tools and resources to manage growth.[18]

The future of growth management and open space preservation efforts in Pennsylvania seems auspicious. Over an eleven-year period beginning in 1990, the state not only invested resources in studying growth management issues and practices, but supported the recommendations of those studies both action and funding. Also, nongovernmental entities like 10,000 Friends of Pennsylvania and Preservation Pennsylvania are providing direction and support for future initiatives. Furthermore, these groups, along with the Governor's Center for Local Government Services, help maintain public interest in state growth management issues.

A major challenge facing the future of growth management in Pennsylvania will be the loss of Tom Ridge's leadership. In an April 2002 correspondence with the office of Pennsylvania's new governor, Mark Schweiker, aides noted that Governor Schweiker "continues to be a strong proponent of Growing Smarter initiatives."[19]

Notes

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

[2] Governor's Center for Local Government Services, Department of Community and Economic Development, *Addendum to 2000 Annual Report on Land Use* (Harrisburg, PA, March 2001), p. 2.

[3] 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.

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

[5] Save Our Land, Save Our Towns, *Save Our Land, Save Our Towns.* Online Available: http://www.saveourlandssaveourtowns.org/book.html. Accessed: May 22, 2002.

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

[7] 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.

[8] 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.

[9] Ibid.

[10] Commonwealth of Pennsylvania Governor's Office, Executive Order 1999-1, Sound Land Use Planning (online).

[11] Pennsylvania Historical Museum Commission and Preservation Pennsylvania 2000, *The Pennsylvania Historic Preservation Plan* (Harrisburg, PA, 2000), pp. 3-10.

[12] Pennsylvania Department of Environmental Protection, *Pennsylvania's Land Recycling Program: A Clear Road to Redevelopment.* Online. Available: http://www.dep.state.pa.us/dep/deputate/airwaste/wm/landrecy/facts/roadsign.html. Accessed: May 22, 2002.

[13] Department of Revenue, Commonwealth of Pennsylvania, *Keystone Opportunity Zones: Enterprise Zone Initiative* (unpublished report for Department of Revenue, Harrisburg, PA, 1998).

[14] Pennsylvania Department of Environmental Protection, *Growing Greener Program.* Online. Available: http://www.dep.state.pa.us/growgreen/. Accessed: February 1, 2002.

[15] Commonwealth of Pennsylvania Governor's Office, Executive Order 1999-1, Sound Land Use Planning (online).

[16] Governor of the Commonwealth of Pennsylvania email.

[17] Ibid.

[18] 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.

[19] Governor of the Commonwealth of Pennsylvania email.

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."[1] The state comprehensive planning act mandates both comprehensive planning by municipalities and consistency between state and local plans and actions.[2] Many growth management professionals consider the Rhode Island system the most comprehensive state plan adopted in the 1980s.[3]

Concern over rapid development in Rhode Island during the 1970s and 1980s and loss of open space, particularly in regard to coastal lands, were major factors in the successful establishment of a growth management system.[4] In1988, Rhode Island passed the Comprehensive Planning and Land Use Regulation Act. The legislation was, and is, a collection of plans adopted over the past 30 years grouped into a dozen areas.[5]

The Rhode Island Office of Statewide Planning and a State Planning Council were established prior to the 1988 comprehensive planning act.[6] 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 appropriate state agencies and to review these plans for consistency with the elements of the State Guide Plan.[7] The Statewide Planning Program personnel, who are staff of the State Planning Council, develop and write elements of the State Guide Plan—which is a collection of several plans. These elements are then reviewed and adopted by the State Planning Council.[8]

All cities and towns are required to adopt comprehensive plans and to submit them to the head of the Statewide Planning Program for approval and compliance with the 1988 law.[9] Plans should address current issues in four areas: physical development, environmental, economic development, and human services.[10] The Rhode Island comprehensive planning act stipulates that local governments failing to develop a plan consistent with state regulations will have a plan developed for them by the director of state planning; the statute has successfully motivated reluctant local governments to comply.[11]

Plans submitted to the director of statewide planning 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 approves submissions for statewide review when all required elements are included.[12]

Following the passage of the 1988 act, the state government approved two other measures in the early 1990s to ensure the success of the newly conceived state planning system, the Rhode Island Zoning Enabling Act, revised in 1991, and the Rhode Island Land Development and Subdivision Review Enabling Act, revised in 1992. The

measures aligned zoning and development standards with the principles of the 1988 growth management plan and included modern language and techniques to update what were very dated statutes.[13]

In the late 1990s, the state passed legislation to refine the growth management plan. In 1995, the Rhode Island Greenways Act was approved to establish a 25-year plan for the creation of a statewide greenspace and greenway network, which will eventually encompass one-third of the state's area. Voters approved funding for the project through a $15 million bond issuance. Additionally, federal funding for the project was obtained through the Land and Water Conservation Fund, administered by the National Park Service, and the Intermodal Surface Transportation Efficiency Act of 1991. Rhode Islanders also reaffirmed their commitment to open space preservation and natural resource protection in 1998 by approving new bond funds for the Local Open Space and Recreation Grants Program.

The state also acted to establish a brownfields redevelopment program in the 1990s. The Rhode Island Department of Environmental Management, the Rhode Island Economic Development Corporation—a quasi-governmental entity charged with encouraging economic investment in the state—and the Rhode Island Statewide Planning Program are the parties responsible for carrying out the provisions of the Industrial Property Remediation and Reuse Act, which passed in 1995. These entities assist parties with the brownfields redevelopment process and help them obtain necessary funding for projects—mainly state and federal grants. Federal funding from the Environmental Protection Agency provides a major source of grant funding for this program. At the state level, Rhode Island promotes brownfields redevelopment through tax incentives. State planning leaders encourage redevelopers to utilize tax credits offered through the Mill Building and Economic Revitalization Act—a law created to stimulate the redevelopment and reuse of Rhode Island's historic industrial mill structures—and the Historic Preservation Investment Tax Credit.[14]

In the new millennium, Rhode Island continues to successfully implement growth management legislation. In 2000, the state passed a development impact fee act to ensure that new development bears a proportionate share of the cost of educational capital facilities necessary for new development. Two laws, the Building and Fire Codes Revision and the Historic Preservation Investment Tax Credit, were passed in 2000 and 2001, respectively. Both measures promote urban redevelopment and historic preservation by encouraging and facilitating the restoration of old buildings and neighborhoods. The Historic Preservation Investment Tax Credit of 30 percent, when combined with the federal historic tax credit of 20 percent, offer citizens undertaking restorative work a total 50 percent tax credit.[15]

Though Rhode Island remains a strong growth management state, recently nongovernmental groups such as Grow Smart Rhode Island have been calling for Smart Growth initiatives in the state. In response, Governor Lincoln Almond 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 in the state 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.[16]

Notes

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

[2] Ibid.

[3] DeGrove, *Planning and Growth Management in the States* (Cambridge, MA: Lincoln Institute of Land Policy, 1992), p. 86.

[4] Ibid., pp. 86-88.

[5] Rhode Island General Laws 42-11-10.

[6] Letter from Derwent Riding, Principal Planner, Statewide Planning Program of Rhode Island, to Professor Robert Wilson, University of Texas at Austin, April 19, 2002.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] 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.

[11] DeGrove, *Planning and Growth Management in the States,* p. 91.

[12] American Planning Association, *Growing Smart Project: Statute Summaries*. Online. Available: http://www.planning.org/. Accessed: February 15, 2002.

[13] Riding letter.

[14] "Rhode Island Brownfields—Revolving Loan Fund." Online. Available: http://www.brownfields.state.ri.us/financial/index.htm#bfTax. Accessed: April 23, 2002; and "Rhode Island Brownfields—Federal Brownfields Tax Credit." Online. Available: http://www.brownfields.state.ri.us/financial/index.htm#bfTax. Accessed: April 23, 2002.

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

[16] Rhode Island Executive Order 2000—2.

South Carolina

The State of South Carolina has only 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, South Carolina enables its counties and municipalities with the ability to manage sprawl on a regional basis.

Prior to 1994, South Carolina's coastal management program and the Mountain Ridge Protection Act served as the state's two primary statewide growth management directives. Under Title 48, Chapter 39, providing for the creation of the coastal management program in 1977, local entities with zoning authority were required to submit their zoning requirements to the Department of Health and Environmental Control for approval for areas in the designated coastal area. The Mountain Ridge Protection Act of 1984 banned the construction of tall buildings and structures on protected mountain ridges (with approval from the local government). [1]

In 1994, South Carolina passed the State Planning Enabling Act of 1994 providing municipalities and counties with the authority to manage growth dependent upon each community's needs. Previous laws are still in effect. However, the 1994 act governs when the old and new laws conflict.[2] 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."[3] The planning commissions develop comprehensive plans that include evaluations of population growth, housing needs, economic development characteristics such as workforce statistics, and infrastructure availability. Planning commissions have the authority to set aside land for conservation purposes and employ impact fees and tax incentives as well as coordinate zoning standards.[4] In 2001, recognizing the state's overall need to preserve open space, South Carolina created the Conservation Land Bank to provide grants and loans to municipalities to designate areas for conservation purposes.

Although the state largely defers to communities to manage growth according to the area's needs, it still relies upon the coastal management program to manage sprawl along the state's shorelines.

Notes

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

[2] Ibid.

[3] South Carolina State Statutes, Sec. 6-29-340.

[4] Ibid.

South Dakota

South Dakota implements comprehensive land use planning and zoning on a county and municipal level. South Dakota law allows, but does not require, these local units of government to develop comprehensive land use plans and zoning ordinances.[1]

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.[2] The state has focused its few efforts on maintaining open space near its growth areas and establishing urban forestry where none existed. Cities generally encourage growth, without much attention given to development patterns. However, planned growth, land use compatibility and agricultural land preservation are emerging issues in some of the more urban areas of the state.

Counties and municipalities may create zoning commissions to regulate land use through comprehensive plans and zoning ordinances.[3] Other counties have pursued comprehensive planning and zoning ordinances since that time. Of the remaining unzoned counties, most are very rural with large land masses and low population. Unzoned counties generally address land use problems through the enforcement of public nuisance ordinances.

South Dakota state government is not empowered to conduct state-level comprehensive land use planning and zoning, though several state agencies coordinate with local planning and zoning agencies on land use-related issues. The Department of Transportation engages in extensive statewide planning concerning transportation needs.[4] The Department of Environment and Natural Resources is responsible for assuring the environmental compliance of proposed development activities.[5] Environmental impact statements are discretionary under South Dakota law.[6] The Department of Education and Cultural Affairs, Office of History is involved with historical preservation issues.[7]

Notes

[1] 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.

[2] Bureau of Land Management, *Federal Surface Ownership, by State* (1996). Online. Available: http://energy.er.usgs.products/openfile/OFR95-75-N/Data.htm. Accessed: February 1, 2002.

[3] South Dakota Legislative Research Council, South Dakota Codified Laws (online).

[4] South Dakota Legislative Research Council, South Dakota Codified Laws, chapters 1-44 (Department of Transportation). Online. Available: http://legis.state.sd.us/statutes/index.cfm. Accessed: April 24, 2002.

[5] South Dakota Legislative Research Council, South Dakota Codified Laws, title 34A (Environmental Protection). Online. Available: http://legis.state.sd.us/statutes/index.cfm. Accessed: April 24, 2002.

[6] 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.

[7] South Dakota Legislative Research Council, South Dakota Codified Laws, chapters 1-19A (Historical Preservation). Online. Available: http://legis.state.sd.us/statutes/index.cfm. Accessed: April 24, 2002.

Tennessee

During the 1990s, rapid population and economic growth in Tennessee led to a number of legal disputes over annexation and incorporation laws. In 1997, Lieutenant Governor John S. Wilder and Speaker of the House Jimmy Naifeh formed an Ad Hoc Committee on Annexation to study growth policy in Tennessee.[1] Committee recommendations were later incorporated into legislation passed in 1998. Known as Public Chapter 1101 (T.C.A . 6-58-106), the main legislative intent was to minimize urban sprawl, eliminate poorly planned annexations or incorporations, and improve the coordination of development with public services.[2]

In order to accomplish these objectives, 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. The municipal growth plan must have an Urban Growth Boundary (UGB), while the county plan requires Planned Growth Areas (PGA) and Rural Areas (RA). Ratified plans must be submitted to the Local Governmental Planning Advisory Committee (LGPAC) for review and final approval. Once approved, the plan may not be modified for three years.[3] If an impasse is reached, the county or municipal government may request mediation services from the Office of the Secretary of State.[4]

Proposals to the Tennessee Housing Development Agency and the Department of Economic and Community Development for counties and municipalities are awarded bonus points if they adopted an LGPAC-approved growth plan by July 2000.[5] Technical assistance is also available from the County Technical Assistance Service, Division of Local Planning, Municipal Technical Service, and University of Tennessee Institute for Public Service. Counties must to receive final LGPAC approval for their growth plan or become ineligible for some grant programs and loans until the growth plan is approved.[6]

The Tennessee Advisory Commission on Intergovernmental Affairs (TACIR) evaluates implementation efforts of Public Chapter 1101. TACIR found that in 2000, 75 counties (of 93) approved growth plans, thus gaining bonus points for proposals to state grant programs. The 18 remaining counties were unable to reach a consensus on the size of UGBs, but continue negotiations to resolve differences.[7] TACIR notes that despite this progress, some approved plans may not adequately assess RAs, minimize sprawl, or comply with planning requirements.[8] In "Planning for Rural Areas in Tennessee Under PC 1101" (2001), Mary English and James Hoffman state that the RA component of growth plans has received "little substantive attention."[9] The authors recommend 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.[10] TACIR reports on the impact of approved growth plans on urban sprawl and compliance with planning requirements are pending.

Notes

[1] 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.

[2] Tennessee Advisory Commission on Intergovernmental Affairs, *Tennessee Growth Policy*. Online. Available: http://www.state.tn.us/tacir/Portal/Understanding%20Growth.htm. Accessed: January 25, 2002.

[3] Unless there are extraordinary conditions.

[4] Tennessee Advisory Commission on Intergovernmental Affairs, *Public Chapter 1101 in a Nutshell.* Online. Available: http://www.state.tn.us/tacir/Portal/Nutshell.htm. Accessed: January 15, 2002.

[5] Tennessee Advisory Commission on Intergovernmental Affairs, *Implementation of Tennessee's Growth Policy Act in CY 2000: A Year of Progress*. Online. Available: http://www.state.tn.us/tacir/tacirpublications.htm. Accessed: January 10, 2002.

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

[7] Tennessee Advisory Commission on Intergovernmental Affairs, *Implementation of Tennessee's Growth Policy Act in CY 2000* (online).

[8] Ibid.

[9] 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.

[10] Ibid.

Texas

In curbing urban sprawl, the State of Texas defers to its cities, counties, and regional planning organizations. Texas does not employ a statewide planning provision; however, it does provide its localities with the ability to manage growth according to each area's individual needs.

Influenced largely by the state's constitutional home rule provision, Texas enables its cities with zoning and annexation authority. Counties have limited authority regarding growth planning. However, both cities and counties are able to create and join regional planning organizations, which tend to focus on transportation issues within a particular region.

In 1997 the state enacted Chapter 213 of the Local Government Code authorizing 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.[1] In 1999, the state legislature enacted several laws affecting land use. Chief among those laws was House Bill 313, which authorized a municipality to establish empowerment zones, waive or adopt certain fees related to construction in the zone, enter into agreements to benefit the zone, grant sales tax refunds, grant municipal sales tax abatements, and enter into agreements abating municipal property taxes on property located in the zone.

Although the state grants growth management authority to cities, some Texas cities have taken the initiative to curb urban sprawl in their communities. Through the use of tools such as tax abatements, land purchases for conservation purposes, and zoning restrictions to encourage dense development, Texas cities attempt to manage sprawl as it applies to their individual communities.

Notes

[1] Concurrency is defined as linking an entity's comprehensive plans with its zoning and available infrastructure.

Utah

In the late 1990s, Utah began to address growth management issues. With a population growth rate at more than double the national average,[1] initiatives have primarily focused on managing the growth of cities and open space preservation. Smart growth techniques are being promoted through cooperation among state and local governments and private and nonprofit organizations. These groups work together with the assistance of state growth management commissions.

Because the majority of Utah is federal land, the need for state land use management policies was not very apparent until some 30 years ago. Early attempts at managing growth began with the passage of the Utah Land Use Act of 1974, designed to create a land use commission. The act was soon overturned because of pressure from opponents who claimed that the Land Use Act infringed on private property rights.[2]

After the repeal of the 1974 Land Use Act, the state legislature demonstrated 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 Governor Mike O. Leavitt, new efforts to institute planned growth tools emerged in 1997 with the creation of Envision Utah, a public/private community partnership for growth management. State attention to growth management continued in 1999 with the passage of the Utah Quality Growth Act.[3] The act created the Utah Quality Growth Commission to administer planning grants to local governments. Furthermore, the Quality Growth Commission requires mandatory comprehensive plans from counties and cities.[4]

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 are active in implementing the policies developed by the Quality Growth Commission. In addition to the cooperation between state and local agencies, the Utah State Forester coordinates with the USDA Forest Service in efforts to preserve open space and state and national forests.

Notes

[1] 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.

[2] Ibid., pp. 12-14.

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

[4] Utah Quality Growth Commission, *Home Page.* Online. Available: http://www.governor.state.ut.us/quality. Accessed: December 14, 2001.

Vermont

Vermont actively attempts to control urban sprawl, monitor land use, and encourage community development. There is a statewide comprehensive plan, a state agency planning implementation committee, and a number of state grant, loan, and technical assistance programs that encourage environmental preservation, cultural and historical preservation, and land conservation.[1]

Vermont first became involved in land use issues with the passage of the State Land Use and Development Law known as Act 250. 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 are appealed to the Environmental Board, which oversees the implementation of Act 250.[2]

The Growth Management Act of 1988, 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 state grant program, administered by the Agency of Commerce and Community Affairs, assists municipalities in preparing up-to-date plans in accordance with this act.[3]

In 1987, 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 latter of which utilizes HUD Community Development Block Grant Funds and requires expenditures on projects in growth centers and downtown areas rather than scattered development. 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 responsible for preparing Act 200-compliant regional plans. In addition, an agency law requires proposed accesses on the state highways comply with local land use plans.

In 2000 the Development Cabinet Law was passed. It creates a cabinet of key agency secretaries, including the Agency of Administration, Natural Resources, Commerce and Community Affairs, and Transportation. The cabinet's charge is to advise the governor in a coordinated fashion on matters related to implementing land use programs, policies, and actions, including such issues as land conservation, affordable housing, strengthening the

agricultural and forest products industry, and working with local entities on planning efforts to discourage scattered development and encourage downtown revitalization and compact growth centers.

Notes

[1] 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.

[2] 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.

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

Virginia

Virginia relies on local governments to address issues of urban growth and as a Dillon's rule state the legislature determines which tools localities may use.[1] 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 the comprehensive plan.[2] The state does not provide oversight, technical assistance, or financial incentives for local planning.

The Regional Cooperation Act of 1985 authorizes the creation of planning district commissions to create regional strategic plans that the municipalities are supposed to consult and follow. The commissions also provide technical aid to local governments and collect various types of 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 (OSLPF), and the creation of the Virginia Land Conservation Fund (VLCF). The Chesapeake Bay Preservation Act limits development that will impact water quality of the bay at its tributaries, and new goals for improving water quality were adopted in 2001. The OSLPF offsets the costs for landowners to convey an easement, while the VLCF awards local governments, public bodies, and not-for-profits matching grants for the purchase of land that has cultural, historical, or environmental importance. State funding for the VLCF was suspended in 2001.

Recent growth management initiatives are the Virginia Coalition of High Growth Communities that advocated the transfer of development rights and one-time infrastructure fees, as well as the establishment of a Growth and Economic Development Commission in 2001 to address infrastructure, revitalization, and open space preservation.[3] LBJ School Survey results indicate that there has been a lack of gubernatorial leadership and state funding for conservation programs in recent years, while academic publications indicate that local governments often fail to use the growth management or open space preservation tools available.[4] LBJ School Survey suggestions for improvement include increased dedicated funding for land conservation efforts, greater powers for local governments in high-growth areas, and the creation of new and enforceable state growth policies.[5]

Notes

[1] A Dillon's rule state allows local governments to exercise only those powers expressly given or implied by the state legislature. A municipality in Virginia must look to the Virginia Constitution, statutes, and the municipal charter (granted by the General Assembly) for their legal powers. Many localities have appealed 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.

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

[3] Shelley S. Mastran and Donna Hanousek. "Virginia Policies that Contribute to Sprawl: An Agenda for Change. National Trust for Historic Preservation. August 2001. Online. Available: http://www.nationaltrust.org/issues/prince_report.pdf. Accessed: January 19, 2002.

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

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

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.[1]

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.[2] Its principal predecessors were the Planning Commission Act of 1935 and the Planning Enabling Act of 1959.[3]

Washington has a long tradition of interest in environmental protection, but the 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 the State Environmental Policy Act of 1971, requiring all state and local government agencies to develop procedures that consider environmental issues in their decision-making.[4]

Wetlands degradation and coastal erosion and flooding have accompanied population increases in Washington. In 1971 the Shoreline Management Act was established to protect Washington's coastal zone by requiring localities to integrate the issue into their planning and submit plans to the Washington Coastal Zone Management Program for consistency with state efforts.[5]

The first amendments to SEPA came in 1995, as the Department of Ecology added procedures to coordinate SEPA with the Growth Management Act by integrating it into the planning process. Subsequent amendments 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 process.

Washington's Office of Economic Development is the central state planning body, coordinating and reviewing plans made at the state, regional, and local levels. The Growth Management Act requires counties to create and 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 percent 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 percent in the previous 10 years.[6]

Primary implementation techniques required by counties 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 forestland protection measures.[7]

Notes

[1] The Senior Action Committee of the American Planning Association—Washington Chapter, *Planning in the 21st Century in Washington State—A Reconsideration of the Scope and Status of the Comprehensive Plan* (report to members of the Task Force on Planning for the 21st Century in Washington State, APA chapter conference, Yakima, Washington, October 2000), pp. 24-26. Revised January 9, 2001. Online. Available: http://www.washington-apa.org/. Accessed: May 23, 2002.

[2] 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.

[3] The Senior Action Committee of the American Planning Association—Washington Chapter, *Planning in the 21st Century in Washington State—A Reconsideration of the Scope and Status of the Comprehensive Plan* (report to members of the Task Force on Planning for the 21st Century in Washington State, APA chapter conference, Yakima, Washington, October 2000), pp. 31-32. Revised January 9, 2001. Online. Available: http://www.washington-apa.org/. Accessed: May 23, 2002.

[4] Ibid., pp. 26-29.

[5] Ibid., pp. 29-31.

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

[7] Ibid., pp. 42-54.

West Virginia

In the State of West Virginia, planning is addressed at the regional level with only a guiding role for the state government. This role is concentrated at the beginning of the regional planning process, but only to the extent that regional planning affects economic development.

In general, the West Virginia State Legislature empowers local governments to create regional planning councils that control planning and zoning within their jurisdiction.[1] These councils oversee the planning process and consult with municipalities before developing a comprehensive regional plan, which must include the elements of transportation and infrastructure. Collected by the governor's office, these plans 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, and one law, the Impact Fees and Local Powers Act (1990), enables the counties and regional planning councils to assess impact fees on developers. Beyond these laws and the Conservation and Preservation Easement Act, which encourages land conservation, the state has limited activity in growth management.

The lack of state-level growth management results, in part, from the commonly held belief in the state that West Virginia lacks growth, and therefore needs to seek growth whenever and wherever possible. Therefore, the state focuses its planning efforts on economic development, through the Governor's Development Office, and attempts to attract new and diverse industries.[2]

Notes

[1] American Planning Association, *Growing Smart—State Summary for West Virgina* (updated May 1996). Online. Available: http://www.planning.org. Accessed: March 27, 2002.

[2] Ibid.

Wisconsin

In the last ten years Wisconsin has implemented a variety of progressive approaches to managing urban growth and preserving open space. In 1999 Governor Thompson backed the implementation of comprehensive planning legislation (s. 66.1001) to encourage local governments to create land use plans that address various elements identified as integral to good planning. This statute, widely known as the Smart Growth law, mandates that after January 1, 2010, any action of a local government affecting land use must be consistent with its comprehensive plan. In addition, local governments are encouraged to further develop their plans with more sophisticated, integrated planning approaches with a competitive grant program. This ambitious program encourages 2,000 local entities to prepare plans that cover a range of planning elements that include housing, transportation, and agricultural, cultural, and natural resource preservation.

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 appeared, addressing agricultural land preservation, zoning, and other basic planning guidelines. At that time, the policies were functional with a focus on agricultural land preservation. Features such as minimum lot sizes attempted to discourage individuals from purchasing land too large for a single-family home and too small for a farm. By the 1980s the momentum diminished, and few new planning statutes were created or old statutes amended. At that time, the economy lagged, and the state shifted its attention from exploring land use issues.

In the 1990s the state experienced visible economic and population growth, particularly in the southeastern region and urban centers, which brought growth management and open space preservation to the attention of bureaucrats, legislators, and the governor. Features of previous land use policies were proving inadequate for the new growth patterns. Minimum lot sizes no longer discouraged home ownership as wealthy residents purchased 40-acre lots.[1] The state decided it needed to develop new and improved strategies.

The impetus behind Wisconsin's most progressive planning approach, the comprehensive planning statute, was a combination of factors. Visible population and economic growth occurred in the southeastern region of the state, which includes the city of Milwaukee. At the state level, agencies found their efforts were out of alignment with each other. A comprehensive plan would serve as method for designing plans that would coordinate the interests of several agencies under one shared planning vision. The extent to which the comprehensive plan is accomplishing interagency and intergovernmental coordination is debatable and to a large extent remains to be seen.[2] Nonetheless the architects of the plan strove to design a strategy that would motivate local governments to think about impacts outside their own borders and to consider the relationships between localities and agencies. The political culture of Wisconsin is grounded in local control for

governments, so to encourage thinking at a regional or even state level, financial incentives were utilized.[3]

The real driving force behind this statute, however, was not state-initiated. Several coalitions formed to promote more predictable development patterns. The coalitions included key legislators, builders, realtors, environmentalists, county and local government associations, academics, and planners.[4] 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, housing that would be identified as affordable housing. Localities were essentially engaging in exclusionary land use practices. This issue never entered the court system, and instead the real estate developers turned to the state for clarity on the issue.[5] Strangely enough, the developers and Smart Growth planners found they had one thing in common with other groups. They both wanted clear definitions on land use regulation. While the Smart Growth advocates were interested in determining which land could not be used for development, the real estate industry wanted to know which land could.[6]

The governor's support as an influential, long-term Republican enabled the legislation to receive support from a range of interest groups. Advocates for Smart Growth planning expect that with strong leadership, this Smart Growth framework can facilitate significant improvements in the state's land use practices. 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 design and implementation of these plans by the localities most strongly determines whether the plans will have an impact on land use practices.[7]

Notes

[1] Telephone interview by Karen Livingston with LBJ School Survey respondent, March 22, 2002.

[2] Ibid., March 20, 2002.

[3] LBJ School Survey interview, March 22, 2002.

[4] 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.

[5] LBJ School Survey interview, March 20, 2000.

[6] LBJ School Survey interview, March 22, 2000.

[7] 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.

Wyoming

In Wyoming, the state government does not directly address open space issues nor does it provide funds for open space management programs. In 1995, however, Governor Jim Geringer 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,[1] illustrating a growing awareness of the issue.

Wyoming is a vast state, with 50 percent of the land federally owned and much of its open space agriculturally oriented. Attracted to Wyoming's vastness and low taxes, a significant amount of land has recently been acquired and developed by wealthy individuals for residences or second homes. By developing this land, 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 legislation addressing this situation from being adopted. In fact, with the population opposing tax increases and expending revenue to preserve or manage open space, state governmental involvement in preservation is a low priority. For example, no assistance is available to the Department of State Parks and Urban Sites to expand existing sites or to preserve historic locations.[2]

LBJ School Survey respondents focused also on the environmental aspect of open space. The Wyoming Environmental Quality Act was created, and continuously updated, to control the various environmental-related activities in the state (mining; water; oil drilling). These same respondents perceive federal environmental law as being inconsistent with Wyoming's efforts, helping in some ways and actually hindering it in others.[3]

Two recent changes have occurred in the state. First is Governor Geringer's initiative.[4] This conference produced a comprehensive guidebook to help residents conserve Wyoming's open space. The guidebook is intended as a working document, to increase awareness of options available and to provide information about tools to help deal with these issues.[5] It outlines all the opportunities available to Wyoming residents with regard to open space.

Secondly, a number of conservancy agencies have initiated activities. These independent, nonprofit organizations include: The Nature Conservancy–Wyoming; the Jackson Hole Land Trust; the Green River Valley Land Trust; and the Wyoming Stockgrower's Agricultural Land Trust. These groups are well funded and are purchasing conservation easements as well as purchasing land to maintain as productive open space.

Notes

[1] 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.

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

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

[4] Governor Jim Geringer's Open Spaces Initiative, *Ways to Conserve Wyoming's Wonderful Open Land* (online).

[5] Ibid.

Appendix A. Categorization of State Policymaking Context

Over the course of this project on growth management and open space preservation, individual researchers became very well acquainted with the political context of policy development and implementation within individual states. One challenge faced by the research team was the identification of trends across states when in many ways a unique story was found within each state. Although the research team did not develop quantitative indicators that would allow a rigorous categorization (for the political processes in states was far too complex), an attempt was made to assess the level of growth management and open space policy initiatives with a concern placed on the evolution of practices. In the first section, the overall level of activity at the state level in this policy area is categorized. The following section attempts an assessment of the degree of legislative activity versus nongovernmental activity in growth management.

Categorizing the States

The LBJ School Survey results and information acquired from other sources indicated a significant range of activity across states. It was also discovered that several states had been involved in these issues for many decades while others had only recently significantly engaged in this policy area. Based on their research in a few states, team members Brad Gilmore and Karen Livingston proposed an emerging state category for those states that lacked a well-developed growth management system but demonstrated an effort to test new policies.

This concept of "emerging states" resonated with other team members. The benchmark state for this category was Tennessee. As described in Chapter 3, Tennessee has introduced legislation and initiatives that are unique and promising.

This discussion led to the identification of other categories of states. After extensive discussion of individual states, five categories were identified and states classified according the informed judgment of researchers responsible for individual states:

- **Dormant:** These are the states where there is no discernable interest, at the state government level, in the issue of open space management, sprawl issues, or any other issues covered in this project. Benchmark State was North Dakota.

- **Germinating:** Some interest has been raised and there might actually be some nongovernment activity or "controversial" legislation. Benchmark State was Wyoming.

- **Emerging:** These are those interesting states that originally caught the eye of the research team. Creative and innovative ideas are appearing. The sprawl problem has been recognized and the issue is being addressed. Benchmark State was Tennessee

- **Thriving:** These include states that have been active for many years. The topic of growth management and open space is a high priority and there is extensive activity at both the governmental level and nongovernmental level to address this issue. Benchmark State was New Jersey.

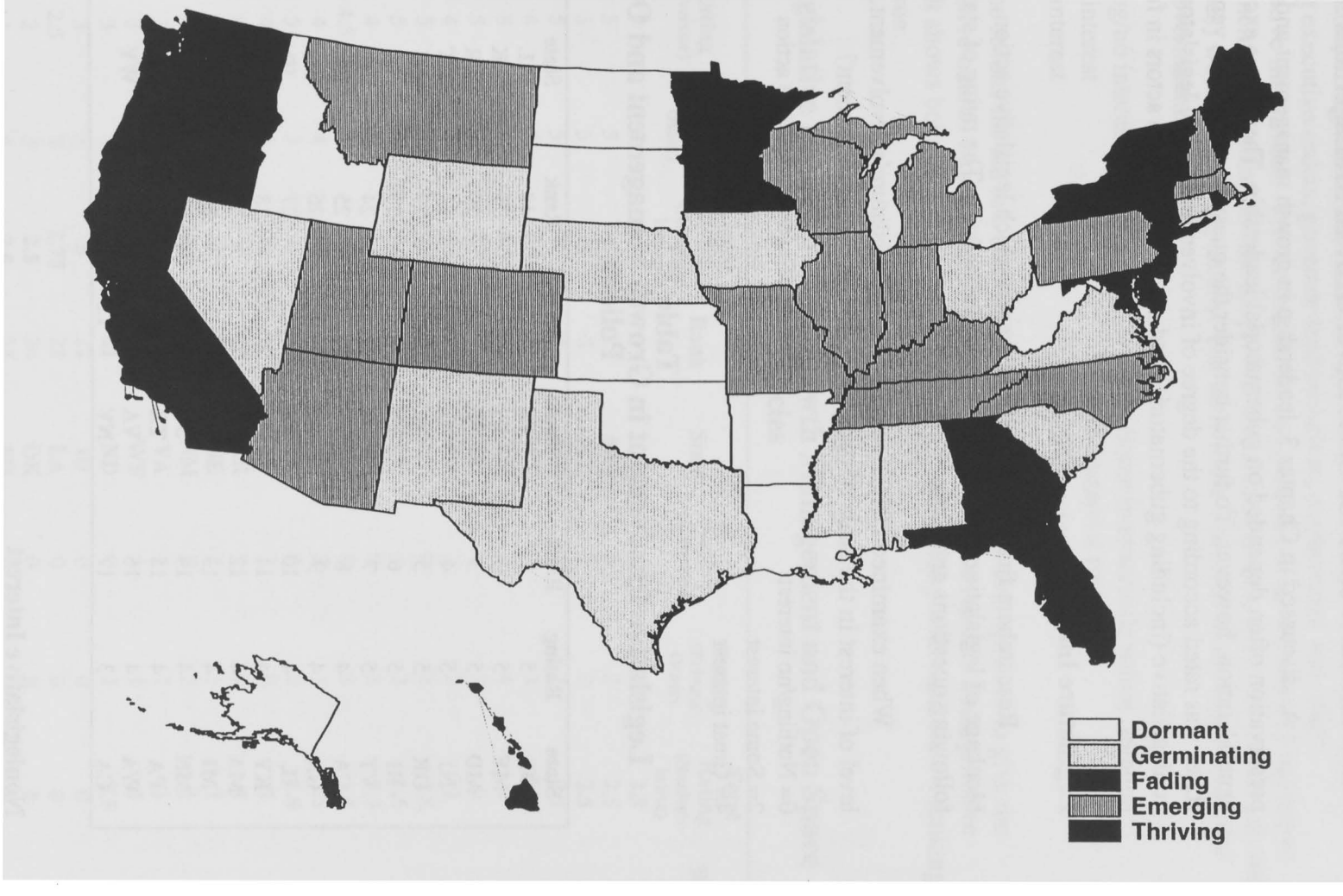
- **Fading:** Arguably the most controversial category, these are states with very substantial growth management and open space systems of long-standing but for a variety of reasons the systems seem to have become less effective or the issue now receives a lower priority. Benchmark State was Hawaii.

The results of this analysis and categorization produced the following:

Nine (9) Dormant states
Twelve (12) Germinating states
Fifteen (15) Emerging states
Twelve (12) Thriving states
Two (2) Fading states

An interesting aspect of the distribution across categories is the relative diversity of policymaking contexts and the spatial diversity (see Figure A.1) There were thriving states in coastal regions and in landlocked sections. Emerging states were in the east and the west. Germinating states were in farming regions and industrial areas. The two fading states were thousands of miles apart. Dormant states, while concentrated in the country's midsection, included eastern and western mountain states.

Figure A.1 State Categorization



The Political Venue for State Level Growth Management Activity

As discussed in Chapter 3, leadership in growth management and open space preservation often depended on gubernatorial leadership. There were exceptions to this generalization, however. To further consider the question of political venue, each of the states was rated according to the degree of involvement of state legislators and of nonlegislative (including gubernatorial and nongovernmental) actors in formulating state policies.

Legislature Interest

Researchers first analyzed the degree to which legislative action, by passage or blockage of legislation, could be observed (Table A.1). The rating of states utilized the following questions and scale:

When examined ONLY in terms of the legislature's involvement, what is the level of interest in the issue of open space and growth management?

0= Nothing/no interest
1= Some interest/little action
2= Some interest
3= Substantial interest
4= Great interest
5= High priority

Table A.1
Legislative Involvement in Growth Management and Open Space Policies

State	Rating	Rank	State	Rating	Rank	State	Rating	Rank
DE	5	1	FL	3	18	AL	1	35
ME	5	2	IN	3	19	AK	1	36
MD	5	3	NH	3	20	AR	1	37
NJ	5	4	NY	3	21	CT	1	38
OR	5	5	NC	3	22	HI	1	39
RI	5	6	TN	3	23	IA	1	40
VT	5	7	UT	3	24	NE	1	41
CA	4	8	WI	3	25	NM	1	42
GA	4	9	AZ	2.5	26	WV	1	43
IL	4	10	MS	2	27	ID	0	44
KY	4	11	MO	2	28	KS	0	45
MA	4	12	MT	2	29	LA	0	46
MI	4	13	OH	2	30	ND	0	47
MN	4	14	SC	2	31	OK	0	48
PA	4	15	TX	2	32	SD	0	49
WA	4	16	VA	2	33	WY	0	50
CA	3	17	NV	1.5	34			

Nonlegislative Interest

The next phase required assessment of political leadership in states from nonlegislative actors. After considerable debate among the research team, nonlegislative actors were found to be of two types: gubernatorial and nongovernmental (including the

private sector). The researchers rated the states first from the governor's perspective (including executive orders, governor lead initiatives, conferences, and other nonlegislative initiatives). Private initiatives and general public interest and initiatives sources (including popular initiatives, private trusts, local action, governor initiatives, and conferences) were assessed separately. The same scale was used for both gubernatorial and nongovernmental activity:

0= Nothing/no interest
1= Some interest/little action
2= Some interest
3= Substantial interest
4= Great interest
5= High priority

The results for the two nonlegislative questions were averaged out to give the nonlegislative overall rating. Table A.2 shows how each state rated in nonlegislative interest. It shows both perspectives and the overall rating along with each state's ranking on this issue.

Table A.2
Nonlegislative Involvement in Growth Management and Open Space Policies

State	Rating (Governor)	Rating (Private/ Other)	Total Rating (Nonlegis-lative)	Rank	State	Rating (Governor)	Rating (Private/ Other)	Total Rating (Nonlegis-lative)	Rank
MD	5	5	**5**	1	**IN**	4	1	**2.5**	26
OR	5	5	**5**	2	**MO**	3	2	**2.5**	27
UT	5	5	**5**	3	**MT**	2	3	**2.5**	28
VT	5	5	**5**	4	**OH**	3	2	**2.5**	29
CA	4	5	**4.5**	5	**WY**	1.5	3	**2.25**	30
DE	5	4	**4.5**	6	**FL**	0	4	**2**	31
GA	5	4	**4.5**	7	**IA**	1	3	**2**	32
IL	4	5	**4.5**	8	**TN**	2	2	**2**	33
NY	5	4	**4.5**	9	**AK**	0	3	**1.5**	34
PA	5	4	**4.5**	10	**KS**	1	2	**1.5**	35
RI	4	5	**4.5**	11	**MS**	0	3	**1.5**	36
NJ	4.5	4	**4.25**	12	**NV**	0	3	**1.5**	37
CA	4	4	**4**	13	**SC**	2	1	**1.5**	38
ME	5	3	**4**	14	**TX**	1	2	**1.5**	39
MA	4	4	**4**	15	**AL**	2	0	**1**	40
MN	4	4	**4**	16	**AR**	1	1	**1**	41
WA	4	4	**4**	17	**NE**	1	1	**1**	42
KY	4	3	**3.5**	18	**NM**	0	2	**1**	43
WI	3	4	**3.5**	19	**VA**	1	1	**1**	44
AZ	3	3.5	**3.25**	20	**WV**	1	1	**1**	45
MI	3	3	**3**	21	**ND**	0	1	**0.5**	46
NH	3	3	**3**	22	**ID**	0	0	**0**	47
NC	2.5	3	**2.75**	23	**LA**	0	0	**0**	48
CT	2	3	**2.5**	24	**OK**	0	0	**0**	49
HI	1	4	**2.5**	25	**SD**	0	0	**0**	50

The resulting ranking indicates that some states might be rated high on one factor but low on the other. Maine, for example, has high gubernatorial leadership but relatively

lower nongovernmental interest. Others, such as Florida and Hawaii (interestingly both are categorized as Fading states), have their nonlegislative interest derived largely from nongovernmental interests.

Overall Rating of the States

To confirm the initial categorization of states (Figure A.1), the results of the rating of states according to legislative and nonlegislative activity was contrasted with that of the categorization (see Table A.3).

Table A.3
Categorization and Ranking of States

Rank	State	Category	Legislative Rating	Governor/Non-legislative Rating	Overall Rating	Rank	State	Category	Legislative Rating	Governor/Non-legislative Rating	Overall Rating
1	Maryland	Thriving	5	5	**10**	**26**	Tennessee	Emerging	3	2	**5**
2	Oregon	Thriving	5	5	**10**	**27**	Missouri	Emerging	2	2.5	**4.5**
3	Vermont	Thriving	5	5	**10**	**28**	Montana	Emerging	2	2.5	**4.5**
4	Delaware	Thriving	5	4.5	**9.5**	**29**	Ohio	Germinating	2	2.5	**4.5**
5	Rhode Island	Thriving	5	4.5	**9.5**	**30**	Connecticut	Germinating	1	2.5	**3.5**
6	New Jersey	Thriving	5	4.25	**9.25**	**31**	Hawaii	Fading	1	2.5	**3.5**
7	Maine	Thriving	5	4	**9**	**32**	Mississippi	Germinating	2	1.5	**3.5**
8	California	Thriving	4	4.5	**8.5**	**33**	S. Carolina	Germinating	2	1.5	**3.5**
9	Georgia	Thriving	4	4.5	**8.5**	**34**	Texas	Germinating	2	1.5	**3.5**
10	Illinois	Emerging	4	4.5	**8.5**	**35**	Iowa	Germinating	1	2	**3**
11	Pennsylvania	Emerging	4	4.5	**8.5**	**36**	Nevada	Germinating	1.5	1.5	**3**
12	Massachusetts	Emerging	4	4	**8**	**37**	Virginia	Germinating	2	1	**3**
13	Minnesota	Thriving	4	4	**8**	**38**	Alaska	Dormant	1	1.5	**2.5**
14	Utah	Emerging	3	5	**8**	**39**	Wyoming	Germinating	0	2.25	**2.25**
15	Washington	Thriving	4	4	**8**	**40**	Alabama	Germinating	1	1	**2**
16	Kentucky	Emerging	4	3.5	**7.5**	**41**	Arkansas	Dormant	1	1	**2**
17	New York	Thriving	3	4.5	**7.5**	**42**	Nebraska	Germinating	1	1	**2**
18	Colorado	Emerging	3	4	**7**	**43**	New Mexico	Germinating	1	1	**2**
19	Michigan	Emerging	4	3	**7**	**44**	W. Virginia	Dormant	1	1	**2**
20	Wisconsin	Emerging	3	3.5	**6.5**	**45**	Kansas	Dormant	0	1.5	**1.5**
21	New Hampshire	Emerging	3	3	**6**	**46**	N. Dakota	Dormant	0	0.5	**0.5**
22	Arizona	Emerging	2.5	3.25	**5.75**	**47**	Idaho	Dormant	0	0	**0**
23	N. Carolina	Emerging	3	2.75	**5.75**	**48**	Louisiana	Dormant	0	0	**0**
24	Indiana	Emerging	3	2.5	**5.5**	**49**	Oklahoma	Dormant	0	0	**0**
25	Florida	Fading	3	2	**5**	**50**	S. Dakota	Dormant	0	0	**0**

The results show a strong correlation between the category a state received and its overall rating. There are some states whose ratings bring them into a neighboring category. For instance New York, which is a Thriving state, has a rating of 7.5 and is below Utah's (an Emerging state) rating of 8. But this is logical since each state's

history, aggressiveness, and overall approach on growth management and open space issues differ.

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