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CURRENT STATUS OF STATE AND FEDERAL LAND USE LEGISLATION

(Portions of the following are reprinted from the University of Nebraska Agricultural Economics Newsletter written by Paul Gessaman, Extension Economist.)

Two land use bills, which failed to pass the 1974 session of the State legislature have been re-introduced (with some changes) in the present term. These bills are popularly called "Critical Areas" and "Soil Erosion and Sediment Control."

The critical areas bill sets up a procedure for the designation of particular areas of "Statewide concern." Eleven different categories of land areas which might be deemed to be of more than local concern such as flood plains, wilderness areas, and the like are named in the bill. No specific sites are listed. Final designation would be made by the legislature itself after a nomination procedure, public hearings and review by the State Planning Bureau. Final designation would involve development controls on the designated area by the local planning and zoning authorities.

The soil erosion and sediment control bill is designed to prevent excess erosion due to soil-disturbing activities from both agricultural practices and development activities such as highway building or building-site preparations. The bill empowers the State Conservation Commission to establish State-wide guidelines followed by the establishment of local guidelines and conservation standards by the local Soil and Water Conservation District. Permits would be required only for land development activities.

Basic to both of these proposed measures is the question of State vs. local control, although the degree to

which the power of State government would be exercised in the two bills may differ. Another philosophic conflict is the question of individual property rights as opposed to the rights of society as a whole.

Should the State exercise control over development on critical areas and on soil disturbing activities? What are, or should be, the limits of individual property owners' rights? These are questions your legislators will ponder in the ensuing weeks.

Reports from Washington indicate the newly convened Congress is exhibiting a somewhat lower level of interest in land use legislation than was true of the last Congress. Advocates of the enactment of land use legislation are reported as becoming more willing to compromise. While no definite actions have been taken at this time, interest in land use legislation issues appears to be shaping up about as follows:

The Ford administration continues to examine the desirability of proposing an administration land use bill. Federal agencies have been asked for comments and attempts have been made to reach agreement on the provisions of a proposed bill. So far no consensus has been reached.

The President's State of the Union speech indicated no new spending programs would be undertaken this year. Land use bills of previous years have relied upon the "leverage" of Federal funding as a means of ensuring cooperation by the states. If no new spending is to occur, the administration may find it difficult

or impossible to write a land use bill that would have any real effectiveness.

Comments on a draft version of the Department of Interior's land use bill have been critical of its lack of environmental orientation. Some environmental groups are considering drafting their own bill, but no definite action has been taken. Federal agencies other than HUD (Department of Housing and Urban Development) are generally supporting Interior's bill. HUD's opposition is based on its desire to be (assigned under the 701 program) the responsibility for land use planning - which is not a part of the Department of Interior bill.

Senator Henry Jackson has not re-introduced a S.B. 268, his previous land use bill, and has given no firm indication of whether he intends to do so.

Representative Morris Udall has not yet introduced a land use bill, though it is reported that he definitely intends to do so. When introduced it will probably closely resemble H.R. 10294, his land use bill which was rejected last year by the House of Representatives. Some compromise provisions that were considered last year may be incorporated into this year's version.

If this occurs, the role of local decision-making would be strengthened and restrictions or requirements placed on developers would be weakened.

Senator Jackson and Representative Udall have each re-introduced the same strip mining bill that was passed by Congress last year and was vetoed by President Ford. Representative Udall had more than 85 co-sponsors indicating rather widespread support for this legislation.

Attention paid to land use issues appears to have diminished as inflation and energy problems have come to the forefront of congressional attention. Similarly, the administration appears to be concentrating its efforts on economic and energy issues and has not yet taken a position on land use. However, there is a close relationship between energy problems, strip mining and land use planning. This suggests legislation related to energy policy or strip mining could have implications for land use throughout the United States.

Citizens will be well advised to keep informed about the provisions of legislative proposals in these areas, and to express their opinions of these proposals to their State and Federal legislators.

Galen Kelsey, Extension Resource Development Specialist

AGRI-BUSINESS DAY, Tuesday, April 1

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