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# Summary

# Briefly - - - This Report Says

**BUDGET**

With the recognition of the need for constant legislative attention in the budgetary process, the Subcommittee on Budget was created within the Legislative Research Committee to provide the opportunity to review the Executive Budget and conduct other studies and projects of interest to the members prior to the meeting of the Legislative Assembly.

Pursuant to legislative resolution, a study was made of the institutional farm operations in the State. The Committee recommends that the farm operations, except for the vegetable gardening at the Industrial School, and the farm operations at the Soldiers' Home be discontinued and that certain properties at these two institutions and the Penitentiary be sold at public auction. The Committee also recommends that the remaining farm operations be coordinated by the Board of Administration to develop the most efficient and economical operations possible considering the therapeutic needs of the institutions' residents.

Also pursuant to legislative resolution, the Committee studied the student scholarship and aid programs available to students in this State. The Committee recommends that the State implement a guarantee loan program to be administered by the Bank of North Dakota whereby the State, with assistance from the Federal Government, would insure loans made by lending agencies to eligible students. In addition, the Committee recommends that the present student scholarship loan program under the department of public instruction be discontinued, and that the funds available to this program be transferred to a special fund for the guarantee of loans under the new program.

Other studies which resulted in recommendations for the improvement of efficiency and economy in State government related to the North Dakota State University Experiment Stations, State Hospital, Public Welfare Board, Judge A. M. Christianson project, new programs at the colleges and universities, and Federal aid. In addition, study groups were appointed to make visitations to all of the charitable, penal, and educational institutions in the State to acquaint the members with the operations of these institutions and any special problems which these institutions will be presenting for consideration to the next session of the Legislature.

Since the Executive Budget Office does not, under the law, submit its budget early enough for the Committee's review to be included within this report, the Committee's recommendations relating to the executive budget will be distributed as a supplement at a later date.

## DATA PROCESSING

The Committee selected Arthur Andersen and Company, a national accounting firm experienced in data processing, to prepare a plan for an integrated data processing system for the State of North Dakota. After reviewing the data processing programs in the various departments, the consultants developed a plan for an integrated data processing system.

The Committee recommends that the Arthur Andersen and Company "State of North Dakota Plan for an Integrated Data Processing System, February 1968" be implemented. The major recommendation in the consultant's report is for the establishment of a Central Office of Data Processing within the Department of Accounts and Purchases. This central office would be in lieu of small computer installations in each of the departments and agencies of government. The services to be provided by this office would include both staff and equipment capability.

The data processing services to be made available would be superior to those available under the non-integrated system. In addition, substantial cost savings would be achieved. Annual clerical and equipment savings resulting from this approach should exceed $400,000.

The Committee did not study in depth the data processing needs of higher education. Since there does not exist a plan for an overall data processing program for the colleges and universities and, since it appears that a greater degree of capability, efficiency, and economy can result from the development of such a program, it is recommended that during the next biennium the Legislative Research Committee be directed to develop an overall plan for a higher education integrated data processing system.

## EDUCATION

### Vocational Education Study

To familiarize the Committee with the scope and extent of vocational and technical education programs available in the State and to provide a basis of comparison with vocational programs outside of the State, Committee representatives toured the vocational education facilities at the Bismarck, Devils Lake, and Williston community colleges, the State School of Science at Wahpeton, and several Minnesota area vocational-technical schools as well as secondary vocational programs at Dickinson and Fargo South high schools. An analysis of these programs is contained in the main body of the report. Testimony and reports received by the Committee indicated a need for expanded training programs in basic vocational skills accessible to students on an area or regional basis. It was further indicated that such programs should be available at the post-secondary level and should be terminal in nature. The Committee therefore recommends a bill appropriating $500,000 to the Board for Vocational Education for expansion of post-secondary vocational and occupational training programs within existing facilities at the community colleges at Bismarck, Devils Lake, and Williston.

### Elementary and Secondary Education

The Committee considered several aspects of elementary and secondary education, not the least of which was the Statewide Study of Education authored by the University of North Dakota study team headed by Dr. Kent Alm. The Statewide Study was completed and in the hands of the Committee too late for in-depth consideration during this interim period; however, in the time available, the Committee did determine that replacing the county school district reorganization committee system with a regional concept, and broadening the powers of the State Reorganization Committee would be feasible for legislative implementation.

Several reorganization related bills are recommended. Of these bills, the most significant provides for regional reorganization committees and broadens the authority of the State Reorganization Committee in regard to regional reorganization plans which are required to be submitted to the State committee by the regional committees by July 1, 1972. Two other bills related to reorganization require that all land be placed in an accredited high school district and declare a four-year moratorium on certain school district construction projects.

Recent parochial school closings and the constant enrollment increases from year to year experienced by larger school districts prompted the Committee to consider the effect of the present procedure for calculating foundation aid payments to school districts. Now, payments are based upon enrollment for the previous school year, and this works a serious hardship on those school districts which must absorb a substantial enrollment increase. A bill is therefore recommended providing for payments to be based upon current school enrollment.

To facilitate consideration of the school construction fund by the State Board of Public School Education, a bill is recommended changing the quorum requirement on such matters from the full membership of the board to five members.

## FINANCE AND TAXATION

The greater part of this study involved an attempt to find a method whereby severed mineral interests could be constitutionally taxed. After considerable research in this field, it was decided that North Dakota Supreme Court pronouncements by which two previous severed mineral taxing Acts had been struck down, were a complete bar to the enactment of a tax that would both meet the constitutional requirement set down by the court, and serve to activate neglected interests. The Committee does recommend the adoption of an Act providing for the custody of abandoned severed mineral interests by the State, believing that these interests can best be handled in this manner. The Act would also apply to abandoned personal property, and could thus be expected to generate a considerable amount of non-tax revenue. The Committee has prepared legislation based on the Uniform Disposition of Abandoned Property Act, which has been enacted by a number of states in recent years.

Methods were also studied whereby property taxes could be limited to a percentage of market value in order to provide tax equalization on a

statewide basis. While inequalities were shown to exist in the present taxing structure, the Committee recommends no action be taken at the present time, as the decrease in local tax revenue that could result from such limitations could have serious effects on those political subdivisions that have fixed expenses which must be met. The Committee found that the inequity is created by improper assessments at the local level and believes that any curative action must likewise be made at the local level.

The Multistate Tax Compact was also examined during the interim. The Committee believes that tax laws in North Dakota have kept pace with modern trends in this field, and in this respect are not contributing to the evils at which Federal legislation is aimed. Consequently, a recommendation to adopt the Multistate Tax Compact has not previously been made. It is the Committee's opinion that this subject deserves further study with the thought that adoption of the Compact might serve to add impetus to the growing demand voiced by the states that the Federal Government not intervene in those matters that have been traditionally left to state action.

## INDUSTRY AND BUSINESS

The Committee carried out extensive study of the possible methods of creating incentives to industry to locate or expand within the State. As a result of this effort, the Committee is recommending two bills providing for tax exemptions as incentives to industrial development. The first bill amends a section of the Municipal Industrial Development Act which had provided a mandatory tax exemption to projects financed by Industrial development bond. The amendment would allow the tax exemption at the option of the project management. The second bill permits cities or counties to grant five-year ad valorem tax exemptions, with the approval of the State Board of Equalization to industrial development projects financed privately by the developer. Such tax exemptions would be granted after negotiation with the city or county, and could be partial or complete. A five-year income tax exemption could also be granted with the approval of the State Board of Equalization.

## JUDICIARY

### Home Rule Study

The study of home rule included a review of home rule powers as exercised in other States, the prospective application of the rather unique concept of home rule granted by the North Dakota Constitution, a survey of certain cities to determine the desires of city officials in regard to home rule, and periodic consultation with representatives of the League of Municipalities for their comments during the preparation of the home rule bill draft. The recommended bill provides authority for cities of 100 or more population to adopt a home rule charter and thereafter to govern themselves under the broader powers granted in the bill. The charter would be prepared and proposed by a charter commission appointed by the governing body of the city, and adoption would be dependent upon a majority vote of the qualified electors of the city. The powers granted to the home rule city, to the extent that they may be included in the charter and implemented through ordinances, include all of the powers now enjoyed by cities under present State law, as well as broader fiscal power.

### Eminent Domain Study

The Committee, with the cooperation of representatives of the State Highway Department, surveyed the present eminent domain laws and determined that some sections of the law had become inapplicable where in conflict with Section 14 of the Constitution. In other areas, it appeared that administrative procedures could be updated and that certain terms, pertinent to eminent domain proceedings, could well be defined by statute. The Committee heard testimony by a private attorney engaged in substantial eminent domain practice who generally favored amending the inapplicable sections but retaining unchanged the remaining eminent domain laws. The substance of the recommended bill was submitted by the representatives of the Highway Department as their approach to effecting necessary modernization of the eminent domain laws.

## LEGISLATIVE PROCEDURE AND ARRANGEMENTS

Because the Committee is authorized by law to make all necessary arrangements for the Legislative Session as well as recommendations to ensure the smoothest possible functioning of the Legislative Assembly, the Committee has made recommendations and has taken action in numerous areas.

### Amendments to Rules

The Committee recommends numerous rules changes designed to streamline legislative procedure. Among the more important changes are: provision for use of a consent calendar to speed passage of non-controversial bills; establishment of new committee schedules to allow more time to the Appropriations and Finance and Taxation Committees of both Houses; provision for pre-filing of bills in the Legislative Research Committee staff offices; and shortening the time allowed for introduction of bills and crossover of bills in light of the recommendation to stop counting Sunday as a legislative day. The deadline for introduction of bills would be shortened from 20 to 19 calendar days.

### Recommended Legislation

In order to provide written standards of legislative conduct and a body capable of answering ethical questions, the Committee recommends a bill creating a legislative code of ethics and a Joint Committee on Legislative Conduct. The Committee also recommends a bill to change the name of the Legislative Research Committee to Legislative Council, and to codify some of the duties which the Committee is already carrying out. In order to recognize both the rights of witnesses and the prerogatives of legislative investigating committees, the Committee recommends a bill setting out standards of fair conduct for legislative investigating committees. It recommends a bill to create a Legislative Compensation Commission in an attempt to equitably solve the problem of how to adjust legislators' compensation. A resolution calling for a study of the feasibility and cost of establishing a recessed plan is recommended, and, finally, the Committee recommends a bill amending chapters 54-03 and 54-03.1 to conform such chapters to the fact that the December organizational session is now a constitutionally recognized Legislative Session.

**Action Taken**

The Committee has ordered the semi-circular foyers behind each legislative chamber to be carpeted, as well as the aisles and the rostrum. It has also purchased new chairs for use by individual legislators on the floor of each House and has provided for the refurbishing of desks in the Chamber. A bill providing that legislators shall have first chance to buy their old chairs is recommended. The Committee has also drafted an agenda for the organizational session which, if followed, should result in complete organization of the Legislature prior to the opening of the regular session. The Committee makes numerous other recommendations, and reference should be made to the Legislative Procedure and Arrangements portion of this report for more details as to these recommendations.

## NATURAL RESOURCES

During the interim, the Committee conducted a study of strip mining practices in North Dakota in order to determine whether lands subject to mining are being affected to such an extent as to make mandatory reclamation advisable. The Committee found that approximately 7,000 acres of land has been strip mined over the years, only a minute amount of which has been reclaimed through voluntary methods.

The Committee viewed at first hand the undesirable effects of this method of mining minerals, and heard reports prepared on the subject of the ability of the lignite coal industry to economically support a rehabilitative program. Also, considerable testimony was received from landowners, mineral operators, and representatives of State agencies in regard to the direction any proposed legislation should take.

The Committee recommends legislation that would provide for the licensing of mining operators for specific tracts of land, and would require that a reclamation plan and performance bond be filed. Permit fees would be charged the operator to help defray the cost of administering the program.

Throughout the course of the study, the Committee has recognized the necessity for planned rehabilitation of strip mined lands, especially in those counties where lignite coal mining is carried on.

## STATE AND FEDERAL GOVERNMENT

The Committee carried out studies of the investment practices of all public funds of the State and found that they were in relatively good order and were being improved in certain areas; therefore, the Committee recommends a resolution calling for a study of the feasibility of merging the State Employees' Retirement Fund, the Teachers' Insurance and Retirement Fund, and the Highway Patrolmen's Retirement Fund into one retirement fund. The Committee determined that it was feasible to extend the coverage of the State Employees' Retirement System to include county and city employees and, therefore, recommends a bill which would accomplish this and would remove the ceiling on the amount which the employer contributes, on behalf of each employee, to the retirement fund. The bill also provides for an additional tax levy, with the approval of the voters of the political subdivision, to cover the cost of the employer's contribution obligation.

Pursuant to Senate Concurrent Resolution "PPP", the Committee studied the feasibility of adopting a merit system for all State employees. The Committee determined that an employee position classification system was a prerequisite to any complete personnel system and recommends a bill which would create such a system and which would establish a personnel division within the Office of the Budget to continually supervise the classification system. At this time, the Committee makes no recommendation regarding a statewide merit system.

Finally, the Committee recommends two bills concerning the subject of juvenile delinquency. The first would prohibit criminal courts from sentencing 18 to 21-year-old juvenile offenders to the State Industrial School, and would provide that any sentence of other offenders to the Industrial School has to be until the defendant reaches age 21. The second bill establishes a Central Youth Authority within the Public Welfare Board. The bill permits sentencing judges to commit to the custody of the Youth Authority as an alternative to the means already at their disposal. The Youth Authority would then screen the offender and place him in the proper rehabilitative setting, including an out-of-State institution if that is deemed necessary.

## TRANSPORTATION

### Motor Vehicle Inspection

The highway safety standard in this category promulgated by the Department of Transportation pursuant to the Highway Safety Act of 1966, constituted the frame of reference for the Committee study of motor vehicle inspection. In effect, the standard requires periodic motor vehicle inspection although there is some indication by the wording of the standard that other programs might be acceptable if they resulted in substantially reduced traffic accident statistics. The Committee spent considerable time and effort in an attempt to formulate a workable and acceptable alternative program to periodic inspection. However, considering all factors bearing on this aspect of highway safety and their application to this State, the Committee, with some reservations, recommends a bill providing for periodic motor vehicle inspection under the administration of the Highway Patrol.

### Other Areas of Highway Safety

The Committee used twelve other highway safety standards promulgated by the Department of Transportation as a guide to its general study of highway safety. A staff review of North Dakota programs and laws indicated that no major deficiencies existed in these fields, when compared to the Federal highway safety standards, although periodic review appeared to be necessary. In other areas of highway safety covered by the standards, the need for legislative action was fairly apparent. Accordingly, bills are recommended: requiring eye protection for motorcycle operators; requiring classroom and laboratory instruction in driver education for high school accreditation; regulating commercial driving schools; requiring proof of date and place of birth with an original application for a driver's license; and requiring re-examination for visual acuity every four years for all applicants for license or renewal except those between the ages of 21 to 44.

The Committee heard several times from the State Toxicologist in regard to his analysis of blood samples of motor vehicle accident victims. To complete the study of highway safety, the Committee considered the status of emergency medical services and determined that no statewide, coordinated program existed in this area and, pending completion of a statewide survey in this field by other State agencies, no action was recommended.

# Report of the North Dakota Legislative Research Committee

**Pursuant to Chapter 54-35 of the North Dakota Century Code**

Forty-first Legislative Assembly
1969

# North Dakota Legislative Research Committee

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# LEGISLATIVE RESEARCH COMMITTEE

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DEAN F. BARD
ASSISTANT COUNSEL

January 3, 1969

The Honorable William L. Guy
Governor of North Dakota

Members, Forty-first Legislative Assembly
of North Dakota

Pursuant to law, we have the honor to transmit to you the report and recommendations of the Legislative Research Committee to the Forty-first Legislative Assembly.

This report includes the findings of the Legislative Research Committee in the fields of budget, data processing, vocational education, elementary and secondary education, finance and taxation, economic development incentives, home rule, eminent domain, legislative procedure and arrangements, rehabilitation of coal mining areas, merit system, public employees' retirement, and highway safety. In addition, you will find a short explanation of all bills being introduced by the Legislative Research Committee.

Respectfully submitted,

George M. Unruh

George M. Unruh
Chairman

North Dakota Legislative
Research Committee

"Buy North Dakota Products"

# History and Functions of Legislative Research Committee

## HISTORY OF THE COMMITTEE

The North Dakota Legislative Research Committee was established by Act of the 1945 Legislative Assembly.

The legislative research committee movement began in the State of Kansas in 1933 and has now grown until 44 States have established such interim committees.

The establishment of legislative research committees is a result of the growth of modern government and the increasingly complex problems with which legislators must deal. Although one may not agree with the trend of modern government in assuming additional functions, it is, nevertheless, a fact which the legislators must face. There is a growing tendency among legislators of all States to want the facts and full information on important matters before making decisions on spending the taxpayers' money.

Compared with the problems facing present legislators, those of but one or two decades ago seem much less difficult. The sums they were called upon to appropriate were much smaller. The range of subjects considered was not nearly so broad nor as complex. In contrast with other departments of government, however, the Legislature in the past has been forced to approach its deliberations without records, studies, or investigations of its own. Some of the information that it has had to rely upon in the past has been inadequate and occasionally it has been slanted because of interest. To assist in meeting its problems and to expedite the work of the session, the legislatures of the various States have established legislative research committees.

The work and stature of the North Dakota Legislative Research Committee has grown each year since it was established in 1945. Among its major projects since that time have been revision of the House and Senate rules; soldiers' bonus financing; studies of the feasibility of a State-operated automobile insurance plan; highway engineering and finance problems; oil and gas regulation and taxation; tax assessment; drainage laws; reorganization of State education functions; highway safety; business and cooperative corporations; Indian affairs; licensing and inspections; mental health and mental retardation laws; public welfare; credit practices; elementary and secondary education and higher education; special State funds and nonreverting appropriations; homestead exemptions; governmental organization; minimum wages and hours; life insurance company investments; partnerships; republication of the North Dakota Revised Code of 1943; legislative organization and procedure; securities; capitol office space; welfare records; revision of motor vehicle laws; school district laws; investment of State funds; mental health program; civil defense; tax structure; school district reorganization; school bus transportation; corporate farming; Indian affairs; legislative post audit and fiscal review; water laws; constitutional revision; and county government reorganization.

Among the major fields of studies included in the work of the Committee during the present biennium are: budget procedures; farming operations at State institutions; scholarship loan program; State data processing system; vocational education; school district reorganization; home rule; eminent domain; legislative procedure; reclamation of strip mined lands; merger of State retirement funds; and highway safety.

In addition, many projects of lesser importance were studied and considered by the Committee, some of which will be the subject of legislation during the 1969 session of the Legislature.

## FUNCTIONS OF THE COMMITTEE

In addition to making detailed studies which

are requested by resolution of the Legislature, the Legislative Research Committee considers problems of statewide importance that arise between sessions or upon which study is requested by individual members of the Legislature and, if feasible, develops legislation for introduction at the next session of the Legislature to meet these problems. The Committee provides a continuing research service to individual legislators, since the services of the Committee staff are open to any individual Senator or Representative who desires specialized information upon problems that might arise or ideas that may come to his mind between sessions. The staff of the Committee drafts bills for individual legislators prior to and during each legislative session upon any subject on which they may choose to introduce bills. In addition, the Committee revises portions of our Code which are in need of revision and compiles all the laws after each session for the Session Laws and the Supplements to the North Dakota Century Code.

In addition to providing technical accounting assistance to the Subcommittee on Budget, the Legislative Budget Analyst and Auditor assists the Legislative Audit and Fiscal Review Committee by analyzing all of the audit reports prepared by the State Auditor and by conducting any other studies which the Legislative Audit and Fiscal Review Committee wishes to initiate in its program to improve the fiscal administration procedures and practices of State government. Also, during the interim, the Legislative Research Committee staff provides stenographic and bookkeeping services to the Legislative Audit and Fiscal Review Committee, the Capitol Grounds Planning Commission, the Personal Property Tax Commission, and the Special Committee on Electrical Services.

## METHODS OF RESEARCH AND INVESTIGATIONS

The manner in which the Committee carries on its research and investigations varies with the subject upon which the Committee is working. In all studies of major importance, the Committee has followed a practice of appointing a subcommittee from its own membership and from other members of the Legislature who may not be members of the Legislative Research Committee, upon whom falls the primary duty of preparing and supervising the study. These studies are in most instances carried on by the subcommittees with the assistance of the regular staff of the Legislative Research Committee, although on some projects the entire Committee has participated in the findings and studies. These subcommittees then make their reports upon their findings to the full Legislative Research Committee which may reject, amend, or accept a subcommittee's report. After the adoption of a report of a subcommittee, the Legislative Research Committee as a whole makes recommendations to the Legislative Assembly and, where appropriate, the Committee will prepare legislation to carry out such recommendations, which bills are then introduced by members of the subcommittee.

During the past interim, the Committee, by contract, obtained the services of the Bureau of Business and Economic Research at the University of North Dakota, College of Education of the University of North Dakota, Department of Agricultural Economics at North Dakota State University, and Arthur Andersen and Company. In all other instances, the studies carried on by the Legislative Research Committee during this interim were handled entirely by the subcommittee concerned and the regular staff of the Committee. On certain occasions, the advice and counsel of other people employed by the State, Federal, and local governments and various professional associations have been requested and their cooperation obtained.

## REGIONAL MEETINGS AND INTERSTATE COOPERATION

The Legislative Research Committee is designated by statute as the State's committee on interstate cooperation. The most important and noteworthy activity of the Committee in this field has been through the Midwestern Regional Conference and the Four-State Legislative Conference, both of which held meetings in North Dakota during the biennium.

# Reports and Recommendations

## BUDGET

Senate Bill No. 222 of the Thirty-ninth Legislative Assembly directed the Legislative Research Committee to create a special Subcommittee on Budget to which the Director of the Budget would present the budget and revenue proposals recommended by the Governor. The law requires the budget data to be complete and made available to the Legislative Research Committee's Subcommittee on Budget in such form as may be acceptable to it by December first of each year next preceding the session of the Legislature. The Chairman of the Legislative Research Committee's Subcommittee on Budget is required to set the time and place at which such budget data is to be presented.

Members serving on the Subcommittee on Budget are: Representatives Robert F. Reimers, Chairman, Oscar Solberg, James L. Connolly, Leonard J. Davis, Lawrence Dick, M. E. Glaspey, Clark J. Jenkins, L. C. Mueller, James A. Peterson, Bryce Streibel, Kenneth Tweten, Vernon E. Wagner and Gerhart Wilkie; Senators Edwin C. Becker, Earl Kelly, Richard Larsen, Lester Larson, Evan E. Lips, C. Warner Litten, A. W. Luick, Robert Melland, Dave M. Robinson, Oscar J. Sorlie, Carrol Torgerson, Frank Wenstrom and I. J. Wilhite.

The Governor, through his Budget Office recommends fiscal and program policies to the Legislature by the submission of his executive budget and through the presentation of legislation, both tax and appropriation measures, to the Legislature. The Governor's role in proposing fiscal and program policy is generally accepted in the United States as a function of the Chief Executive.

During the sixty days when the Legislature meets, the Appropriations Committees do not have time to adequately analyze the executive budget with special reference to sources of revenue, trends in governmental spending and finance, policies followed and inconsistencies in such policies, and proposed new or substantially expanded or reduced areas of spending, or to actually visit State agencies, departments, or institutions to review their needs, or to conduct studies that are of special interest to the Legislature involving the budgetary process in the State. It is the function of the Subcommittee on Budget to perform some of these legislative responsibilities during the interim between regular legislative sessions.

In consideration of the many areas of study confronting the Subcommittee on Budget, an organizational pattern was developed whereby special projects would be assigned to study groups. Through this procedure, it was possible for the Subcommittee to review a number of budget-related problems during the biennium in addition to completing the two studies assigned to it pursuant to legislative resolutions. At the organizational meeting, the Chairman appointed four study groups, each of which was assigned the responsibilities of visiting different institutions, to gain information that would be of assistance to the Appropriations Committees during the next legislative session.

The study groups created during this biennium were:

**Study Group on Student Scholarships and Aids**

Senators C. Warner Litten, Chairman
Robert Melland
Representative Gerhart Wilkie

**Study Group No. 1**

Representatives Oscar Solberg, Chairman
James L. Connolly
Bryce Streibel
Senators Earl Kelly
C. Warner Litten
A. W. Luick

The members of this Study Group toured the Tuberculosis Sanatorium, San Haven; School for the Deaf, Devils Lake; Lake Region Junior College, Devils Lake; University of North Dakota, Grand Forks; School for the Blind, Grand Forks; and School of Forestry, Bottineau.

**Study Group No. 2**

Senators Frank Wenstrom, Chairman

H. O. Beck
Robert Melland
I. J. Wilhite
Representatives James A. Peterson
Vernon E. Wagner
Gerhart Wilkie

The members of this Study Group toured the North Dakota State University, Fargo; Mayville State College, Mayville; UND Ellendale Center, Ellendale; State School of Science, Wahpeton; Valley City State College, Valley City.

**Study Group No. 3**

Senators Oscar J. Sorlie, Chairman
Richard Larsen
Evan E. Lips
Representatives Lawrence Dick
Clark J. Jenkins
L. C. Mueller

The members of this Study Group toured the UND Williston Branch, Williston; Dickinson State College, Dickinson; Bismarck Junior College, Bismarck; Minot State College, Minot.

**Study Group No. 4**

Representatives Leonard J. Davis, Chairman
M. E. Glaspey
Kenneth Tweten
Senators Edwin C. Becker
Lester Larson
Dave M. Robinson
Carrol Torgerson

The members of this Study Group toured the State Industrial School, Mandan; State Farm and State Penitentiary, Bismarck; State Hospital, Jamestown; Soldiers' Home, Lisbon; Grafton State School, Grafton.

**Study Group to Study Experiment Station Budget Procedures**

Representatives O. Solberg, Chairman
Robert Reimers
Vernon Wagner
Senators H. O. Beck
C. Warner Litten
Dean Arlon G. Hazen
Mr. Howard Olson
Mr. Ralph Dewing
Mr. Dale Moug

**Study Group to Study Therapeutic Tank Project at State Hospital**

Senator Robert Melland
Representative Leonard Davis
Henry LaHaug, Administrator, State Hospital
Willis Van Heuvelen, Executive Director, State Health Department
John Greenslit, Director, State Outdoor Recreation Agency
Dale Moug, Executive Budget Analyst

**Study Group to Study Welfare Costs at Nursing Homes**

Senators Oscar Sorlie, Chairman
C. Warner Litten
Representatives Oscar Solberg
Lawrence Dick
Vernon Wagner
Brynhild Haugland

During this biennium, the Subcommittee was assigned two studies pursuant to resolutions passed by the Fortieth Legislative Assembly. Senate Concurrent Resolution "HHH" provided for a study of the farm operations at the various charitable and penal institutions, and Senate Concurrent Resolution "FFF" called for a study of the various state scholarship and loan funds administered by the State.

## STATE INSTITUTIONAL FARMING OPERATIONS

The study of state institutional farm operations was assigned to Study Group No. 1. As a basis for the evaluation of the farm operations, financial information was provided by the Board of Administration and, in addition, the study group toured each of the farm operations. At each institution, the study group consulted with both the superintendent of the institution and the farm manager. Each operation was evaluated in terms of economy to the State, its method of operation, and the therapeutic value of the operation to the institution's residents. On the basis of the financial information provided the study group and the

knowledge gained from the tours, the following recommendations were accepted by the Committee:

1. Direct the State Industrial School to discontinue its farm operations, except for the vegetable gardening, and to dispose of its farm land and equipment.

2. Direct the State Penitentiary to sell certain urban pressure land, discontinue its cattle feeding operation, discontinue the leasing of land, except where security is impaired, and sell its surplus property.

3. Authorize the State Hospital to exchange land for other property adjacent to the hospital, and direct the State Hospital to expand its beef operations to supply other charitable and penal institutions with beef.

4. Direct the Soldiers' Home to discontinue its farming operations and dispose of surplus property and the farmland west of Lisbon.

5. Direct the Board of Administration to coordinate and manage institutional farm operations.

## STUDENT SCHOLARSHIPS AND AIDS

Senate Concurrent Resolution "FFF" directed the Legislative Research Committee to study the State scholarship and loan programs in the State. This study was assigned to the Study Group on Student Scholarships and Aids. Information was compiled for the study group detailing all of the student aid programs in the State. In addition, the study group met with the financial aid officers from the colleges and universities, representatives of the State Bankers Association, and a number of state officials and officers to hear their recommendations to improve student aid programs. From its analysis of the various programs and in consideration of the testimony of the above individuals and associations, the Committee makes the following recommendations:

1. The State should implement a guarantee loan program to be administered by the Bank of North Dakota whereby the State, in cooperation with the Federal Government, would insure loans made by private lending agencies to eligible students who are residents of the State. These students would be eligible to obtain the payment of the interest on their loans by the Federal government while they are enrolled in approved educational institutions.

2. Discontinue the present State scholarship loan program which is administered by the Superintendent of Public Instruction and the Bank of North Dakota, and use the funds available under this program to guarantee loans under the recommended guarantee loan program.

3. Provide for the establishment of the criteria for student eligibility under the guarantee loan program by the Board of Higher Education. It should also serve as an information center for student aid programs for the students of the State.

Consideration was given to establishing a State scholarship program on a statewide basis to provide assistance to students having financial need and academic promise and that these scholarships be granted to students planning to attend private colleges and junior colleges as well as the State colleges and universities within the State. This program would replace the present tuition waiver program authorized by the Board of Higher Education whereby the State colleges and universities waive about $240,000 in tuition each biennium. The Committee, however, does not recommend this program because the administrative costs of the suggested program could be high and since it appeared that the present tuition waiver program is working rather well.

The Committee was informed that the Department of Public Instruction and a graduate student at North Dakota State University are in the process of developing a student aid handbook. Such handbook would be of assistance to students in planning for college and, also, to the Board of Higher Education in its development of an information program on student aid.

## STATE INSTITUTION VISITATIONS

Study Groups Nos. 1 through 4 were assigned to tour the various State institutions and make

reports on such visitations. While visiting the different institutions, special attention was to be given to the following items:

1. Building needs.

2. Program changes.

3. Current budget problems not anticipated when the budget was passed by the Legislature.

4. Any items of special interest which the institution planned to present for legislative consideration at the next legislative session.

While visiting the State institutions and projects, each study group received a considerable amount of information and also made a number of observations and recommendations which will be conveyed in report form to the Appropriations Committees to assist in their analysis of budget requests during the next legislative session. Copies of the study group reports are available at the Legislative Research Committee Office. In addition to the recommendations for later review, the study groups indicated that immediate consideration should be given to the Judge A. M. Christianson Project and the North Dakota State University Experiment stations.

### Judge A. M. Christianson Project

The Judge A. M. Christianson Project at Burlington, North Dakota, met with study group concern since it appeared that the operations of the project were contrary to the original intent of the project. The project originally consisted of two thousand five hundred acres of land, three hundred twenty of which was the homestead portion. The homestead portion consisted of thirty-five units, each comprised of a house and from five to fifteen acres of irrigable land. It was operated by the Rural Rehabilitation Corporation for the benefit of miners employed by the Rural Rehabilitation Mining Corporation. This project was abandoned and taken over by the Farm Security Administration, which operated it until November 1946, when the Secretary of Agriculture gave a deed to the State of North Dakota. To comply with the terms of an Act of Congress, this project was to be used for rural rehabilitation purposes, preferably for disabled veterans.

The study group found that at the present time there are no disabled veterans involved in the project, but there are a number of people living in the low-rent housing units. Since the establishment of the project, which is administered by the Bank of North Dakota, about one-half of the units have been sold, many of them to tenants. At the present rate of disposal, however, it will be quite some time before all of the units are disposed of.

Since the project is no longer serving its original purpose or the needs of the community of Burlington or contributing to the efficiency of State government, the Committee by motion urged the Industrial Commission and the Bank of North Dakota to dispose of the remaining property owned by the project prior to January 1, 1969.

## EXPERIMENT STATIONS

In addition to institutions specifically assigned to Study Groups Nos. 1 through 4, each study group was encouraged to visit North Dakota State University Branch Experiment Stations when such stations were within driving distance of their scheduled tours. The study groups were impressed with the quality of work being done at the stations visited. It was reported, however, that expenditures at the Branch Stations have been made for a number of projects not specifically provided for in the budgets approved by the Legislative Assembly, and that the stations' income was not being deposited in the State Treasury in accordance with section 186 of the Constitution.

For further consideration of the North Dakota State University Main Station and Branch Experiment Stations' budgetary procedures, a study group was created. In consultation with the Director of the experiment stations and the Director of the Department of Accounts and Purchases, the study group developed a plan to improve the experiment station budgetary practices.

On the basis of study group recommendation, the Committee recommends legislation as follows:

1. Any additional income including funds from

the Federal Government and gifts and donations from private sources received by the North Dakota Main Station and Branch Experiment Stations, except as otherwise provided by law, are hereby appropriated for the purpose designated in the gift, grant, or donation; however, public moneys from local sources, which shall include receipts from sale of grains, personal services, dairy products, livestock, and other agricultural products at the North Dakota Main Station and Branch Experiment Stations, may be expended in excess of that specifically appropriated through biennial appropriation bills of the Legislative Assembly only in the event that an authorization has first been received from the Subcommittee on Budget of the Legislative Research Committee.

2. The balances of all existing moneys on deposit in the name of the North Dakota State University Main Station and Branch Experiment Stations, except grants, gifts, and donations from private sources, along with all subsequent receipts of such moneys, shall be deposited in a special fund in the State Treasury. Hereafter, this fund shall be referred to as an operating fund and shall also be the depository for transfers from the General Fund, and balances therein shall not revert to any other fund under the terms of section 54-44.1-11.

3. All of the moneys in the operating fund shall remain in such fund until expended pursuant to a specific legislative appropriation or an authorization from the Subcommittee on Budget of the Legislative Research Committee, and the balances of such moneys except those received from the Federal Government or as gifts from private sources, shall be used to reduce the amount of moneys to be expended pursuant to the General Fund appropriation only to the extent that the unencumbered balance in the operating fund on June 30, 1969, exceeds the estimated income for the biennium ending June 30, 1971.

**THERAPEUTIC TANK AT STATE HOSPITAL**

A specific construction program that was reviewed in some detail by the Committee, on the basis of information provided by the study group created to study this project, involved the construction of a "therapeutic tank" at the State Hospital at Jamestown. The history of this project began with an appropriation of $60,000 at the 1965 Legislative Session for the construction of the therapeutic tank. Subsequent to this appropriation, the State Hospital and the State Health Department applied to the State Outdoor Recreation Agency for a grant of additional State and Federal funds for the construction of a swimming pool. Since normal Outdoor Recreation funds have not been available under the Federal program for indoor swimming pools, this caused some problem; but, after negotiations, approval of the project was obtained from Federal agencies. Federal funds in the amount of $67,781 and State funds from the Outdoor Recreation Agency appropriation in the amount of $68,000 were allocated to the project.

The Legislative Assembly was not requested to amend the 1965 appropriation law to change the purpose of the appropriation from a "therapeutic tank" to the construction of a swimming pool although it was reported to the Committee that some mention of the plan to combine this appropriation with other funds for the construction of such a swimming pool was mentioned in the course of a hearing on the State Hospital appropriation before one of the Appropriations Committees.

This incident raises several basic questions involving both legal and governmental principles. It might be legally questioned whether an appropriation for a "therapeutic tank" really would permit the use of such funds for the construction of an indoor swimming pool. Certainly it would appear to be contrary to the legislative intent in making the appropriation. Secondly, it might be legally questioned whether the $60,000 appropriation could be expended from another appropriation of State funds for outdoor recreation to increase the cost of the facility to the State to $128,000. In the past, it has been assumed that a line item appropriation in a specific amount was the outside limit of expenditures of State funds for the project, although the authority to spend additional funds from Federal or private sources in the construction of a facility has often occurred and may not be contrary to law. However, in view of the policy of the Legislative As-

sembly in attempting to review the entire scope of State operations and projects through the appropriation of Federal funds used by State agencies as well as State funds, this would appear to be contrary to the desires of the Legislative Assembly.

At the time this matter came to the attention of the Committee, contracts for the construction of this indoor swimming pool had already been let and construction had commenced. There is little question that since the State had executed a contract with the contractor and he had performed under the contract that the State was liable for the contract payments to him. Since the contractor would be paid in any event, it did not seem practical for the Committee to urge or take other action to attempt to require that the project be suspended until proper action could be taken by the Legislature. However, it would appear that such activities are of a questionable legal nature and are so clearly contrary to normal legislative intent that they should not pass unnoticed and should be thoroughly discouraged by the Legislative Assembly.

These comments should not in any way be construed as criticism of the Department of Accounts and Purchases for failure to stop expenditures of State funds for this purpose. It is the understanding of the Committee that, like the Committee, the Director of Accounts and Purchases did not learn of these arrangements until after the contracts had been let and construction had begun. Consequently, he, too, was in no position at that time to take any action to withhold funds from the project.

## INCREASE IN MEDICAL COSTS

Medical costs for care of public welfare patients have increased at a much faster rate than anticipated when projections were made by the Board for the 1967-1969 budget request. In October of 1967, the Public Welfare Board increased the rates for reimbursement for medical services to hospitals and nursing homes by eight percent over actual costs for the preceding fiscal year. This increase was in addition to the built-in increase allowed by the Board's acceptance of fiscal 1967 rates based on actual costs for that period.

The Public Welfare Board approved the last eight percent increase, which compared to a three percent increase given the prior year, and the North Dakota Hospital and Nursing Home Association was informed that this raise could not continue unless additional funds became available since the $250,000 projected cost of this increase was not available from the current appropriation.

The Committee noted that the Public Welfare Board proceeded in a manner not consistent with sound budgetary policy since it committed itself to a level of expenditures beyond the limits of the present appropriation. The effect of this decision resulted in the Public Welfare Board's appearing before the Emergency Commission in May of 1968 requesting $300,000 to continue at its present level of operations through December of 1968. The Emergency Commission did not approve the request for additional funds, and the Public Welfare Board found it necessary to make substantial reductions in the level of payments to all vendors of medical services.

In an effort to more fully understand the problems confronting the Public Welfare Board, the Committee spent two full days in September reviewing budgetary problems of the Public Welfare Department with representatives of the department.

The increasing cost of nursing home services was isolated as an area needing serious consideration. A special study group was appointed to review and make recommendations to improve the present formula that the Public Welfare Board recognizes in paying for the medical care of nursing home patients needing assistance and, also, this study group was directed, if time should permit, to review other problems relating to public welfare programs.

The study group has toured two of the nursing homes in the Bismarck area and has met with representatives of the various State departments involved and interested in the operations of nursing homes. At the writing of this report, final recommendations are still pending further study; however, the Committee has directed the study group to give further consideration to the following recommendations:

1. Review public welfare administrative policies and organization structure on the county level to develop recommendations for more effective administration.

2. Establish a health planning unit from within existing departments to ensure that medical care institutions are established and operated in accordance with an overall comprehensive State plan for the financing, construction, and operation of such institutions and that compliance with such plan be a requirement for licensing if the unit is to be eligible for reimbursement from the Public Welfare Board for welfare patient cost of care.

3. Develop a certification plan for nursing home administrators.

4. Consolidate the Health and Welfare Department licensing procedures.

5. Direct the Public Welfare Board to reimburse nursing homes for actual and reasonable costs necessary to provide medical care; however, where costs are in excess of that which the State can afford, the Public Welfare Board should establish acceptable ceilings upon such rates.

## NEW PROGRAMS AT COLLEGES AND UNIVERSITIES

By law, the Subcommittee on Budget was named by the last legislative session to receive reports on new programs to be established during the interim at the State colleges and universities. Section 5 of House Bill 501 provides that:

"No new programs or departments shall be commenced at any institution of higher learning under the control of the Board of Higher Education during the biennium beginning July 1, 1967, and ending June 30, 1969, until the Board of Higher Education shall first report such proposed new courses, programs, and activities in writing to the Subcommittee on Budget of the Legislative Research Committee. The Board shall in addition thereto provide such additional information to such Subcommittee in regard thereto as it may request. The Legislative Research Committee shall report upon such new courses, programs, and activities to the Forty-first Legislative Assembly."

Pursuant to this requirement, Minot State College reported its plan to establish an Associate Degree in Law Enforcement Program with the assistance of a $25,000 Federal grant. According to college representatives, from sixty to eighty students would enroll in this program and it would be financed from the above-mentioned grant for one year, after which time the college might have to provide one hundred percent of the funds over and above the student fees.

The Committee recommended that Minot State College not implement the Associate Degree in Law Enforcement Program for the following reasons:

1. The worth of the program was not entirely evident and the estimates of participation in the program were not adequately documented.

2. Law enforcement officials are not currently required to attend the school.

3. The program was not comprehensive enough to be of real value.

4. Total costs were not available since only direct costs were included in the college projections.

Also appearing in regard to a new program were representatives of the University of North Dakota. The University reported that it has submitted an application to the Federal Government for $6.5 million in Federal funds to conduct a pilot project to implement the Personnel Development and Placement Plan, a product of the Statewide Study of Education conducted by the College of Education under an agreement with the Department of Public Instruction and the Legislative Research Committee. It was reported that this pilot project includes the opening of a new temporary School of Behavorial Studies in Education at the University. The Committee did not take action involving approval or disapproval of the program.

## FEDERAL AID STUDY

A Federal aid study for Committee review is near completion. This study is a continuation of the plan to conduct a continuing analysis of Federal aid in North Dakota. The report will include an inventory of present Federal programs in the State and the Federal funds anticipated by State agencies, institutions, and officers during the next biennium. In addition to informing the Legislature of the amount of Federal aid and its relationship to the State agency operating budgets, it will be used as a handbook by the Appropriations Committee members during the Session as they review departmental budget requests for matching funds. Copies of this report will be available at the Legislative Research Committee Office.

Since the major responsibility of the Subcommittee is to review the Executive Budget, which by law does not need to be presented to the Subcommittee until after December 1, a supplementary report will be submitted for distribution at a later date on the final phase of the activities of the Subcommittee on Budget.

# DATA PROCESSING

Senate Bill No. 89 directed the Legislative Research Committee to review the State's data processing efforts and make such recommendations as may be necessary to develop an economical, efficient, and compatible integrated data processing system for the State. This study was assigned to the Subcommittee on Data Processing, consisting of Senators Donald C. Holand, Chairman, John D. Coughlin, Richard Larsen, C. Warner Litten, Frank Wenstrom, and Representatives Lynn W. Aas, A.G. Bunker, Eugene R. Dahl, Bryce Streibel, and Ralph M. Winge.

Serving in an advisory capacity to the Committee during the biennium was Richard C. Corner, Professor of Computer Science, Moorhead State College, Moorhead, Minnesota.

At the time the bill calling for the study was passed, the combined rental costs of data processing equipment in State government, including in some instances identical equipment, were exceeding twenty thousand dollars per month, or in excess of four hundred eighty thousand dollars per biennium. In projecting the present rate of expansion, it was reasonable to expect that by the year 1970 biennial rental or purchase costs would be approaching a million dollars. With expenditures reaching such magnitudes, it was apparent that the State must be assured that it is receiving the optimum amount of data processing service for the funds expended.

Evidence indicated that the State was not receiving the most for its dollars expended because the rapid proliferation of data processing systems among the many State agencies indicated efforts on the part of only a few agencies to coordinate their plans and activities to achieve the optimum of service at the lowest cost. Since cooperation between departments in sharing specialized capabilities and eliminating duplication of personnel and equipment effort appeared to be an opportunity for the State to obtain the services it needed within present fund limitations, the need for a comprehensive plan to develop such cooperation and consolidation was evident.

At the time of the study, the data processing applications in State government were performed on three computers plus three relatively complete unit record installations. Scientific programing was done on another separate computer. In addition, fourteen State departments maintained their own keypunch and verification equipment. For the most part, data processing equipment was operated on a five-day week, one-shift basis.

In preparation for the data processing study, the Subcommittee members did much to develop their own understanding of the complexities of data processing. In July of 1967, the IBM Corporation sponsored a management computer concept school at Camp Grafton for Committee members. Also in attendance were State personnel who were to assist in the study. In studying the principles of data processing and reviewing the advancement of computer technology, the Committee gained an understanding and an appreciation of the computer's complexity and learned much in regard to its potential role in State government.

**History of Data Processing in State Government**

Punched card equipment has been in use for as long as 20 to 30 years in many agencies of various State governments. The original uses of punched card equipment were restricted for the most part to statistical, listing, or reproduction types of operations of "machine run" nature. A few States and other governmental jurisdictions began using punched card equipment in the 1940's for accounting purposes. These early mechanized accounting systems had many of the characteristics of the integrated system approach that is used so successfully with electronic computers.

The greatest impetus for mechanization of procedures and the resultant growth of installations continued to take place at the operating agency level, even after the advent of the electronic computer. This pattern of growth has been due primarily to the administrative structure of State government that generally prevails, but it has also been influenced by other factors. For example, differing reporting and statistical requirements of the various grant-in-aid programs have contributed to the further fragmentation and lack of uniformity in statewide procedures.

Operating agencies of many State governments, including those in North Dakota, over the last dec-

ade began to install more expensive equipment, including computers, and employed higher-salaried technical personnel to program and operate this equipment. This fragmentation has frequently resulted in uneconomical utilization of both manpower and equipment. During this same period of time, the need for increased public services at the state level has expanded tremendously, both in terms of dollars and complexity. Legislatures and governors have become increasingly concerned with the planning, coordination, and administering of these expanded programs, each competing for a share of the state tax dollar.

### Trend Toward Integration

Over the past few years, many States have established integrated data processing service centers for both central agency and operating agency use. In addition, there is a trend to integrate systems and procedures that are statewide in scope and which can be adapted for processing by centralized facilities. These integrated systems and procedures have included such applications as budgeting, accounting, personnel, payroll, purchasing, inventory control, equipment and vehicles, and property control.

### History of Computer Capability

The basic computer as we know it today was developed in about 1946 when a 500,000 connection electronic numerical integrator and calculator was developed which could perform 5,000 additions in one second. By 1948, techniques had been developed to store a series of instructions called programs. From this first generation of computers we now have proceeded to the era of third generation equipment.

The most important fact about the new computers is their inexpensive running costs. To complete one hundred thousand computations on a "first generation" computer costs something in the region of one dollar. On a typical "third generation" machine they can be computed for a little over three cents. The decrease in cost arises from the volume of work which the computer is able to handle because of increased speed. Computation times have changed from time delays of thousandths of a second (milliseconds) to billionths of a second (nanoseconds).

### Consulting Firm Selected

Since the field of computers is very new and complex, the Committee believed it was necessary to select a reputable firm with a background of considerable experience. After interviewing a number of competent consulting firms, the Committee finally selected the Minneapolis office of Arthur Andersen & Company, a national accounting firm, to conduct the study. This firm has a large management services division which is very experienced in data processing and has specialized personnel available from all parts of the country to assist in solving special problems. Arthur Andersen & Company began its study in September of 1967 and presented its recommendations to the Committee on February 1 and 2, 1968.

### Interim Recommendations to Agencies

As the Arthur Andersen firm proceeded to conduct its study, it encountered a number of departmental current data processing plans which required immediate attention. The following recommendations of the Committee were made on the advice of Arthur Andersen & Company since it was evident that agencies were proceeding in a direction that would be incompatible with the final plan for an integrated data processing system.

The Committee recommended that the Bank of North Dakota delay its plan to install a Burroughs 300, and that the Highway Department cancel its order for a Burroughs 3500. The IBM 360 Model 30 on order for the Office of Central Data Processing was also delayed until the completion of the study. In addition, the Committee recommended that the State Hospital not enter into an agreement for data processing service from Blue Cross and Blue Shield. It also urged that North Dakota State University amend its application to the National Science Foundation to request a $230,000 grant for leasing a computer rather than purchasing it.

### Arthur Andersen & Company Report

The Committee accepted the Arthur Andersen & Company plan for an integrated data processing system. The following is a summary of the consultant's recommendations:

"Arthur Andersen & Company
State of North Dakota
Plan For An Integrated Data Processing System
February 1968

**Summary of Recommendations**

As a result of our study, we are submitting a number of specific recommendations pertaining to the State's future direction in data processing and have included them in this section of the report. Included are recommendations concerning streamlining present operations, where there was substantial evidence that such streamlining would either contribute directly to the implementation of our data processing recommendations, or would result in immediate savings.

Numerous recommendations that should result in greater efficiency, economy and improved operations in the various departments and functions of administration are also submitted and are discussed in a separate report covering each of the agencies reviewed. These recommendations are listed by department and are supported by brief explanatory comments.

Our recommendations pertaining to the State's future direction in data processing and to the streamlining of operations are summarized below:

1. Establish a central data processing division to provide service to all departments, agencies, and institutions of the State with the exception of the universities and colleges, the Employment Security Bureau and the Adjutant General. This centralized organization should report to the Director of Accounts and Purchases.

2. Continue in force, on a permanent basis, central coordination by the Director of Accounts and Purchases of all data processing and data communication activities. These responsibilities have temporarily been delegated to the Director through Senate Bill No. 89 of 1967.

3. Approach the conversion to a centralized data processing system in two phases.

Phase one would include: (1) defining the organization and setting up administrative procedures of the central data processing division, (2) the selection of data processing equipment, (3) the redesign and conversion of existing applications and (4) the design and conversion of certain additional applications that would provide significant benefits to the State. This phase would be accomplished over a two-year period.

Phase two of the conversion would include: (1) the development of more advanced systems in the State's data processing applications, including consideration of the practicability of online inquiry, and (2) the conversion to computer processing of those applications not included in phase one.

4. Provide the universities and colleges with computer capability separate from the central data processing organization. However, acquisition of equipment and other data processing services should be coordinated by the Director of Accounts and Purchases.

5. Make a comprehensive review of manual procedures on a department-by-department basis to simplify paper work and eliminate duplicate efforts. This should be accompanied by a personnel effectiveness control study to provide work standards for the large volume, highly repetitive clerical activities.

6. Redefine certain interdepartmental responsibilities to eliminate duplication of effort between departments.

7. Centralize all State payroll operations on the computer, and simplify and standardize payroll procedures for all departments and agencies.

8. Replace present cash basis accounting with an encumbrance accounting system utilizing program reporting and responsibility accounting. This should help achieve closer legislative control over program, departmental and agency spending.

9. Provide a legislative reporting system for the 1969 legislative session to facilitate the determination of the status of bills in the legislative process. Also provide a budget reporting system during the 1969 session."

**Potential Advantages and Savings of Consultant's Recommendations**

Significant cost savings will accrue to the State through the implementation of the centralized data processing recommendations. Clerical savings from Phase 1 are substantial, and arise from expanding present computer applications to include additional clerical functions, from eliminating duplication of effort through integrating related data processing activities, and from refining data processing responsibilities between different governmental units and sub-units. Clerical savings resulting from this approach should result in an annual saving of over $300,000. In addition, through the consolidation of equipment capability and the use of more advanced equipment, the annual equipment savings will exceed $100,000. The following schedule detailing these savings is taken from the consultant's report:

**Summary of Potential Savings Through Centralized Data Processing Recommendations (Phase 1 Projects Only)**

| | Annual Amount |
|---|---|
| Estimated Costs of Proposed Equipment | |
| Computer equipment | $240,000 |
| Keypunch and verification equipment | 36,000 |
| Peripheral equipment | 16,000 |
| | $292,000 |
| Cost of Existing Equipment to be Replaced | 392,000 |
| Net savings on proposed equipment | $100,000 |
| Projected Personnel Savings through Centralizing and Streamlining of Existing Procedures | 300,000 |
| Total estimated annual savings available through centralization | $400,000 |

Without question, the eventual savings will substantially exceed $1 million each biennium when compared to what would have been expended had this study not been made.

In addition to these savings, several other benefits can be achieved by centralizing data processing equipment and personnel. These include:

1. Increased equipment capacity, since the central data processing equipment would have considerably greater capacity than any machines currently installed or those planned for installation by the individual departments.

2. Fewer equipment sites to be maintained, with a resulting reduction in overall space requirements.

3. Faster processing, particularly for those applications currently processed on unit record equipment.

4. Ability to handle increased volumes and additional applications without proportionate increases in personnel costs.

5. Lower cost of equipment operation, since the number of equipment operators will be less than the combined number required to operate the several smaller systems.

6. Improved systems and procedures through more emphasis on systems design.

7. Better utilization of data processing equipment and personnel through the elimination of duplication of equipment and effort.

8. Greater "in house" data processing competence through the centralized office which will give the opportunity for specialized personnel to concentrate their abilities in special areas and thus having a capability to attract new personnel because of these expanded opportunities for personal development.

9. Improved data processing and system standards because the centralization of the data processing function will facilitate setting and enforcing standards for documentation, systems design, programing, and systems operation.

### Assistance In Equipment Vendor Selection

Since the plan for an integrated data processing system promised immediate savings and benefits to the State, the Department of Accounts and Purchases, under authority of the 1959 Act establishing the department, proceeded to implement the recommended system by inviting vendors to submit bids on the basis of specifications prepared by the consultant. The Department of Accounts and Purchases, by mail, invited the eight principal equipment vendors to bid upon the specifications.

After analyzing the submitted bids with the assistance of the consultants, three bids were selected for final consideration. The bids were from Burroughs, IBM, and RCA, and at the request of the Department of Accounts and Purchases, the Committee assisted in the selection of the successful vendor. On the basis of the consultant's report, which indicated substantial cost savings with similar hardware and software capabilities, the RCA system was recommended by the Committee. Over a five-year period of time, the RCA system will result in $289,000 less costs than its nearest competitor. A major reason for this lower cost is the RCA special 20 percent discount for governmental installations. During the first phase of the plan, the monthly cost of the RCA system was estimated at $14,800 compared with $16,900 and $18,200 for the two other companies. For the final phase, which is at least two years into the future, the monthly cost of RCA is projected at $26,000 per month compared to $35,100 and $30,400 for the two other equipment vendors.

On the basis of these bids, the Committee recommendation, and the consultant's plan for an integrated data processing system, the Department of Accounts and Purchases proceeded to order an RCA Spectra 70, Model 45 computer system. By the end of October 1968, the RCA Spectra 70, Model 45 computer system was operational in the Office of Central Data Processing. With data processing personnel from other departments accepting employment in the Office of Central Data Processing, this office has become operational under the supervision of Arthur Andersen & Company which is assisting in the implementation of Phase 1 of its plan for an integrated data processing system.

### Higher Education Data Processing Study Recommended

This study did not involve an in-depth analysis of the data processing needs of higher education. Since the State colleges are requesting data processing services from both universities, and since there is no plan for an overall data processing program for the institutions of higher education, it is recommended that the Legislative Research Committee be directed to review data processing in higher education during the next biennium, and that it develop an overall plan for a higher education integrated data processing system.

### Summary

A summary of the Committee's activities and recommendations has been provided in this report. The Committee believes that its recommendations when implemented will result in a significant increase in the data processing capability in State government and that such capability will be available at a savings when compared to the projected cost of the sporadic and nonintegrated system which was in the process of expanding very rapidly. In addition, the plan as recommended by the Committee provides a guideline for future expansion of the system when new, more efficient, and more economical computer technology becomes available. For further information regarding the Committee recommendations, copies of the "State of North Dakota, Plan for an Integrated Data Processing System, February 1968," prepared by Arthur Andersen & Company, are available at the Legislative Research Committee office.

# EDUCATION

House Bill No. 815 of the Thirty-ninth Legislative Assembly, compiled as Chapter 116 of the 1965 Session Laws, directed the Legislative Research Committee to study the requirements, standards, procedures, and laws governing school districts in North Dakota as they relate to a comprehensive State educational program, assessed valuation, problems of low-populated areas, rising educational costs and financial ability of districts to meet requirements, and potential educational needs. Such study was to give consideration to terrain, roads, trading centers, population centers, and any and all other factors relating to needs of education in the coming years. A report of the progress of this study was submitted to the Fortieth Legislative Assembly as a part of the Legislative Research Committee report to that Legislative Assembly. Since the study had not been completed, it was reassigned along with the study of vocational and technical education pursuant to House Concurrent Resolution "D-2" of the Fortieth Legislative Assembly to the Subcommittee on Education consisting of Representatives Ernest N. Johnson, Chairman, Howard F. Bier, Wesley Belter, LeRoy Erickson, William A. Erickson, Helen Claire Ferguson, Donald Giffey, H. Kent Jones, Kenneth Knudson, Theodore A. Lang, Arthur A. Link, Robert W. Peterson, James A. Peterson, Wayne G. Sanstead, and Mrs. J. Lloyd Stone; and Senators Philip Berube, Herb Geving, J. Garvin Jacobson, Richard Larsen, George Longmire, Robert M. Nasset, Earl H. Redlin, Leland Roen, and Frank J. Ruemmele.

## VOCATIONAL AND TECHNICAL EDUCATION

To familiarize itself with the scope and extent of vocational and technical education programs available in North Dakota and to provide itself with a basis of comparison with vocational programs outside of North Dakota, the Subcommittee on Education, toured the vocational education facilities at the Bismarck, Devils Lake, and Williston community colleges, the State School of Science at Wahpeton, and Minnesota area vocational-technical schools at Alexandria, Staples, Wadena, Detroit Lakes, and Moorhead. During these tours, the Subcommittee also had the opportunity to observe vocational programs at the secondary level and new facilities housing these programs at Dickinson and Fargo South High Schools. Two separate tours were actually undertaken. The first tour included the Minnesota schools, the State School of Science and Fargo South High School, and the second included the North Dakota community colleges and Dickinson High School.

### Minnesota Program for Vocational and Technical Schools

Over twenty area vocational-technical schools are operated by local school districts in cooperation with State and Federal Government. Operating rules of the schools are subject to approval by the boards of the local districts, and for this reason vacation periods differ as does the length of the school day.

Preparatory programs offered in these schools are sufficiently flexible to meet the needs of anyone who wants and can benefit from these programs. Some of the courses can be entered each week. Others will enroll monthly or quarterly, depending on the training facilities. Many schools operate more than one shift each day, and many operate the full twelve months each year. Only a limited number of comprehensive high schools offer vocational-technical programs. This is particularly true in the areas of technical, trade, and industrial and distributive education.

One of the primary reasons for the scarcity of vocational programs in Minnesota high schools is the necessity of providing facilities and staff quite different from academic courses. Spacious shops, laboratories, and expensive equipment are required. Teachers and supervisors with special work experience qualifications must be employed and contacts with lay advisory committees maintained. Students in approved vocational programs are assisted in obtaining jobs for which they were trained.

While high school students may enroll in most programs, there has been a decided trend toward post-secondary training in all area schools, with some schools having 80 percent or more of their students at the post-secondary level. Increased general education requirements, industry's refusal to accept immature employees, and the de-

sire of students to graduate from their local high schools have contributed to this post-secondary trend.

As a general rule, any person sixteen years of age or older may be considered for attendance. Entrance requirements are based on the aptitude, interest, and ability of the student to profit by the instruction offered in the course or courses in which he is to be enrolled. Officials of some of the schools visited stated that entrance was on a "first-come, first-served" basis. Enrollees usually fall in the following categories:

1. High School Graduates Under 21: Any qualified high school graduate may attend any of the area schools without payment of tuition.

2. High School Residents: A qualified high school student who is a resident of the area school district or a district not maintaining a high school may attend without payment of tuition. This is discouraged, however, as potential students of high school age are encouraged to finish high school.

3. High School Nonresidents: A qualified high school student who is a resident of a district which maintains a high school may attend if he secures permission from his local school board. If the local board pays tuition based on costs to the area school, this local board may, in turn, collect the basic foundation aids on the student.

4. Adults Over 21: All qualified adults over 21 may attend and are expected to pay a modest tuition based on the per-pupil cost of the school. Because costs differ between schools, and from year to year, this tuition will vary. Area schools are approved by the Veterans' Administration for veterans' training, veteran rehabilitation and war orphan training. They are also approved by the Vocational Rehabilitation Division of the State Department of Education.

5. Evening Classes for Adults: Residents and nonresidents may attend and usually pay a registration fee.

Most school terms are from September to July. Some courses continue through the summer months. Because much of the course work is of an individual nature, schools usually permit students to enter at intervals throughout the course. The school will inform the applicant when the next date of entrance will be at the time he or she is notified of the acceptance of the application.

**Vocational Programs at the State School of Science and North Dakota Community Colleges**

**North Dakota State School of Science.** The State School of Science is divided into four major curriculum divisions:

1. Junior College Division
2. Business School Division
3. Trade School Division
4. Technical School Division

The Junior College Division offers complete freshman and sophomore curricula in liberal arts, commerce, pre-engineering and other pre-professional areas. Graduates are awarded the Associate of Arts or Science degree.

The Business School Division has as its objective the development of skills and personal qualities necessary for successful employment in business occupations. Special attention is given to course offerings so that the graduate has practical experience in job skills and can be a successful employee in offices and fill job demands of the modern business world.

The Trade School Division is perhaps the best known. This division gives practical experience and related class instruction in the skilled trades common to this area. Shops are well-equipped, courses are kept practical, and teachers are skilled craftsmen. This division has met its objective over many years by supplying individuals with excellent training so they can get and hold jobs and rise to good positions in industry. At the same time, it supplies employers with trained personnel who can really meet job demands.

The Technical School Division is a natural outgrowth of the trade school which has been brought about by rapid development and constant change in industry. The technical student acquires practical experience in school shops and laboratories

and gets more extensive instruction in mathematics, science, general education, communications, drafting, and related theory. The technician is often referred to as the engineer's assistant. His position might be referred to as that worker whose employment demand places him between the engineer and the skilled craftsman. The engineer does the designing; the technician does the layout, drafting, and the detail work in the plans; and the skilled craftsman produces, services, and maintains the products of industry.

The following instructional programs are offered at the North Dakota State School of Science:

Auto Body Repair
Auto Mechanics
Diesel Maintenance
General Mechanics
Office Machine Repair
Machine Shop
Plumbing
Practical Nursing
Printing
Radio-TV-Appliance Repair
Sheet Metal
Welding
Air Conditioning Design Technology
Architectural Drafting and Estimating Technology
Civil Engineering Technology
Electrical Technology
Electrical-Electronic Drafting Technology
Electronics Technology
Industrial Drafting and Design Technology
Refrigeration and Air Conditioning Technology
Data Processing (Programmer)
Data Processing (Operator)
Dental Hygiene
Business School
Junior College

Many of the courses offered at the State School of Science require a substantial amount of expensive equipment. Instructors with experience in the various trades are also necessary. The equipment viewed appeared to be of very good quality. It was noted that the majority of the students attending the school at Wahpeton are from areas of the State of North Dakota within relatively close proximity to Wahpeton, although students from throughout the State are represented, as well as students from other states.

**University of North Dakota, Williston Center.** Williston Center is a two-year, community-supported college associated with the University of North Dakota. The 1967-1968 enrollment was approximately 350 full and part-time students. The building in which the Center is housed is located on property which formerly belonged to the State Experiment Station and was completed in September 1967, in time for 1967-1968 academic year classes.

The Center was established in 1957 to provide University courses locally as warranted by student demand. The present program includes the courses normally required for the Freshman and Sophomore years. The courses offered at the Center which can be classified definitely as vocational are Distributive and Business Edcation.

According to the Center Director, the Center is conducted with the cooperation of the Williston Public School District, the Williston Library Board, and the University of North Dakota. Its association with the University of North Dakota is primarily that of staffing, supervision, and guidance, and the Center receives its accreditation through the University of North Dakota. The building was financed with local and Federal funds. Operating costs of the Center are financed locally. Center students may use the Williston Public Library or the library provided at the school which was at one time the North Dakota Masonic Memorial Library.

Charges to the students are based on the actual cost of instruction and supervision. For 1967-1968, the tuition rate was $15.00 per semester credit hour, with a maximum of $150.00 per semester. A student service fee of $1.50 per semester credit hour was charged, with a maximum of $7.50 per semester.

Regular credit courses at the Center carry the number and description in the current University of North Dakota catalog. Generally, all the credits are transferable to the University, State colleges, and other colleges and universities throughout the Nation. One exception was noted. Credits for certain required distributive education courses such as Accounting when of-

fered at the Center as a 100 course but offered at the University of North Dakota as a 200 or 300 course were transferable to the University of North Dakota, but no honor points were allowed. The Committee was assured that this situation would be resolved.

The Subcommittee on Education met with representatives of the Williston business community to hear their views on the areas of vocational training which would most benefit local employers. These representatives also discussed the areas of greatest local job opportunity. Clerical and stenographic training, agri-business, practical nursing, and electronics were the areas of needed training emphasized by these local citizens.

**Lake Region Junior College.** Lake Region Junior College is a two-year community-supported college providing both academic and vocational training. The College was established in 1941 as a part of the Devils Lake Public School System. For the first nineteen years of its existence, the College was supported by the local school district and the tuition payments made by the students. In the late 1950's, a group of interested citizens established the Community College Corporation of Devils Lake and took steps to increase the enrollment and obtain a site for the future campus.

In 1960, the College met the standards of performance established by the State Board of Higher Education and, therefore, qualified for State assistance in accordance with legislation passed by the North Dakota Legislature the previous year. In 1961, with legislative approval, 70 acres of land were purchased from the State as a future campus site.

The voters in Devils Lake supported the expansion of Lake Region Junior College in 1963 and 1964 by approving increased taxation for the operation of the College and bonded indebtedness for building purposes. With such local financing, Federal funds, and private capital, the College constructed its present plant and moved to the new site in the fall of 1966. Total building costs exceeded $1¼ million.

The present facility was constructed with the express purpose of keeping the entire Junior College complex under one roof. With that in mind, certain areas of the plant have movable walls to facilitate expansion. Included in the facilities at the time of the tour were a 14-classroom educational center, library, gymnasium, men's and women's dormitories, residence dining hall, and a student union area.

Lake Region Junior College enrolled 367 students in 1966-1967, 134 of whom were enrolled in vocational subjects, and 233 in academic subjects. The 1967-1968 enrollment totaled 475 full-time students. One hundred seventy-five of those were enrolled in vocational subjects and 300 in academic subjects.

The State Board of Vocational Education has designated Lake Region Junior College as a post-secondary area vocational school. Vocational programs in operation at the College were Auto Mechanics, Engineering Technology, Practical Nursing, a Secretarial and Clerical Course, and Retail Store Management and Marketing.

Along with designation as an area vocational school, the State Board of Vocational Education allocated $350,000 to Lake Region Junior College in 1967 for construction of vocational facilities, provided that the money would be matched by State or local funds. The bond issue providing the matching funds was submitted to the voters of Devils Lake in December 1967, and approved.

In addition to the vocational programs already being taught at the College, the State Board of Vocational Education has approved the following projected vocational courses at the school: Power Mechanics, Construction Trades, various Electrical Courses, Cosmetology, and Public Protection. Certain of these programs are to be initiated as soon as the vocational facilities are constructed.

Lake Region Junior College considers its primary service area to be the counties of Rolette, Towner, Cavalier, Pembina, Ramsey, Benson, Wells, Eddy, Nelson, Foster, and Griggs. This area contains some 94,000 people. It has a density of approximately nine people per square mile as compared with the State average of ten people per square mile. Lake Region Junior College officials maintain that the school has a potential service area in specialized fields with a population of 304,000, encompassing the entire northeastern area of the State. It is interesting to note in this connection that of 16 students enrolled in the Civil

Technology Course at Lake Region Junior College in 1967-1968, seven of the students were from areas of the State remote from Devils Lake. Of those seven students, two were from New England, one from Regent, one from Minot, one from Fargo, one from Fairmount, and one from Dickinson. A comparable area of representation did not occur in the other vocational courses offered at the College.

In view of the Devils Lake voters' approval of the bond issue for construction of vocational facilities at the College, it is pertinent to review the projected building program which will be initiated in 1969 for completion by the fall of 1970. According to the information sheet prepared by Lake Region Junior College officials for use of the Committee at the time of the Vocational Education Study, the construction will consist of the following:

Classroom and technical wing, 20,000 square feet, at a cost of $350,000

Shop, 1,000 square feet, at a cost of $550,000

Library, 4,000 square feet, at a cost of $75,000

**Total cost of $975,000**

The Auto Mechanics program, which is presently located in a building in downtown Devils Lake, will be moved to the College campus upon completion of the vocational facilities.

Although Lake Region Junior College is accredited by the State Board of Higher Education which facilitates the transfer of its students to North Dakota colleges and universities, the school does not have North Central accreditation. Presently, Lake Region Junior College is conducting a North Central self-study which is receiving high priority and which seems to be a logical step toward accreditation. Upgrading of Lake Region Junior College is also being accomplished by the creation of a Board of Trustees as provided by law and a faculty of Administrative Counsel made up of department heads. Two faculty members have accepted Fellowships to do advanced study during the school year of 1967-1968 and other faculty and staff members are urged to take additional study whenever possible.

The school officials and representatives of the local community who spoke to the Subcommittee left a definite impression of orientation toward a strong vocational program at Lake Region Junior College. All vocational training is not concentrated at the College, however, since a supplementary training program has been initiated to assist area high schools in vocational training. Also indicated by the speakers was an emphasis on publicizing in the service area the vocational program that is available at Lake Region Junior College.

**Bismarck Junior College.** Bismarck Junior College is a two-year community-type college with an enrollment of over 1,000 equivalent full-time students. The campus includes a classroom-administration building which was completed in 1961, the Burleigh County Memorial Armory, completed in 1962, a dormitory-student center opened in 1965, and a new library-classroom building which was ready for occupancy by the fall of 1968. The College has been operating since 1939.

Of the 1,000 equivalent full-time students enrolled during the 1967-1968 school year, 286 were enrolled in courses of a vocational nature. Those courses included Nurses' Training, Data Processing, Secretarial, Medical Secretarial, Small Engines, Appliance Repair, Welding, TV and Radio Repair, Auto Mechanics, and Auto Body Repair. With the exception of Nurses' Training and Secretarial Training, the vocational courses are held in the Area Vocational School in downtown Bismarck.

The Bismarck Junior College Vocational School was begun as a "manpower" program which is now being phased into the general Bismarck Junior College curriculum. Of the 76 students enrolled during 1967-1968 in the courses at the Vocational School, seven were Bismarck Junior College students. The entire TV and Radio Repair Course was made up of manpower students. However, Bismarck Junior College officials feel that in a short time all vocational courses will be composed primarily of Bismarck Junior College students.

Tuition and fees for the vocational courses amounted to $465 for the full course. Ordinary tuition per semester during 1967-1968 was $90 for Bismarck residents, $162.50 for a North Dakota resident, and $250 for an out-of-State student.

Following the tours, a study group was appointed and directed to submit a report and recommendations with regard to vocational education in North Dakota. A list of questions dealing with vocational education was provided to the study group with the directive that the findings of the study group answer, if possible, the questions posed. The Board of Higher Education and the Board for Vocational Education were also requested to prepare a report and recommendations guided by the same list of questions. Essentially, the three groups were asked to recommend:

1. Whether vocational education should be expanded on the secondary, post-secondary, or adult levels of education, if at all.

2. Sources of financing an expanded program.

3. A general plan, should expansion be recommended.

4. Whether all vocational education should be coordinated under one State board.

The report and recommendations of both boards generally supported expansion of vocational education at the post-secondary level. The Board for Vocational Education recommended that exploratory rather than terminal-type programs be maintained at the secondary level, and supported, along with the Board of Higher Education, strong adult programs wherever feasible. Each board recommended that it be the sole board responsible for post-secondary vocational education programs.

The study group recommended no change in the present authority exercised over vocational education by the respective boards. Such present authority for the Board of Higher Education extends to vocational programs in the institutions under its jurisdiction and includes the State School of Science as well as vocational programs at the University of North Dakota, North Dakota State University, Minot State College, etc. The present authority exercised by the Board for Vocational Education is accreditation of vocational programs at the junior colleges, allocation of Federal funds for vocational education, and supervision of vocational programs at the secondary level when it is acting as the Board of Public School Education. The study group also recommended creation of an advisory council to the Board for Vocational Education and that the major emphasis in vocational education, as distinguished from industrial arts-type courses, be placed at the post-secondary level. The Committee later rejected the recommendation for the creation of an advisory council.

In deliberation upon vocational education prior to taking any action, the Committee heard representatives of the Greater Northwest North Dakota Educational Development Association with regard to "Operation Search," a vocational education research project of a thirteen-county area surrounding Minot, North Dakota. "Operation Search" recommended that a centrally located vocational-technical school for grades 11-14 be constructed in the thirteen-county area. The Committee also heard, from the Department of Public Instruction, a report on industrial arts programs at the elementary and secondary level. According to the report, 141 North Dakota high schools provided some type of industrial arts program during the 1967-1968 school year. As to funding, it was noted that Federal vocational education funds are separate and distinct from Federal industrial arts funds, the former being received and distributed by the Board for Vocational Education and the latter by the Department of Public Instruction. During the last fiscal year, approximately $100,000 in Federal funds was allocated for industrial arts programs in North Dakota high schools.

With the exception of the creation of an advisory council, the Committee adopted in principal the study group report recommending emphasis on and expansion of post-secondary programs and no change in the respective authority of the boards over vocational education. A bill is therefore recommended appropriating $500,000 to the Board for Vocational Education for expansion of post-secondary vocational and occupational training programs within existing facilities at the community colleges at Bismarck, Devils Lake, and Williston.

In recommending this bill, the Committee believed that it will provide increased area-wide opportunity for relatively broad-based vocational programs accredited and partially financed by a board responsive to the Legislative Assembly. The State School of Science was initially included in the bill as a proportional recipient of the

appropriation but was finally excluded because it is not subject to the supervisory authority of the Board for Vocational Education. However, the Committee recorded its expression that exclusion of the State School of Science from the benefits of this bill should in no way reflect upon the outstanding administration of its vocational programs nor its entitlement to Federal funds administered by the Board for Vocational Education.

## ELEMENTARY AND SECONDARY EDUCATION

As the result of the report of a study group appointed to consider the effect on public school districts of the anticipated closings of a number of parochial schools in the State, the Committee recommends a bill providing for foundation aid payments to school districts to be based upon current school enrollment. Present foundation aid payments are based upon enrollment for the previous year, and this works a serious hardship on those school districts which must absorb a substantial enrollment increase due to parochial school closings or constant year-to-year growth.

During the course of the education studies, it was noted that section 15-60-06 of the North Dakota Century Code requires a quorum to be the full membership of the Board when the Board of Public School Education meets to administer the School Construction Fund. There appears to be no substantial reason for this requirement, and representatives of the Board informed the Committee that it was extremely difficult to get full attendance at most meetings. According to Board members, this requirement at times resulted in unreasonably delayed action by the Board. A bill is accordingly recommended changing the quorum requirement under section 15-60-06 from full membership of the Board to five members.

All volumes of the Statewide Study of Education were not received by the Committee until September 1968. Although each volume was reviewed and considered as it became available, recognizing that the "whole is the sum of its parts," the Committee was reluctant to take any definitive action until the entire Study was before it.

Approximately halfway through the Study, a study group was appointed and directed to identify and report recommendations of the Statewide Study that appeared feasible for legislative implementation. This study group met several times and during the course of its deliberations heard representatives of education groups and individuals interested in the Statewide Study. The study group concluded that since the recommendations of the Statewide Study were so far-reaching, only those recommendations touching the most urgent problems of elementary and secondary education should be acted upon initially. Neither complete rejection nor complete acceptance of the Statewide Study was expressed. It was generally agreed that the disruption in normal patterns of education which would likely result from complete implementation of the recommendations of the Statewide Study would be unacceptable to the great majority of North Dakota's citizens. Considering the time limitations indirectly imposed upon the study group and the Committee, it was determined the study should focus upon additional encouragement of school district reorganization.

Parallel to the study group's work, the Subcommittee on Education heard several times from Dr. Kent Alm, Director of the Statewide Study, and others connected with the Statewide Study and the New School for Behavioral Sciences at the University of North Dakota, the establishment and Federal funding for which resulted from the Statewide Study, although without any specific legislative action. Dr. Alm advised that the recommendations of the Statewide Study should be considered as interdependent, and the goal of the Statewide Study to provide optimum opportunity in elementary and secondary education within the reasonable capabilities of the State would not be reached if some and not all of the recommendations were implemented.

Taking further school district reorganization as the immediate, feasible goal for legislative action, the study group recommended to the Committee essentially that:

1. A regional reorganization system for school district reorganization replace the present county approach.

2. Regional school district reorganization plans recommending locations of schools within the region meeting the minimum statutory

curriculum and staff requirements for accreditation be submitted to the State committee by July 1, 1972.

3. Implementation of such plans be required by 1973.

The study group also recommended that all school districts not operating a high school be required to join a high school district. A suggestion that certain school construction projects be limited during the period of highest anticipated reorganization received the approval of the Committee.

Three bills relating to school district reorganization are therefore recommended. The most significant of the three is the bill providing generally for regional reorganization committees. In many sections of this bill the present procedure for county committees is retained, but amendment is required to change the term "county" to "regional," or words to that effect. Otherwise, the bill implements the study group recommendations.

The regional committees would consist of a member from each county in the region selected by the County School Officers' Association, or, in the alternative if no such association exists, the presidents of the school boards in the county. A secretary for the regional committee is to be appointed from among the county superintendents of the counties making up the region. The secretary will be compensated at the rate of three dollars per hour for time reasonably expended on committee duties. The regional committee is required to submit a plan for regional reorganization to the State committee by July 1, 1972. In addition to those aspects of reorganization that the county committee must now consider, the regional committee is required to recommend school locations capable of providing and continuing to provide curriculum and staff not less than required for accreditation by sections 15-41-24 and 15-41-25 of the North Dakota Century Code. Provisions for voter approval of a reorganization proposal are basically similar to present provisions with the exception that upon the second rejection of a reorganization proposal, the regional committee is required to make a final proposal for such reorganization within ninety days of the second rejection and after public hearing, and to submit such proposal to the State committee. Authority is given to the State committee to make any necessary modification or revision in this final proposal, except that it cannot impose disorganization upon a school district showing a continuing capability to meet the minimum accreditation standards. It must then require that such final approval, as approved by the State committee, be implemented.

The second recommended bill relates to reorganization and requires reorganization and annexation of a non-high school district to a high school district meeting the accreditation standards within three years of the effective date of the bill. Arguments for and against this bill are so well settled it is felt they need no reiteration in this report.

The final bill relating to reorganization recommended by the Committee pertains to the apparently recurrent problem of unneeded construction of buildings by marginal school districts and sets forth a temporary review procedure. In the introductory "whereas" clauses of the bill, the bases for the bill's temporary moratorium on such construction are set forth. The bill generally provides for approval by the Superintendent of Public Instruction before a school district may proceed with construction, purchase, repair, improvement, renovation, or modernization of any school building estimated by the school board to cost in excess of twenty-five thousand dollars. In the event of disagreement between the Superintendent and a school board, the final decision on approval of such project would be made by the State Board of Public School Education. No exceptions from this procedure for larger school districts was provided although approvals for such districts would be a matter of routine. At present, the Department of Public Instruction is now required to approve construction plans exceeding twelve thousand dollars in regard to fire prevention and other requirements.

By motion, the Subcommittee on Education directed that the Statewide Study of Education and related Subcommittee material be filed with the Committee for future reference by the Legislative Assembly and for continued study.

# FINANCE AND TAXATION

Senate Concurrent Resolution "SS" directed the Legislative Research Committee to study the feasibility of providing property tax limitations based upon current market value, and to study other property tax areas with a view towards the improvement of assessment and administrative practices.

Senate Concurrent Resolution "TT" directed the Committee to study alternate methods by which mineral rights that have been severed from the surface estate could be taxed.

These studies were assigned to the Subcommittee on Finance and Taxation, consisting of Senators Edwin C. Becker, Chairman, Francis J. Butler, Kenneth C. Lowe, Ernest G. Pyle, George Rait, Carrol Torgerson, Grant Trenbeath; and Representatives Richard J. Backes, Carl H. Boustead, Eldred N. Dornacker, William Gackle, Karnes Johnson, Stuart J. McDonald, Leslie C. Powers, and Gerhart Wilkie.

## PROPERTY TAX LIMITATIONS

### Background

Section 176 of the Constitution of the State of North Dakota, and section 57-02-27 of the North Dakota Century Code provide, respectively, that all property shall be uniformly assessed and taxed, and that all property subject to taxation shall be taxed at its true and full value. To further control the local taxing districts, the Legislature has also established certain mill rate limitations in order to control expenditures by these subdivisions. Faced with rising costs resulting from the increase of services and administrative expenditures and limited by the statutory general mill rate maximums, the taxing subdivisions have resorted to several practices in order to gain the necessary funds for operation. First, in many instances, the Legislature has approved mill levies for special purposes initiated by subdivisions that had reached the limit under the general mill rate. This approach, while it allows the subdivisions to meet local fiscal problems, is undesirable in that the complexity created by a number of levies makes it difficult for citizens to remain informed on particular spending practices, the funds created are dedicated and cannot be spent for other purposes, and the cost involved in the collection and administration of the needed funds is greater than it would be if they were raised by means of one general levy. The second method whereby the local subdivisions are able to frustrate the general mill levy limitation is to increase property assessments in order that a greater amount of tax will be gained when the general mill rate is applied to the assessment. As a byproduct of this action, the assessing subdivision will force its residents to contribute more to the State and other taxing districts since they all levy against the same property. Conversely, if a local subdivision finds that more tax than necessary is obtained when its present general mill rate is applied, the tendency is to reduce assessed valuations. In this instance, the State and other taxing subdivisions levying on the same property will receive less than expected, and the property will not be contributing its fair share of the tax responsibility. In both cases, a disparity is produced among the different taxing units that are on the same State level, since even under identical mill rates property assessed in different localities may be subject to great differences in taxes if the assessed valuation is not constant.

The problems created by unequal assessments precipitated the passage of Senate Concurrent Resolution "SS" charging the Legislative Research Committee to explore the possibility of establishing a maximum level or ceiling for property taxes based on the current market value of real and personal property. Considerable testimony was collected by the Committee over the course of the biennium and independent research carried on in order to determine whether such a limit would be practical and would reduce some of the inequity inherent in the taxing structure. Various representatives of county and district school systems were particularly interested in the subject under exploration, and testified to the effect that any decrease in the amount of tax moneys to be received as a result of the stabilizing of assessments would place severe hardships on those entities. Especially, it was pointed out that the demand for improved salaries by teachers could only be met by increased revenues from local property taxes.

Of particular importance to the members of the Committee was a report on the relationship of

real estate taxes to land values in certain selected counties in the State, prepared by Mr. Thomas K. Ostenson of the North Dakota State University Agricultural Experiment Station. Briefly, the report concluded that wide variations did exist in regard to the amount of real estate taxes paid on comparable land within different counties. For example, in 1966, the eleven counties selected for study ranged from a high of $1.52 real estate taxes per $100 of land valuation in Burke County, to a low of 95¢ real estate taxes per $100 of land valuation in Burleigh County. It was also reported that while the statewide average value per acre of land in North Dakota increased from a valuation of $29 per acre in 1950 to $79 per acre in 1966, the assessed values during this interval rose from $13.33 to only $14.07. Consequently, while the real estate taxes levied on land during this period rose from 48¢ in 1950 to 88¢ in 1966, the real estate taxes per $100 of land valuation actually fell from $1.66 in 1950 to $1.11 in 1966. As can be seen, the failure of the assessed valuation to increase proportionally with the increase in value of the land has caused a significant decrease in the amount of tax levied when related to the increased land values. Therefore, in this phase of the study, it was concluded by the Committee that certain inequities among the various counties in regard to property assessments were present, and that the failure of assessed valuations to properly reflect the current valuation of land was related to this inequity.

**Sales Assessment Ratio Study**

In an effort to equalize property assessments throughout the State, the Legislative Assembly in 1963 directed the State Supervisor of Assessments under the supervision of the State Tax Commissioner to perform certain studies of property and assessments in the counties and cities of North Dakota, including the Sales Assessment Ratio Study. Since it became apparent early in the course of the study that there were certain variances in the equality of assessments over the State, Mr. Edwin Sjaastad, the State Tax Commissioner, was invited to appear before the Committee relative to the review of the Sales Assessment Ratio Study being conducted by a professional firm for his office. In his presentation, Mr. Sjaastad treated the Sales Assessment Ratio Study at length, and pointed out some of the problems involved in setting up and conducting such a review. Among them, the difficulties in providing methods of study which would promote statistical accuracy and of ascertaining the minimum number of transactions to ensure reliability seemed to be foremost. Mr. Sjaastad cautioned that while the review of the Sales Assessment Ratio Study could be expected to lead to much useful information concerning assessment practices in North Dakota, it was not a corrective device in and of itself. The real problem was the inequality of the initial assessment, and the results of the Sales Assessment Ratio Study could not be superimposed on a framework of such assessments, or the inequality would be magnified rather than diminished.

**Recommendations**

The Committee recommends no corrective legislation at this time for two reasons. First, a property tax limitation could have severe effects on local taxing subdivisions that are faced with rising costs which must be met. These subdivisions must be allowed to prepare themselves for any change whereby they might be restricted in the amount of revenue raised. Since such preparation will take time, to impose limitations now would in all likelihood result in the curtailment of necessary services and produce undesirable effects. Second, the Committee believes that the problem of inequality in assessments must be solved where it is created, at the local level. A definite need for improvement in the quality of assessing is apparent and this need would not be met by legislating property tax limitations.

## MULTISTATE TAX COMPACT

**Background**

For a number of years an increasing interest has been shown by the Federal Government in State and local taxation of multistate business firms. A trend allowing the taxation of interstate corporations that was begun with **International Shoe Company v. State of Washington,** 326 U.S. 310 (1945), was finalized by the United States Supreme Court in **Northwestern States Portland Cement Company v. Minnesota and Williams v. Stockham Valve and Fittings,** 358 U.S. 450 (1959) and **Scripto v. Carson,** 362 U.S. 207 (1960) where it was decided that a regular and systematic solicitation of orders by independent salesmen in a State would provide a sufficient "contact" with that State to subject the corporation to its taxing statutes. The Court found nothing objectionable in finding that an out-of-State corporation

be required to help support the State government which was supplying the benefit and protection of its laws. The furor that arose in the business world as a result of the Scripto decision was immediately directed towards nullifying the effect of this ruling and Public law 86-272 to a good degree achieved this end. Passed near the end of the 1959 session, this Act adopted technical tests for determining jurisdiction and taxability that were not based upon the logical principles established by the former Supreme Court decisions. Most significantly, similar business operations were to be dissimilarly treated for State tax purposes, fostering inequity among various types of businesses and inequity among State and local governments. Public law 86-272, as amended, also provided for the study of State and local taxation of multistate businesses. This study, performed by the Special Subcommittee on State Taxation of Interstate Commerce, resulted in the presentation of H.R. 11798 on the last day of the first session of the 89th Congress. H.R. 11798, or the Willis Bill as it was popularly called, would have limited drastically the jurisdiction of State and local governments in the fields of income, sales and use, gross receipts and capital stock taxation. Thus, it would have injected the Federal Government into the administration of State and local tax laws and adjudication of tax disputes and would have permitted the Federal Government to control the taxing powers of the States.

The several more recent congressional bills, like the Willis Bill, would prevent overlapping and non-uniform State and local taxes by the simple expedient of exempting certain multistate businesses from such taxation. Obviously, this approach would relieve interstate taxpayers from the burden of non-uniform tax laws, but it would do so at the expense of State and local revenue-raising capacity, without attempting to determine whether these taxpayers actually do owe any obligation to support the jurisdictions affected.

In an effort to retain taxing power at the local level, the Multistate Tax Compact was drafted in the hope that if the several States clearly demonstrate their ability to solve problems arising from matters among them, the Federal Government will see no need for intervention. Drafted by a special committee of the Council of State Governments, in conjunction with State tax administrators, Attorneys General, legislators, and other State officials, the Compact is basically designed to provide solutions and additional facilities for dealing with the multistate tax problems identified by the Special Subcommittee on State Taxation of Interstate Commerce. In much the same manner as the recent proposals for Federal legislation, the Compact deals with income, capital stock, gross receipts, and sales and use taxation. The possibility of double taxation is eliminated through that portion of the Act that allows the taxpayer to allocate income and taxes among States. An arbitration procedure is provided for the settlement of disputes that are not resolved by the Compact. Finally, a number of reforms already adopted by many states are contained in the Compact; among them, credit for sales taxes paid in other jurisdictions, provision for small taxpayers to elect to pay a tax on gross sales in lieu of net income, and relief of vendors from collection of sales or use taxes upon good faith acceptance of an exemption certificate.

**Recommendations**

During the course of the biennium, testimony concerning the Multistate Tax Compact was received and discussed by the Subcommittee on Finance and Taxation; however, due to the lack of time, a detailed analysis was not possible. It is believed by the Committee that North Dakota is in an excellent position in regard to tax law "housekeeping" as witnessed by the Uniform Division of Income Tax Act, chapter 57-38.1 of the North Dakota Century Code and, therefore, is not contributing to the problems that the Willis Bill is designed to prevent. The Committee does recommend that the Multistate Tax Compact be studied further, with the thought that its adoption may well be desirable in order that this State contribute to the concerted effort to prove that matters affecting taxation lying in the domain traditionally left to State and local governments should not be entered into by the Federal Government.

## TAXATION OF MINERAL RIGHTS

**Introduction**

Senate Concurrent Resolution "TT", passed by the Fortieth Legislative Assembly, charged the Legislative Research Committee to study and present findings and recommendations in regard to alternative methods of taxation of severed mineral interests, in response to a growing concern that these interests would eventually hinder the development of natural resources within the State. In truth,

the severance of the mineral estate from the surface estate has brought about a number of problems that have only recently become apparent. Many conveyances of land in earlier days contained reservations of mineral rights in favor of the grantor that were not considered of value, due to the limited exploration that had taken place at that time. In other instances, direct conveyances of mineral estates were made for minimal consideration under the same assumption. Many of these conveyances and reservations were given little, if any, attention due to their unknown value; and, when the holders died or moved into other counties or States, the only indication of ownership was to be found in the records of the Register of Deeds in that particular county in which the interest was located.

The elapse of several decades has brought about a very great change in the worth of these interests. Lignite coal, discovered in large quantities at an early date in North Dakota, has recently proved to be a valuable resource. Vast reserves of the all-important mineral, oil, have been found within the last few years. Considerable deposits of lesser minerals, such as salt, sulfur, and bentonite have also been found in North Dakota soils. Exploration and extraction of minerals have proceeded at a rapid pace, and lands situated in proven fields were quickly leased in large blocks by development companies. Consequently, mineral interests that were formerly thought to be of little value have suddenly become valuable rights indeed.

It soon became apparent to operators and landowners alike that severed mineral interests were in many instances hindering the development of mineral resources. Lands to which outstanding mineral interests could not be joined in the lease due to the death of the owner or the impossibility of locating him, were bypassed for development purposes by the operators. It became increasingly evident that some method of dealing with those severed mineral interests that were restricting production should be found to assure that mineral development in North Dakota would proceed at a satisfactory pace.

**Taxation of Severed Minerals**

Early efforts in North Dakota to devise a means whereby severed mineral estates could be dealt with proved to be a failure. Chapter 214 of the 1907 North Dakota Session Laws, codified after amendment as subsection 1 of section 57-02-24 of the North Dakota Century Code, had provided that:

> "The several assessors within the state shall list for taxation all. . .minerals. . .the ownership of which. . .has been severed from the ownership of the overlying strata. . ."

Procedurally, however, this proved to be a next to impossible task. The ownership of severed minerals was exceedingly difficult to trace because of multiple subdivisions that had occurred through devolution by probate, operation of law, and subsequent conveyances and reservations. Where ownership could be determined, in many instances the location of the owner was impossible to ascertain. In an effort to resolve these and other difficulties, the Legislature in 1923 passed an Act to provide for a separate tax on mineral estates that had been severed from the surface estate. In **Northwestern Improvement Company v. State,** 57 N.D. 1, 220 N.W. 436 (1928), the North Dakota Supreme Court held that the Act was an arbitrary application of the taxing power, and in violation of sections 176 and 179 of the North Dakota Constitution. In finding that it was unreasonable to provide for a classification for tax purposes based upon the severance of minerals from that of the surface, the Court declared:

> "The tax is not upon the person but on the property, and it is the property that must be placed in reasonable classes for the purpose of taxation. To be uniform property taxes must be laid with regard to the value, or some other characteristic of the property which justifies a classification. The tax in question is not uniform upon the same class of property in the taxing territory as required by section 176 of the Constitution and is therefore void."

North Dakota again attempted to tax severed mineral estates in 1947. Although termed an excise tax, it, too, was struck down by the North Dakota Supreme Court in **Northwestern Improvement Company v. County of Morton,** 78 N.D. 29, 47 N.W. 2d 543 (1951). It was found by the Court that whether the tax was called a property tax or an excise tax was of no consequence, as either category must conform to the Fourteenth Amendment requirement that it not be an unreasonable, arbitrary, or discriminatory classification. And, since the tax was applied to severed mineral interests that were undeveloped, and which were created by express reservation only, the Court held that the tax was clearly an improper classification, and unconstitutional.

A final attempt to tax severed minerals was made in 1953 by the Thirty-third Legislative Assembly. Senate Bill No. 40 would have taxed all mineral estates, and conveyed severed interests to the owner of the surface estate in the event of tax foreclosure. The bill passed both legislative Houses, but was vetoed by Governor Brunsdale. The veto message stated that the purpose of the bill could be accomplished by the utilization of assessment laws already in effect, and that the method whereby the surface owner would regain mineral interests through taxation routes would be at the expense of those owners who had retained their mineral rights, as the bill was designed to tax all mineral estates, severed or unsevered.

**Taxation Methods Currently in Use**

In order to ascertain what methods were being used by other jurisdictions to deal with unproductive severed mineral interests, questionnaires were sent to fifteen States that have well-developed mining industries, requesting information on the approach used, if any, to tax these interests. Responses were received from ten States. Six States reported that they do not tax severed mineral interests, three reported that severed mineral interests are taxed in conjunction with the surface estate on an ad valorem basis, as is currently the law in North Dakota, and one reported that a separate tax is levied on severed mineral estates where there were known mineral deposits. Only in the case of the latter State, Colorado, was useful information as to a different method of taxation received. Severed mineral interests are assessed and taxed in that State in much the same manner as in North Dakota; however, administrative rules provide that the tax shall be not less than one dollar per acre. The imposition of this tax by North Dakota standards would seem to be constitutionally objectionable, since first, in actual practice the taxing districts in Colorado are prone to levy less than the one dollar per acre; and second, since property that has retained the mineral interest is not taxed, the property where the interest is severed is taxed at an additional one dollar per acre simply because the mineral rights have been separated. Especially in the latter instance would the language of the North Dakota Supreme Court in **Northwestern Improvement Company v. State** seem to prohibit such an approach:

> ". . .whether a given species of property is owned by a corporation, joint stock company, or association, or owned by an individual—affords no reasonable basis for classification. **It is just as unreasonable and arbitrary to provide a classification based upon the severance of ownership of the minerals from that of the surface."** (Emphasis added)

Faced with what by all appearances was an extremely difficult if not an impossible task--that of devising a method whereby severed minerals could be constitutionally taxed in the light of the North Dakota Supreme Court pronouncements--the Committee turned to an examination of other theories in an attempt to find a way to deal with these interests.

**Abandoned Property Theory**

To States ever seeking new sources of non-tax revenue the introduction of laws to capture potentially large sums in unclaimed personal property has become an attractive proposition. During the last biennium, it was commented by the 1967 Report of the Legislative Research Committee, on page 84, that an exploration of this source of revenue indicated that:

> "...North Dakota could lose a fairly large amount of abandoned property unless it enacts an Abandoned Property Act in the future."

At the present time, over one-half of the States have comprehensive statutes dealing with the subject of abandoned property, most of these patterned after the Uniform Disposition of Unclaimed Property Act drafted in 1965. This Act is designed to bring State escheat laws up-to-date, by providing for a "custodial-escheat" type of statute. The necessity for State legislation in this field became apparent with the decision of **Texas v. New Jersey,** 379 U.S. 674 (1965). In this case, the States of Texas, New Jersey, Florida, and Pennsylvania all claimed some $26,000 held by the Sun Oil Company and payable to persons whose whereabouts were unknown. Sun Oil agreed that the fund was payable to one or more of the States under their abandoned property Acts, and asked only to be relieved of multiple liability. The United States Supreme Court decided that the State of the last known address of the person entitled to the payment could escheat the money, if its statutes so provided. However, if the State had no statute by which the fund could be claimed, it would fall to the State in which the holder of the fund resided.

As can be imagined, a number of jurisdictions shortly adopted unclaimed property statutes in order to compete with those States where large interstate corporations were located, and that were claiming property owed to persons whose last known addresses were within their State.

The typical "custodial" type of abandoned property statute is comparatively simple in its operation. If personal property is unclaimed and has been held for a period of time without any interest having been shown in it, it is presumed abandoned. The holder of such property is required to submit reports to an administrative officer, listing the property. Within a certain time after the report, the owner is mailed a notice to his last known address advising that property owned by him will be taken into custody by the State upon a certain date unless it is claimed. Also, a notice to the same effect is published in the county of his last known residence. If no claim is made within the prescribed time, the property is taken into the custody of the State and may be sold after an additional published notice. The proceeds are placed in the State treasury and may be used to pay general or specified obligations of the State, as the statute directs. The owner may claim the proceeds at any subsequent time, whereupon they are paid over to him from the State treasury. In actual practice, only a minute amount of the proceeds are ever claimed, even though an unlimited amount of time is given to claim them. In the event the proceeds are claimed, they are paid over free of any charges for publication or other expenses that may have arisen through the administrative process involved in taking custody.

**Findings**

A good deal of the Committee's work throughout the biennium consisted of examining the subject of abandoned property. The progress of other States was charted, and it was especially interesting to note that our sister State, South Dakota, conducted a recent study dealing with this exact subject. It was the recommendation of the study that legislation patterned on the Uniform Disposition of Property Act be adopted, and it was further estimated that with a seven-year abandonment period, the value of property gained through the Act could be expected to reach $888,000 during the first year of operation, and $206,000 the second year, with the proceeds gradually tapering off over a period of years. As a result of these and other investigations, it is the belief of the Committee that the adoption of an unclaimed property statute based on the Uniform Act would generate considerable revenue and would be in the public interest of the State of North Dakota.

It was further believed by the Committee that the problem created by severed mineral interests could best be dealt with through the vehicle of an Abandoned Property Act. While it is realized that, as a species of real property, severed mineral interests are customarily not subject to abandonment, it was felt that a "custodial" type statute, under which the property could be reclaimed at any time by the owner, free of any expenses or fees, would not amount to the disturbing of vested interests under the Fourteenth Amendment or section 13 of the Constitution of the State of North Dakota.

**Recommendations**

The Committee has prepared and recommends the adoption of a bill to provide an Abandoned Property Act for North Dakota. The bill would create an administrative agency to be known as the "Abandoned Property Office" which would be a division of the Attorney General's Office. It would appear that one administrative officer and one secretary would be sufficient to staff this agency, with the probability that both positions could become part-time positions within several years, after the backlog of abandoned property had been disposed of. By creating this agency within an existing office, it is felt that workloads could be better distributed in the event that the Abandoned Property Office would require more or less attention than anticipated.

With respect to personal property, the following individuals and organizations would be required to report annually those types of unclaimed property, as indicated, which had been held for fifteen years or more, and in which no interest had been evidenced:

1. Banking or financial organizations—demand, savings or time accounts, deposits made for the purchase of stock, sums payable on certificates of deposit, drafts and travelers' checks, and tangible or intangible property contained in a safe deposit box.

2. Insurance corporations—any proceeds payable on policies of life, fire, casualty, or surety insurance.

3. Utilities—deposits made by subscribers.

4. Business associations—any stocks, interest, dividends, or other sum.

5. Fiduciaries—any intangible personal property.

6. Any person or organization—any intangible personal property.

7. Courts, public officers, and governmental agencies—any intangible personal property.

8. Business associations, banking and financial organizations—any intangible personal property held in the course of voluntary dissolution.

Within one hundred twenty days after receiving the report, the administrative officer would publish two notices at weekly intervals in the county of the owner's address, advising that if the property is not claimed within ninety days from the second published notice, it will be placed not later than thirty days thereafter in the custody of the administrator to whom all further claims must be directed. A notice to the same effect would be mailed to the last address of the owner. Property not claimed would be forwarded to the administrator within the time specified and could be sold by him at public sale preceded by a single published notice. Costs involved in taking the property into custody would be deducted from the proceeds received. The funds would be placed in the General Fund of the State treasury with a minimum balance of $100,000 placed in reserve in order to pay claims that might arise. A record would be kept of the owner's name and the amount of the proceeds.

Claims to property placed in custody could be made at any subsequent time to the administrator, who would make a determination as to its allowance, based on a hearing. If the claim was allowed, it would be paid without deduction for costs and expenses incurred in taking the property into custody. Appeals from adverse decisions of the administrator could be taken to the District Court of Burleigh County.

The administrator would be allowed to promulgate rules and regulations and examine the records of property holders at reasonable times and places. Penalties would be assessed for failure to file reports and deliver property to the administrator, and an action could be brought by the administrator to compel the delivery. Finally, a provision for reciprocity would allow other States to claim property which is held in North Dakota if the last-known address of the owner is in the other State and (1) if the statutes of that State provide for such escheat, and ( 2) if the statutes contain a similar reciprocity provision allowing North Dakota to escheat property held in that jurisdiction.

With respect to severed mineral interests, a different procedure would be followed. Mineral interests would be declared abandoned unless:

1. The interest had been separately assessed for taxation purposes, and the taxes were not delinquent, or

2. Within the last thirty years part or all of the interest had been conveyed, leased, mortgaged, devised, or had produced minerals in paying quantities, or

3. An affidavit had been filed of record indicating that the owner wished to maintain his ownership in the interest.

Any person could petition the administrator to make a determination as to whether a certain severed mineral interest should be presumed abandoned and taken into custody. Upon the administrator's request, the Register of Deeds would be required to report the status of the particular interest under consideration. This information, together with annual reports submitted by the State Geologist and the State Mine Inspector, would be used by the administrator to ascertain whether the interest is to be presumed abandoned.

Mail notices and publications would be required to the same extent as with personal property, with the addition of a published notice in the county where the interest is located if the owner's address is elsewhere in the State. The custody of interests presumed abandoned would be taken by the administrator in trust for the owner, and a declaration of trust filed of record in the county in which the interest is located. The interest could not be sold but would be held in the name of the State for the owner in perpetuity. Claims would be made in the same manner as for personal property taken into custody and, if allowed, the interest would be conveyed to the owner, free of any costs or expenses. The same due process requirements of appeal and

hearings provided for abandoned personal property would also apply to severed mineral interests taken into custody.

Throughout the course of the study, testimony was heard from representatives of abstractors' associations, mineral operators, and other interested persons in regard to the proposed bill on abandoned property. The Committee believes that the recommendations presented, if adopted, would serve to provide North Dakota with effective machinery to deal with abandoned personal property and severed mineral interests. In other States, the custody of abandoned personal property has been found to be a source of considerable revenue for State government. These funds can be utilized in a number of ways. As an example, Ohio loans the proceeds from its Act for industrial development and, if any funds are claimed, they are paid back to the owner with interest. Also, it should be noted that at the present time all moneys gained by the State through escheat are required to be deposited in the Permanent School Fund by section 153 of the Constitution of the State of North Dakota. Therefore, by operating under the abandonment theory rather than escheat, the proceeds can constitutionally be placed in the General Fund.

In regard to severed mineral interests, the Committee believes that the abandonment theory provides the only method explored that would satisfactorily activate these unproductive estates. The practice of issuing limited abstracts which show only the first severance of mineral rights has unquestionably helped to somewhat reduce the effects of these interests; however, testimony has indicated that not all lending institutions and individuals are satisfied with the limited abstract. And, while the enactment of chapter 38-13 of the North Dakota Century Code in 1967 provided a measure of relief by allowing leases to be granted by the district court regardless of absent mineral interest owners, the Committee believes that the abandonment procedure will provide a less expensive and more workable method of leasing as leases could then be granted by the State, making a resort to judicial action unnecessary. Lease moneys and royalties would then flow to the State, opening up a new source of non-tax revenue.

## OTHER AREAS OF STUDY

Two other matters were brought to the attention of the Committee for study during the course of the biennium. The first concerns section 12-45-07 of the North Dakota Century Code, which provides that the Warden of the State Penitentiary and the Superintendent of the State Training School shall, after the death of an inmate, deposit his moneys and personal effects with the State Treasurer. The State Treasurer is then directed to place the money and proceeds from the sale of his effects to the credit of the "benefit fund for penal institutions" where it may be claimed by the decedent's relatives within six years. An opinion of the Attorney General, dated July 16, 1968, points out that no such fund has ever been established by legislative action, and that the Code Revisor's notes to the North Dakota Revised Code of 1943 indicate that the fund was merely a bookkeeping account to be established by the State Treasury. The proceeds presently amount to somewhat over $1,850 and are undisposed of by the State Treasurer.

After some deliberation, it was decided by the Committee that the bill concerning abandoned property should not specifically provide for the disposal of dormant funds such as this since, as a practical matter, they could not be said to be abandoned. Further to activate such funds through abandonment would entail a waiting period of fifteen years. Therefore, the Committee recommends and has prepared legislation which would provide that section 12-45-07 of the North Dakota Century Code be amended to provide that moneys received by the State Treasurer in the instance above-mentioned be placed in the General Fund of the State treasury.

The other item considered by the Committee came about as a result of the directive of Senate Concurrent Resolution "SS" that any additional studies deemed necessary to correct and improve real and personal property assessment and administration should be performed. In accordance with this mandate, the Committee has reviewed certain taxing statutes relating to the cancellation of special assessments when tax titles to delinquent lands are gained by the county. It was found that sections 11-18-02, 57-27-05, 57-28-05, 57-28-07, 57-28,08, 57-28-09, and 57-28-10 of the North Dakota Century Code impliedly or expressly provide that the lien for special assessments shall not be canceled when a tax deed is issued in favor of the county. Section 57-28-21, on the other hand, provides that when real estate has been sold for cash or a contract for deed which has been fully performed, the Board of County Commissioners shall cancel all general and hail indemnity taxes and special assessments. Since this

section appears inconsistent with the other statutes relating to special assessments, the Committee recommends and has prepared legislation that would clarify section 57-28-21 and bring it into accord with the remainder of the sections dealing with this subject. Section 57-28-17 would also then be amended to correspond with the change in section 57-28-21.

# NOTES

# INDUSTRY & BUSINESS

Senate Concurrent Resolution "KK" directed the Legislative Research Committee, with the cooperation of the Greater North Dakota Association, the North Dakota Economic Development Commission, and the University of North Dakota, to conduct a study of the need for business and industrial incentives to aid in attracting new industry to North Dakota and to promote expansion of existing industry.

This study was assigned to the Subcommittee on Industry and Business, consisting of Senators Guy Larson, Chairman, Francis J. Butler, John D. Decker, Richard W. Goldberg, Gail H. Hernett, Harold R. Hofstrand, Kenneth C. Lowe, and Irvin J. Wilhite; Representatives Richard J. Backes, Jack Bernabucci, Arthur G. Bunker, Monty Burke, Eugene R. Dahl, Donald A. Froelich, Don Halcrow, Fred Hoghaug, Harley R. Kingsbury, Stuart J. McDonald, Harold G. Skaar, and Earl S. Strinden.

The Committee determined that in order to be able to recommend meaningful legislation, it had to discover and assess the various factors which influenced the decisions by new, out-of-State, or existing companies to locate or expand within the State, or which discouraged them in doing so. Business location or expansion decisions are very complex and involve a large number of economic and non-economic factors, thus making it difficult to assess the effect of any single factor. However, the factors seem to group themselves into four main areas: (1) those factors which tend to reduce or increase a firm's cost of operation; (2) those factors which make capital available to a firm which could not otherwise secure financing; (3) those factors which tend to create a favorable image of a state indicating a desire to attract and retain industry; and (4) those intangible factors such as schools, entertainment, and cultural and shopping facilities of a particular location which tend to attract and retain quality management personnel.

It was decided to concentrate on three primary methods of isolating the factors which influenced location or expansion decisions. First, the Committee made a thorough review of reports and studies previously done on the subject, and consulted with personnel of the Greater North Dakota Association and Economic Development Commission who were knowledgeable in this area. Second, the Committee decided to seek the cooperation of the University of North Dakota's School of Business in carrying out a Model Industry Study to determine how North Dakota compared to the States of Montana, Minnesota, and South Dakota, or other States with which we compete for industry in regard to tax load, potential operating costs, and other incentives or detriments. And third, study groups were formed to visit firms located in Canada and Minnesota which had shown an interest in locating in North Dakota in order to determine what factors prevented or aided a decision to locate.

Consideration of several studies of business location incentives revealed that the factors considered most important to a decision to locate in a certain area were generally those least susceptible of direct influence by legislative action. These factors include: proximity to markets, availability and stability of the labor force, raw material transportation costs, and availability of raw material. Although State and local financial aid -- through such mediums as industrial development bonding, provision of low-rent industrial facilities, tax exemptions, and development loans -- was not of primary importance to a majority of the firms which answered the questionnaires distributed by the persons making the various studies, such aid was considered important by a large minority of the firms in several of the studies. The majority viewpoint may also be tempered by the fact that many of the firms which ranked financial aid low as a location decision factor were not offered such aid at the time they made their locations decisions. It should also be reiterated that North Dakota does not act in a vacuum in the field of industrial promotion. It is in direct competition with its neighboring States. Since it must be assumed that business location decisions are essentially rational, all other factors being relatively equal a firm will locate in an area which offers the lowest tax burden and the lowest financing cost.

There are four main programs of state financial aid for industrial development, at least one of which is presently in use in forty-seven of the fif-

ty States. These programs are: (1) a statewide development credit corporation; (2) a state industrial finance authority; (3) state and local tax incentives; and (4) local government industrial bond financing.

A statewide development credit corporation, which can be described generally as a privately organized, financed, and managed corporation, operates, without use of public funds, for the public purpose of developing the State economy. The primary function of such an organization is to provide long term financing to high risk industries which would not otherwise be able to obtain financing from commercial lending institutions. The North Dakota Development Credit Corporation represents this type of program in North Dakota, but is presently only in the organizational stage.

The second main program consists of establishing a state industrial finance authority which usually carries on direct loan activities or acts as guarantor of loans made by commercial lending institutions. The funds for a program of this sort are usually derived from the sale of general obligation bonds, legislative appropriations, or both. In order to establish a program of this nature in North Dakota, an amendment to section 185 of the North Dakota Constitution would probably be required. Section 185 prohibits the State from loaning or giving its credit in aid of "any individual, association, or corporation" except for reasonable support of the poor. In construing a constitutional provision containing similar language, the Ohio Supreme Court, in **State ex rel Saxbe v. Brand,** 197 N.E. 2d 328 (1964), ruled that loans made by a state industrial finance authority were in violation of the Ohio Constitution.

State and local tax incentives constitute the third and oldest, of the main programs of state financial aid. North Dakota allows tax exemptions in conjunction with the use of municipal industrial development bond financing.

The final program consists of aid through local government bond financing. The North Dakota Legislature enacted a program of this sort in 1955. The Municipal Industrial Development Act (chapter 40-57 of the North Dakota Century Code) allows "municipalities" to build, purchase, or improve an industrial or business facility through the issuance of revenue bonds. The facility is then rented to the incoming or expanding firm, and the rental income is dedicated to payment of the bonds.

The efficacy of municipal industrial development bonding as an incentive to industrial expansion has been limited by recent enactments of Congress. P.L. 90-364 removed the tax-exempt status of industrial development bond issues which exceed one million dollars in amount. However, at the recommendation of numerous state officials, Representative Wilbur Mills has introduced H. R. 18371 which would raise the limit for denial of tax-exempt status to bond issues having a total face value of five million dollars or more. Prior to the passage of P.L. 90-364, a letter was written to appropriate members of Congress stating the opposition of the Subcommittee on Industry and Business to P.L. 90-364.

**Model Industry Study**

The Committee, in June 1967, requested the School of Business of the University of North Dakota to carry out a Model Industry Study which would compare the tax structures and other business factors as they related to a hypothetical firm if it were to be located in either North Dakota, Minnesota, Montana, or South Dakota. The Committee agreed to pay four thousand eight hundred dollars of the cost of making such a study. The membership of the Subcommittee on Industry and Business then established a list of factors which it felt should be compared within the framework of the study.

Due to other commitments of its personnel who were to carry out the study, the School of Business was not able to progress far enough with the study to allow for its completion prior to the next regular session of the Legislative Assembly. Considering the small amount of time spent on the study by the School of Business and the complexity of the factors to be compared, it was decided that the data which could be presented prior to the next legislative session would be too unreliable to serve as a basis for recommended legislation, and therefore, the Committee moved that the study be postponed and that the four thousand eight hundred dollars be returned to the General Fund. Late in the interim, it was learned that North Dakota State

University had recently completed a similar study of a malting barley plant which could be used as a pilot for any future model industry study.

**Study Group Activities**

One November 21-22, 1967, a study group traveled to Winnipeg, Manitoba, and talked with executives from seven firms: Knit-Rite Mills, Scott-Bathgate Limited, Motor Coach Industries Limited, Glesby Garment Company, Grainmaster Manufacturing Limited, Controlled Environment Limited, and Pioneer Electric. These firms had considered locating branch plants or relocating their present facilities in North Dakota, and the study group attempted to discover what factors caused five of the firms not to so locate. Some of these factors were: inability to hire management personnel and skilled workmen, lack of financing, underpopulated market area, and high transportation costs. The firms which had located in North Dakota indicated that the quality of North Dakota labor is excellent.

Another study group traveled to Minneapolis-St. Paul on January 9-10, 1968, where they conferred with executives from Minnesota Mining and Manufacturing, Minnesota Rubber, Tonka Corporation, and Peavey Company. Among the location decision factors considered important by these executives were: (1) availability of vocational training facilities; (2) the existence of right-to-work laws; (3) attitudes of potential labor; (4) existence of an airport with hard-surfaced runways; (5) availability of potential executive manpower; (6) stable political climate; and (7) attitude of the community toward new industry.

Robert Carlson, President of Minnesota Rubber Company, pointed out that although the availability of financing and limited tax exemption under the Municipal Industrial Development Act was a good industrial location incentive to some companies, consideration should be given to providing tax exemption to companies which are able to finance out of their own pockets, plants to be located in North Dakota.

**Legislative Recommendations**

It was determined that it is not always desirable that the tax exemption provided by section 40-57-17 be mandatory upon a firm desiring to finance through use of industrial development revenue bonds. There may be situations in which the firm could decide that community acceptance of its presence would be enhanced if the tax exemption were foregone, or the firm might decide that continuation or increase of essential governmental services, such as fire and police protection, would not be possible if the tax revenue generated by assessment of the firm's property was not available. Accordingly, the Committee recommends a bill providing for amendment of section 40-57-17 of the North Dakota Century Code which would allow project lessees to apply for the personal property tax and, in the case of corporate lessees, income tax exemptions within 30 and 60 days respectively. If a firm decides to forego the tax exemption it will not make application for it. The section is also amended to allow the project lessee to waive all or part of a previously granted tax exemption.

The Committee was impressed with the fact that a five-year tax exemption is allowed a firm which chooses to take advantage of another industrial incentive—financing through industrial development bonds—but is not available to firms which are able to finance their own plants. It was pointed out in a statement by Holly Sugar Company that the tax exemption provision was a strong incentive to their decision to locate in North Dakota. Now that congressional action has rendered the use of industrial development bond financing unattractive, Holly is looking for alternate methods of financing. The following is a quote from Holly Sugar Company's statement of February 14, 1968:

> "Having been frustrated thus far in its 1967 efforts to use municipal industrial revenue bond financing and with very little prospect that this means of financing can be used in the future, Holly is now looking at alternative means of financing the projected Red River Valley factory. The availability or unavailability of the valuable five-year property tax exemption could be decisive. Obviously, the availability of such tax exemption, whatever the means of financing used, could be a powerful inducement to proceed with new plant projects in North Dakota."

It was decided that if a five-year tax exemp-

tion was a valuable incentive within the framework of an industrial development bond financial aid program, it would also be a valuable incentive standing alone. Therefore, the Committee recommends a bill allowing municipalities, with the approval of the State Board of Equalization, to grant five-year exemptions from income and property taxes.

Section 1 of the proposed bill draft contains a statement of legislative intent.

Section 2 defines the terms "municipalities" and "project." The term "project" includes all property which is used or useful in connection with the business to be engaged in, but does not include inventories.

Section 3 provides that the "municipality" may negotiate with the project operator in regard to a complete or partial ad valorem tax exemption on tangible property. The section also requires city government to do the negotiating if the project is to be located within the city, and county commissioners to negotiate if the project is to be located outside of the city. If a partial exemption is granted, it must be stated as a percentage of the total taxes assessed against the property.

Section 4 allows the municipality to apply for an income tax exemption on behalf of the project operator. This exemption would also be for a five-year period and would be subject to the approval of the State Board of Equalization.

**Miscellaneous Committee Action**

The Committee directed that a letter be addressed to appropriate members of Congress expressing the hope that the Auto Trades Agreement Act, a tariff agreement between the United States and Canada, would be extended. This extension would be of greatest benefit to Motor Coach Ltd.'s bus assembly plant at Pembina, North Dakota.

# JUDICIARY

House Concurrent Resolution "W" and Senate Concurrent Resolutions "C" and "EEE" of the Fortieth Legislative Assembly directed the Legislative Research Committee to study the eminent domain laws and judicial decisions and related land appraisal practices, home rule powers as such may be granted by the Legislative Assembly under present constitutional authorization, and the feasibility of modifying the doctrine of governmental immunity.

These studies were assigned to the Subcommittee on Judiciary consisting of Senators Elton W. Ringsak, Chairman, Howard A. Freed, Donald C. Holand, Herbert L. Meschke, David E. Nething, and Ernest M. Sands; Representatives Gordon S. Aamoth, Harold O. Bullis, Helmer Dahlen, Russell Duncan, Aloha Eagles, Carl J. Freeman, William C. Kelsch, Wayne G. Sanstead, Stanley Saugstad, and Earl Strinden.

## GOVERNMENTAL IMMUNITY

Unanticipated loss of committee professional staff members prevented more than preliminary and inconclusive study of the feasibility of modifying the doctrine of governmental immunity. As any such study would necessarily include consideration of the complete abrogation of the doctrine and the serious liability implications to the State and its political subdivisions arising from such action, the Legislative Research Committee postponed this study.

## HOME RULE

Initial effort in the home rule study was directed toward defining home rule as it has been applied in other States and as it might be applied in North Dakota under the amended Section 130 of the Constitution. Simply defined, home rule is the authority of a city, under a State Constitution and laws, to draft and adopt a home rule charter and to thereafter govern itself under such charter and not under State law except where State law has general application to the citizens of the entire State. Such authority, which liberates cities to devise forms of government and expand local self-government using local initiative, is distinguished from the "creature of the State" concept wherein legislative control over the cities is exercised from the State Capitol by special Act or general law.

In the majority of States, home rule authority is granted directly to the cities by the Constitution. North Dakota is somewhat unique in this respect in that Section 130 of the Constitution does not in itself grant home rule authority to cities but rather authorizes the Legislative Assembly to grant such power. Home rule legislation will enjoy "constitutional protection" but will remain dependent upon the Legislative Assembly for implementation and, thereafter, the Legislative Assembly will retain the power to change or modify existing home rule laws.

The Committee was most concerned with the scope and extent of the home rule powers to be granted and with scaling these powers to the cities' needs. It was noted that the powers to be granted must relate to matters of city government and concern. Such matters generally include health, welfare, and safety of the inhabitants, generally a right to raise revenue to finance city services and duties, and to restrict monopolies in trade within its borders, the right to annex property, and the right to revert to a statutory form of government if home rule proves unsatisfactory.

It has been generally held that State laws pertaining to police powers bind home rule cities. That is, home rule cities can enact ordinances in police power areas as long as such laws are consistent with State general law. For example, a home rule city could not allow its liquor establishments to sell to minors. Neither could it allow sale of certain items on Sunday, Sunday sale of which is prohibited by State law.

In considering the delimitation of home rule powers, the Committee was conscious of the problems inherent in a general grant of power. Experience in other States has indicated a problem of vagueness and consequent litigation when the constitutional grant of home rule powers has been too general. Such general grant tends to create a hazy area of the extent of State and city jurisdiction which tends to foster litigation and dilute the effective exercise of local government.

Of particular interest to the Committee was the question of whether home rule cities should be limited to the fixed constitutional or statutory lim-

its placed on mill levies and on bonded indebtedness. In connection with this question, it was noted that one of the basic elements motivating home rule is the limitation on legislative control. Current North Dakota law limits the aggregate levy for general city purposes to 31 mills, and for cities over 5,000 a half-mill increase for each additional 1,000 inhabitants to a maximum of 33 mills, except that a majority vote of the city electors at special election may increase the maximum by not more than 5 mills. Additional mill levies are provided for those cities with either a band or public library. Cities are generally limited to indebtedness of not more than five percent of the assessed value of the city's taxable property. A two-thirds vote of the qualified voters may increase such limit by not more than three percent.

Following the informational period of the study, the Committee turned its attention to identifying the home rule powers and responsibilities which interested North Dakota cities and their officials might wish to be granted to them by legislative enactment. Officials of all North Dakota cities over 1,000 population were asked by written questionnaire to express their opinions about the need for and the effect of home rule in their communities. As part of its invaluable assistance to the Committee throughout the study, the League of Municipalities arranged for a committee of city attorneys from several North Dakota cities of varying populations to meet with the staff to discuss and draft home rule legislation for consideration by the Committee.

It was generally the opinion of the city attorneys and others consulted during the study that the range of powers granted to a city should be broad in scope yet defined to the extent possible, thus providing the home rule city and its citizens reasonable flexibility to chart its own course within the bounds of good governmental practice. It was recognized that the actions of officials of a home rule city would be effectively reviewed by periodic elections and by established procedures for approval, amendment, and repeal of the home rule charter by the electorate as well as by the Legislative Assembly, thus all but precluding radical action by the city governing body. It was the further opinion of those consulted that it was important that the home rule city continue to be governed by applicable State law in those areas where its charters and the home rule laws are silent.

A bill is therefore recommended which would give any city of 100 or more persons the authority to propose and adopt a home rule charter. The charter would be prepared and proposed by a charter commission appointed by the governing body of the city and adoption would be dependent upon a majority vote of the qualified electors of the city. Upon adoption, the home rule charter and any ordinances made pursuant to the charter would become the organic law of the city within its territorial jurisdiction, superseding conflicting general State laws in the area of city affairs. The bill delineates to the extent possible the broad powers which the home rule city may include in its charter and implement through ordinances. These powers include all of the powers now enjoyed by cities under State law. In the fiscal field, included would be the power: "To control its (city) finances and fiscal affairs; ... to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; ... to establish debt and mill levy limitations, provided that all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner as prescribed by the State Board of Equalization and the State Supervisor of Assessments." The bill further provides for amendment or repeal of the charter in a manner similar to that for its proposal and adoption, terms of office, and other matters in connection with the change of a city's former status to home rule government.

## EMINENT DOMAIN

The study of eminent domain laws and land appraisals was somewhat limited by the shortage of available staff time. The Committee reviewed the concept of eminent domain and the present status of the related law in North Dakota. Generally, eminent domain is the right to take private property for public use, and condemnation, as it relates to eminent domain, is the implementation of that right.

Since 1956, the State of North Dakota and its political subdivisions have been able to acquire land necessary for right-of-way by what is called the "quick take" method. Pursuant to section 14 of the Constitution, section 24-01-22.1 of the Code, and court decisions, a deposit of money with the clerk of court which constitutes an offer for the acquisition of land is the moving paper by which an action

is brought. These provisions are self-executing and constitute the only procedure provided to acquire land for right-of-way.

If the owner is dissatisfied with the offer, he has 30 days after receipt of the notice of the offer by the clerk of court within which to appeal. Any writing that denotes dissatisfaction and a desire to litigate is normally considered acceptable as an appeal from the offer.

After notice of appeal has been filed with the clerk of court, the matter is automatically placed on the docket of the next general or special term of court. A jury trial need not be demanded and the jury can be waived if the party wants to try the matter to the court.

The sole function of the jury in an eminent domain case is the determination of just compensation, and in so doing it must ascertain the value of the part physically taken. If an entire tract is taken, the function of the jury will be to determine market value of the total tract at the time of the taking.

If only a part of a larger parcel is taken, then the jury must assess market value for the part taken plus damages, if any, that accrue to the remainder by severance of the part taken. This market value for the part taken plus severance damage is "just compensation."

In determining "just compensation," the jury considers evidence including technical terms, "expert witnesses," and theories of valuation.

In North Dakota courts, an owner of property is competent to give an opinion of that property's value by virtue of his ownership and not because he has any special knowledge of its value. (**McChaffery v. Northern Pacific Ry. Co.,** 22 N.D. 544, 135 N.W. 749; **Watson v. Nelson,** 42 N.D. 102, 172 N.W. 823). The owner's opinion, however, is not dispositive of the issue of value, and other evidence must then be presented including expert witnesses.

Assuming that a witness qualifies as an expert, his initial inquiry should be to define the "highest and best use" of the property to be taken. North Dakota statutory law does not presently define this term and, therefore, an accepted definition of this term is included in the recommended bill.

In valuing the property to be taken, a real estate appraiser may use one of three recognized theories—comparable sales, cost, and income (capitalization). Of the three, comparable sales is generally recognized as the approach giving the best indication of market value.

The admissibility of comparable sales is an open question in North Dakota (**Reeder v. Hanson,** 55 N.D. 331, 213 N.W. 492), but evidence of the sales price of other real property as bearing on the value of the subject land is usually admitted in North Dakota courts. To be admissible, it has been generally held that there must be sufficient similarity between the properties. Since comparable sales made after the time of taking are admissible in most jurisdictions as long as the price hasn't been enhanced by the taking and it seemed that it is the most accurate means of estimating land value, provision for the admissibility of evidence of "comparable sales" is provided in the recommended bill.

Under section 32-15-22, North Dakota Century Code, just compensation is assessed by placing a value on the part taken—then the remainder is valued before and after the taking. In **Lineburg v. Sandven,** 74 N.D. 364, 21 N.W. 2d 808, the North Dakota Supreme Court approved the "before and after" rule of assessing value. This is simply the total value before the taking and the total value of the remainder after the taking, the difference reflecting severance damages and the loss of the part physically appropriated. The latter appeared to be the safer procedure of appraisal as the danger of double damages is avoided. Under the statutory method, if the part to be taken had some particularly valuable aspect, such value might be reflected in the value attached to that part and again reflected in severance damages for the loss of the valuable aspect of the part taken. It appears that the "before and after" rule is simpler and more effective than the statutory rule, and a definition of "just compensation" is included in the recommended bill.

Representatives of the Highway Department were consulted throughout the eminent domain study and recommendations of that department form the substance of the recommended bill.

A private lawyer with considerable experience in eminent domain litigation was heard during the initial phase of the study. He recognized that certain areas of the present law should be clari-

fied but that the law was generally adequate from the landowner's point of view, and he objected to legislating standards for expert witnesses.

The recommended bill provides definitions for the following terms: "unit of property", "expert appraiser", "comparable sales", "highest and best use", and "just compensation". Since the Supreme Court has declared section 24-01-19 and, by implication, section 24-01-20 inoperative and inapplicable where in conflict with section 14 of the Constitution, as amended, the recommended bill amends these sections to provide in section 24-01-19 for the Supreme Court's interpretation of this section that when the State seeks to acquire right-of-way, it can take possession upon making an offer to purchase and by depositing the amount of the offer with the clerk of the district court (**Kuecks v. Cowell,** 97 NW 2d 849), and in section 24-01-20 for the notice of deposit, its form and publication. The recommended bill amends section 24-01-21 to provide for withdrawal of seventy-five percent of the deposit when the owner files a timely appeal of the amount of the deposit. Amendment of section 24-01-22.1 deals with administrative aspects of the appeal of the amount of the deposit. The recommended amendment of section 24-01-23 provides for an appeal by jury trial for either side to the dispute, by special term of court, if necessary. New sections 24-01-24.1 and 24-01-24.2 of the recommended bill provide for burden of proof upon the appellant, damage as occurring on the date right of possession passes, and establishment of the value of the property taken including "comparable sales" as an admissible element of testimony and for final appeal of any dispute to the Supreme Court.

The Committee also recommends a bill amending section 32-15-22.1 to allow reimbursement to an owner for moving his own personal property pursuant to condemnation proceedings.

# LEGISLATIVE PROCEDURE AND ARRANGEMENTS

The Legislative Research Committee is authorized, by section 54-35-11 of the 1967 Supplement to the North Dakota Century Code, to make all necessary arrangements, except for employment of legislative employees, to facilitate the proper convening and operation of the Legislative Assembly. The performance of these tasks was assigned to the Subcommittee on Legislative Procedure and Arrangements, consisting of Representatives Arthur A. Link, Chairman, Gordon S. Aamoth, Robert Reimers, Bryce Streibel, George M. Unruh, and Ralph M. Winge; Senators Evan E. Lips and Herbert L. Meschke.

**Introduction**

The scope of the Committee's studies and recommendations is very broad, covering the entire spectrum of legislative affairs. The Committee is recommending a number of amendments to the Legislative Rules of both Houses, among which are amendments to provide for pre-filing of bills and resolutions and for a consent calendar. The need for a Legislative Code of Ethics was recognized, and the Committee recommends a bill establishing such a code, and also recommends a bill which would establish guidelines for the conduct of legislative investigating committees. Following approval, at the September primary election, of the constitutional amendments which gave the December organizational session constitutional status, the Committee, in accordance with the requirements of law, prepared an agenda for that session which will allow both Houses to completely organize prior to the convention of the regular session in January 1969. In order to alleviate the extreme shortage of time allowed for standing committees to adequately consider the large number of bills that come before them, the Committee is recommending a new standing committee schedule. Other bill recommendations include: a bill changing the name and codifying some of the present duties of the Legislative Research Committee; a bill amending certain portions of the legislative chapter of the North Dakota Century Code to make it conform to the recent constitutional amendments; and a bill providing for the creation of a Legislative Compensation Commission. The Committee also recommends a resolution calling for a Legislative Research Committee study of the feasibility of a recessed session plan for meetings of the Legislative Assembly. Finally, the Subcommittee on Legislative Procedure and Arrangements acted in an advisory capacity to the Capitol Grounds Planning Commission in its study and planning activities for a new legislative wing.

**AMENDMENTS TO LEGISLATIVE RULES**

In order to expedite passage of bills and resolutions which do not create substantial discussion and controversy, many State legislatures have authorized the use of consent calendars.

California has the most formalized system for a consent calendar. Each standing committee may report uncontested bills with the recommendation that they be placed on the consent calendar. These may include any bills with a "do pass" or "do pass as amended" recommendation which has no expressed opposition by any person at the committee hearing; all revenue bills are excluded. Following second reading and the adoption of any committee amendments, such bills are assigned to the consent calendar. A bill must be on the consent calendar for two legislative days prior to action and cannot be amended from the floor while on the consent calendar. Once placed on the calendar, any one member may ask on either day that it be taken off. Bills on the consent calendar are not debatable but can be questioned. The consent calendar for the second legislative day is the last order of business on the daily file. The roll is taken on the first bill and substituted for each succeeding bill. More than 20 percent of the legislation in California is set on the consent calendar, and it is a well-established standard procedure which conserves time.

The Committee, in order to take advantage of these established expeditious procedures, recommends the creation of Joint Legislative Rules 16 and 17, which would establish a consent calendar procedure very similar to the California system described previously. Bills and resolutions on the consent calendar will be considered prior to bills and resolutions on second reading and final passage on the regular calendar.

Because the organizational session in December can now, due to acceptance of the constitutional amendments in this regard, be used as a period of legislative organization, thus freeing the first days of the regular session for normal legislative work, and relieving in part the necessity for consideration of such a large number of measures in the last few days of the session, the Committee recommends amendments to Senate Rule 29 and House Rule 30 to move the deadline for introduction of bills from the twentieth day to the fifteenth legislative day. The provision for introduction by a two-thirds vote of the membership of the respective Houses, or by the respective Committees on Delayed Bills, remains unchanged.

Senate Rule 44 and House Rule 45 would be amended to provide that, beginning with the twenty-fifth legislative day, all bills and resolutions, except appropriations bills which have been referred to standing committees, shall be returned to the Senate or House, as the case may be, on the fifteenth legislative day after referral, unless extended time for consideration is granted. Any bills or resolutions not reported back within that time limit shall go on the calendar without recommendation. The foregoing limitation is made to apply to all bills of the House of origin not reported by the thirty-eighth legislative day, and bills from the other House not reported by the fifty-seventh legislative day.

Joint Rule 8 is amended to provide that no bill shall be sent to the other House on any of the last four legislative days, and to move the deadline for crossover of bills between Houses from the forty-third day to the fortieth legislative day.

Senate Rule 46 and House Rule 47 are amended to provide that, if the committee report is not divided, a substitute motion by any member is in order to report for passage, indefinite postponement, amendment, or without recommendation, which motion, if it carries, shall be substituted for the regular committee report.

Senate Rule 62 and House Rule 63, which deal with the motion for reconsideration, are amended to define the phrase "prevailing side of a question" as that side which receives the most votes regardless of whether the question succeeds or fails.

The Committee recommends amendments to the House and Senate Rules dealing with the introduction and printing of bills, resolutions, and memorials so as to allow for the pre-filing of bills in the Legislative Research Committee office. Pre-filed bills may be printed upon order of the Legislative Research Committee. The Speaker and the President of the Senate may, in the interim between the organizational session and the regular session, assign the pre-filed bills to committee and may arrange for posting of notice of hearing. Pre-filed bills may not be withdrawn, except on the floor of the House or Senate, and are not to be kept confidential. It is the opinion of the Committee that the pre-filing system will permit further saving of time during the regular session.

The Committee, in another effort to restrict the agenda of the regular session to legislative business, recommends the creation of Joint Legislative Rule 18 which would limit joint sessions of the House and Senate to inauguration ceremonies and legislative business, and would prohibit the calling of joint sessions to honor or memorialize persons who are not members of the Legislative Assembly.

The rules setting out the duties of the Chief Clerk of the House (House Rule 8) and the Secretary of the Senate (Senate Rule 8) are amended to provide that these two persons shall prepare and see to the execution of an orientation program for their respective groups of legislative employees in the opening days of the session.

The committee system is the heart of the legislative process, for it is in committee

hearing that a particular measure will get the only formalized, close scrutiny that time allows. Therefore, it is essential that the legislative committee system be designed to promote maximum efficiency in use of legislative time and facilities.

The Committee recognized that the present standing committee schedule does not allow enough time for the work of some committees to be completed, and that the committees most affected by an overload of work in relation to time available were the Appropriations and Finance and Taxation Committees in both Houses. Attached hereto as Appendix "A" are charts showing one measure—number of bills referred—of the relative workload of the standing committees. In order to alleviate the workload of the Appropriations and Finance and Taxation Committees, the Committee recommends amendments to the Rules to provide committee schedules as follows:

**HOUSE:**

| Committee | Days | Membership |
|---|---|---|
| Appropriations | MTWThF | 19 |
| Finance and Taxation | MTWTh | 19 |
| Education | MT | 19 |
| State & Federal Government | MT | 19 |
| Political Subdivisions | MT | 19 |
| Judiciary | WTh | 15 |
| Agriculture | WTh | 14 |
| Industry & Business | WTh | 14 |
| Transportation | WTh | 14 |
| Natural Resources | Fri | 19 |
| Social Welfare & Veterans Affairs | Fri | 19 |
| Labor | Fri | 19 |
| General Affairs | Fri | 19 |

**SENATE:**

| Committee | Days | Membership |
|---|---|---|
| Appropriations | MTWThF | 12 |
| Finance & Taxation | MTWTh | 9 |
| Judiciary | MT | 9 |
| Agriculture | MT | 9 |
| Industry, Business & Labor | MT | 9 |
| Education | WTh | 14 |
| State & Federal Government | WTh | 13 |
| Political Subdivisions | Fri | 9 |
| Transportation | Fri | 9 |
| Natural Resources | Fri | 9 |
| Social Welfare & Veterans Affairs | Fri | 9 |

Under the proposed schedules, the two Appropriations Committees would meet five days per week, and members of those committees would serve on no other committees. Finance and Taxation Committees in both Houses would meet four days per week, and members of those committees would serve on only one other committee which would meet on Friday. The schedule requires the merger of the House Committees on Social Welfare and Veterans Affairs.

The Committee also recommends several other amendments to the Rules, most of which are of a housekeeping nature. One of the amendments would reduce the size of the House Rules Committee from twenty-two to nine members. In order to make many of the foregoing changes meaningful, and to provide more actual legislative time, the Committee recommends that the leadership in each House instruct the desk force to discontinue counting Sundays as legislative days when printing the Journals, which would add nine extra working days this session.

## CREATION OF CODE OF ETHICS

Although there have been no situations in recent years that have resulted in substantial criticism of the Legislative Assembly, it is always possible for such problems to arise. Any deliberative body which enacts laws to govern the people whom the body represents should be guided by standards of conduct to which the people repre-

sented can refer in arriving at judgments regarding the integrity and conscientiousness of their representatives. Legislatures across the country have been giving increasing attention to this subject during the past two years. Accordingly, the Committee recommends a legislative code of ethics to serve as a guide to proper legislative conduct and to provide a forum for the airing and answering of ethical questions. The Committee feels that favorable action on this bill would enhance the image of the Legislative Assembly.

Section 1 of the bill acknowledges the individual legislator's right, and duty, to cast his vote on pending matters after due deliberation, but points out that the right is limited where personal interest conflicts with the public interest. Section 3 defines a conflict of interest, and points out that such a conflict disqualifies the legislator from voting on questions or attempting to influence legislation to which the conflict relates. The section then goes on to enumerate various situations which, if they should arise, would raise a presumption of a conflict of interest.

If a legislator feels that his independence of judgment is not impaired, although an apparent conflict of interest has arisen, he may file, with the Joint Committee on Legislative Conduct, a statement of non-impairment which will suspend the disqualification imposed by section 3 of the bill.

The bill creates a joint standing committee on legislative conduct consisting of the Majority and Minority floor leaders of each House and four additional members, one appointed by each floor leader. The Committee is empowered to render advisory opinions on possible conflicts of interest at the request of individual legislators. Such advisory opinions may be printed in the Journal of the proper House, but the name of the legislator requesting the opinion will not be included, unless his consent be granted to its inclusion. The Committee is required to meet as often as necessary but not less than once each calendar year.

Other powers and duties of the Committee include the duty to receive and investigate sworn complaints against legislators alleged to have violated provisions of this bill, or other established standards of conduct. Investigations into a legislator's conduct may also be initiated upon motion of the Committee. The findings of any investigations will remain confidential unless the Committee shall, upon investigation, have cause to believe a violation of the Code has occurred and directs that a public hearing may be held. The public hearing, called if the Committee has probable cause to believe that conduct representing abuse of office as defined in the bill, or any other breach of the provisions of this bill has occurred, will be held according to the tenets of due process of law. If the Committee determines that no violation has occurred, the complaint shall be dismissed. If the Committee determines that the accused legislator has violated the provisions of this bill, or of the principles set forth in the bill, the Committee will report such finding to the proper House and will recommend appropriate disciplinary action pursuant to the provisions of section 48 of the Constitution of North Dakota.

**CONDUCT OF LEGISLATIVE INVESTIGATIONS**

Although the legislative investigating committee has a long history of use in the United States, these committees have come under judicial fire in recent years due to the clash of committee authority and prerogatives with the personal rights of persons summoned before such a committee.

The device of legislative investigation, when properly employed, is a key to good government. It enables the Legislature to inform itself on the needs of government, in preparation for the adoption of new laws, and for the revision of old ones. By means of the investigation, the Legislative Assembly can expose incompetence, mismanagement, fraud, and corruption, and thereby create public interest in correction.

The Committee, after thorough study of a bill drafted by the Committee on Legislative Rules of the National Legislative Conference, which establishes standards for the conduct of legislative investigations, recommends that a bill embodying the Model Act with minor amendments be adopted.

The bill sets out the methods of creating in-

vestigating committees. It provides for adoption of rules, membership of the committee, size of quorum, and method of voting. Investigating committees are allowed to employ such professional, clerical, and technical staff as may be necessary within the limits of available funds.

Hearings held by an investigating committee will be public, unless a majority vote of all the members is in favor of holding a closed session. All witnesses at any hearing shall have the right to be accompanied by counsel. All testimony will be recorded. A committee shall have the power to subpoena witnesses to appear before it.

An investigating committee may apply to the Legislative Assembly, or to either House, for a contempt citation for any failure to answer relevant questions, appear upon subpoena, or for any other action which would constitute contempt if committed against the Legislative Assembly, or either House thereof. Contempt shall be punished by a fine of not more than $250 or by imprisonment for not more than 180 days.

## LEGISLATIVE COUNCIL

Because the responsibilities of the Legislative Research Committee go far beyond research on assigned projects, and include such duties as drafting bills by the staff upon request by committees and individual legislators, publication of the Code Supplements and the Session Laws and providing legal counsel to individual legislators and legislative committees on legislative matters, and has in effect simply become a continuation of the legislative process on a part-time basis, the Committee is of the opinion that its name should be changed to more accurately reflect its workload.

Further, the Committee noted that the various interim Subcommittees are responsible for doing work of such importance that they deserve the status of full committees. It was agreed that the membership of the new Legislative Council should be increased to include the Majority and Minority floor leaders of each House in order that their responsibilities for legislative operations may be recognized during the interim. To accomplish the foregoing and to codify the functions already carried on by the Committee, the Committee recommends a bill relating to the name, functions, powers, and duties of the Legislative Research Committee. The name of the Committee is to be changed to "Legislative Council," and interim subcommittees would be referred to as committees.

Section 4 of the bill creates a new section of the Code which would allow the Chairman of the Legislative Council, or the Chairman of any of its committees, to subpoena witnesses and documents and to examine the witnesses under oath. The section also allows the Council, or any Committee thereof, to compel testimony of a self-incriminatory nature, but provides that the witness shall not be prosecuted on the basis of such testimony. The section also provides that witnesses who are not State employees shall be entitled to witness fees. The Legislative Council or any of its committees will report to the House of Representatives at the following session for appropriate action any person who fails to appear and give testimony or produce evidence.

Section 12 authorizes the Council to carry out such duties and projects as may be requested by concurrent resolution, or as may be deemed reasonable and necessary to assist the Legislative Assembly in meeting its responsibilities during the session and in the interim between sessions. The Council would continue to have co-responsibility with the Secretary of State for the authentication and publication of laws, resolutions, journals, Session Laws, and Supplements to the North Dakota Century Code. The remainder of the bill consists mainly of amendments made necessary by the name change.

## LEGISLATIVE COMPENSATION COMMISSION

Setting salaries of public officials is one of the more difficult and complex problems in government. This is especially true for legislators, who normally must participate in the process by which their pay is adjusted. Past attempts by the Legislature to correct deficiencies in compensation have been, at times, unpopular with the public and, where they have involved constitutional amendment, have been defeated.

The Committee is of the opinion that the more acceptable way to handle this problem is to have a board, representative of the public, to study the pertinent and objective criteria available and make compensation changes if they should be adjudged necessary. This method has recently been adopted in four States. Such a statutory board would not have authority to change the five dollars per diem paid during legislative sessions because such salary is mandated by the Constitution, but could readjust expense allowances paid during and between sessions and compensation paid to legislators for service on interim committees.

The recommended bill would create a Legislative Compensation Commission consisting of five members appointed by the Governor from the public at large. No member of the Commission could be employed by the State in any capacity. A Commission member's term of service is four years, and the Governor would designate one of the members as Chairman.

The Commission is empowered to meet as often as necessary, but must meet at least once each biennium. The Commission's recommendations must be presented to the Legislative Assembly in the first ten days of the session, and the compensation adjustments would take effect, if the Legislature does not reject them, within thirty days after their presentation. The Commission is authorized to seek the aid and assistance of the Legislative Research Committee (Legislative Council) in providing information and assistance.

## RECESSED SESSION PLAN

The workload of the Legislative Assembly has multiplied many times since 1889 when the present time limitation on session length was included in the Constitution. In spite of substantial and continuing streamlining of legislative rules and the legislative structure, the workload, which has quadrupled in the past twenty years alone, has made it impossible for the Legislature to provide adequate time for public hearings upon this mass of legislation and to give the deliberative consideration to all the bills and public problems which is demanded by the citizenry. The Committee feels that it is necessary to develop procedures to aid the Legislature in meeting its responsibilities at the lowest practical cost, while doing the least damage to the citizen legislator concept. The Committee, therefore, recommends adoption of a resolution calling for a study, by the Committee, of the feasibility of establishing a recess system for legislative sessions. Under this system, the Legislature would meet for organizational purposes in December following the general election, and would then recess until January, when the Assembly would meet for a length of time sufficient to permit the introduction of bills and study resolutions and the passage of emergency measures, and would again recess until the following January. During the interim, joint standing committees would hold hearings on bills introduced, prepare necessary amendments, complete research assignments, and then make their reports at the second meeting of the regular session, which would then involve primarily floor work with a limited number of committee hearings in the second House.

## DECEMBER ORGANIZATIONAL SESSION

The constitutional amendments providing for an organizational session to meet in December of the even-numbered years were approved at the primary election in September 1968. Accordingly, the Committee has completed all necessary arrangements for the session, and has prepared an agenda which, if met, will have both Houses completely organized prior to the opening of the regular session. In addition, the Committee is recommending a bill which amends the chapter of the Code dealing with the Legislative Assembly, to take into account the constitutional status of the organizational session. The phrase "organizational session" is defined and distinguished from the phrase "regular session," and the meeting dates for the organizational session are limited to December. The expense allowance for legislators attending the organizational session will be the same as it is during the regular session. Terms of office of the Speaker and President Pro Tem are changed to run from organizational session to organizational session. Certain sections in chapter 54-03.1, which deals with the pre-session conference, are amended to substitute the phrase "organizational session" for the term "conference".

## CAPITOL GROUNDS PLANNING COMMISSION

The Capitol Grounds Planning Commission was directed by the Fortieth Legislative Assembly to study legislative facilities and to develop a plan for providing sufficient committee rooms, office space, and other facilities to adequately meet the needs of the Legislative Assembly. In carrying out its responsibilities, the Commission requested the services of the Director of the Legislative Research Committee and asked the Subcommittee on Legislative Procedure and Arrangements to participate in an advisory capacity. A report will be made to the Commission during the month of December outlining the real and substantial deficiencies in the physical facilities presently available to the Legislative Assembly and recommending the construction of an addition to the legislative wing which would at least substantially meet the most pressing needs for committee rooms, office space for floor leaders and committee chairmen, employee offices, conference rooms, lounge, cafeteria, library, machine reproduction areas, restrooms, and storage. Other space in the existing wing could also then be made available to provide improved quarters for the regular Capitol press corps as well as visiting press, radio and TV interview rooms, and other legislative functions, as well as free a limited amount of space for reassignment by the Board of Administration to Executive Branch agencies on at least a semi-permanent basis.

Cash and assets exist in the State Capitol Building Fund in the amount of $1,400,000, which are available for the construction of this addition. This fund was created from the sale of land received from the Federal Government at statehood. It can be used only for buildings on the Capitol Grounds, and is designated by law for use solely in providing legislative facilities. In order not to require untimely liquidation of any landholdings of the fund, it is contemplated that a loan from the Bank of North Dakota will be authorized for part of the cost, repayable from the fund as land is gradually sold as sales become advantageous to the State.

Much more detail in regard to both current and planned facilities for the Legislative Branch will be available in the report to the Capitol Grounds Planning Commission.

## MISCELLANEOUS COMMITTEE ACTION AND RECOMMENDATIONS

### Refurbishing Legislative Chambers

The Committee has taken steps to refurbish the legislative chambers by ordering carpeting for the corridors behind the chambers, for the aisles, and for the podium in each House, and by purchasing new chairs for individual legislators. A bill setting forth the method of disposing of the old chairs has been drafted and is recommended by the Committee. The legislative desks have been refinished and a lock file drawer has been installed for each legislator. A new audio system has been installed in the Senate, and the House system has been modernized.

### Bill Summaries

Legislators are often called upon by their constituents after the session and asked about the fate of specific bills. With almost one thousand bills and resolutions introduced in the course of a session, it is almost impossible to answer these questions from memory. In order to help the individual legislator to answer these questions, the Committee has directed its staff to prepare a summary bill analysis report immediately following the next session. The report would trace the legislative history of all introduced bills, and would be distributed to all legislators upon its completion. The Committee has also directed that its staff attempt to prepare short analyses of all bills placed on second reading and final passage during each day of the session.

### National Conference of State Legislative Leaders

The Committee recommends that the Legislative Assembly and the Committee become active members of the National Conference of State Legislative Leaders and that the 1968-1969 membership dues be paid, when requested, from the appropriation for the Legislative Research Committee, and that this item be placed in the budget of the Legislative Assembly for future years.

### Film on Legislative Process

In order to increase understanding of the legislative process among members of the general

public, the Committee recommends that a moving picture be filmed depicting the Legislative Assembly in action, and that such film be made available for distribution to schools and other interested public and private groups. Interested organizations in the State have offered to prepare such a film as a public service.

**Legislative Intern Program**

The Committee has provided for the creation of a Legislative Internship Program to further increase public understanding of the legislative process, to encourage student interest and participation in government, and to provide additional assistance to the Legislature during the regular session. In addition, it is hoped that such a program will create a pool from which competent, professional legislative staff can be employed in the future. The University of North Dakota has agreed to give academic credit to students participating in the program.

The program calls for four interns to work with four of the major standing committees in each House, and for two interns to work with the Majority and Minority floor leaders in each House, and with the party caucuses. The Committee staff will have responsibility for overall supervision of all the interns and will assign them to their particular posts. The internship positions are to be filled by mature senior law students or graduate students in political science.

**Legislative Handbook**

The Committee has made arrangements to have the Handbook for Legislators and Legislative Employees updated and printed. The Handbook was distributed to all legislators and legislative employees prior to the regular session.

**Mock Session**

In order to conserve legislative time for legislative purposes, and to improve the public image of the Legislature, the Committee recommends that the "Mock Session" be abolished.

**Budgetary Matters**

In regard to the budget requests for the next biennium, the Committee recommends that the budget of the Legislative Audit and Fiscal Review Committee be increased to include compensation for one additional staff specialist to serve as an assistant to the Legislative Budget Analyst and Auditor, and that the Legislative Research Committee budget be increased to provide for another staff specialist to serve in a major field of State governmental responsibility such as education or public welfare and to assist the relevant standing committees during the session and interim committees carrying out studies in his field. This request is to be submitted as an identifiable item in the general Legislative Research Committee budget.

The Committee also recommends that a supplemental item be submitted in the budget of the Legislature to cover the cost of putting the North Dakota Century Code on computer tape for future use in research, bill drafting, and for enrolling and engrossing purposes.

The Committee recommends that the budget for the Forty-second Legislative Assembly be increased by $12,500 to cover anticipated data processing costs during that session, and that the budget for the Forty-second Legislative Assembly be submitted at $785,000, such budget to include membership dues in the National Legislative Leaders Conference.

**Legislative Employees**

The Committee recommends that the usual resolution in regard to the pay of legislative employees be altered so that employees will be paid on a working-day basis at a pay scale commensurate to their scale of pay during the 1967 session in recognition of the fact that the Committee is recommending that Sundays not be counted as legislative days, thus causing the session to be extended for nine extra days. This recommendation will be made known to the Joint Employment Committee. The Committee also recommends that the Employment Committee hire one additional Committee Clerk for each House. Other recommendations in regard to legislative employees include abolishment of the positions of Supervisor of Employees in the Senate, Superintendent of Personnel in the House, and Senate Postmaster. The

duties of the Supervisor and Superintendent are to be performed by the Secretary of the Senate and the Chief Clerk of the House, respectively. The Senate Postmaster's duties are to be performed by the Senate Sergeant-at-Arms, or his assistants.

**Cooperation Between Appropriations Committees**

The Committee recommends that the Chairmen of the two Appropriations Committees consider appointing Joint Subcommittees to concentrate on the budget requests in certain fields of government. The program could be commenced on a small scale by appointing an Appropriations Subcommittee to review the budget requests from the institutions of higher education. A joint hearing of both Appropriations Committees would then be called to hear presentations by University and College personnel. This system would allow at least some of the membership of the Appropriations Committees to become thoroughly familiar with the problems and needs within a certain budgetary area, in contrast to the generalized knowledge of all areas gained by present Appropriations Committee members.

## APPENDIX "A"

## BILLS AND RESOLUTIONS CONSIDERED BY COMMITTEES *

### SENATE

| | Number | Percent of Total |
|---|---|---|
| Finance and Taxation | 110 | 14.2 |
| Industry, Business and Labor | 106 | 13.7 |
| Judiciary | 93 | 12.0 |
| State and Federal | 91 | 11.7 |
| Appropriations | 84 | 10.8 |
| Political Subdivisions | 61 | 7.9 |
| Education | 59 | 7.6 |
| Natural Resources | 58 | 7.5 |
| Transportation | 45 | 5.8 |
| Social Welfare | 41 | 5.3 |
| Agriculture | 27 | 3.5 |
| Total | 775 | 100.0 |

### HOUSE

| | Number | Percent of Total |
|---|---|---|
| Finance and Taxation | 121 | 15.3 |
| Judiciary | 98 | 12.4 |
| Appropriations | 83 | 10.5 |
| Education | 73 | 9.3 |
| Business and Industry | 70 | 8.9 |
| State and Federal | 70 | 8.9 |
| Transportation | 59 | 7.5 |
| Natural Resources | 56 | 7.1 |
| Political Subdivisions | 49 | 6.2 |
| Social Welfare | 37 | 4.7 |
| Labor | 30 | 3.8 |
| Agriculture | 28 | 3.5 |
| General Affairs | 10 | 1.3 |
| Veterans Affairs | 5 | 0.6 |
| Total | 789 | 100.0 |

*Does not take into account bills and resolutions re-referred to a standing committee.

# NOTES

# NATURAL RESOURCES

House Concurrent Resolution "K" of the Fortieth Legislative Assembly directed the Legislative Research Committee to perform a study of the strip and surface mining areas of North Dakota with a view towards determining:

1. The nature and extent of strip and surface mining operations and the conditions resulting therefrom;

2. The ownership of real property involved in such operations;

3. The effectiveness of voluntary reclamation by strip and surface mining operators, and a review of present legislation which may retard such voluntary reclamation;

4. The public interest in and public benefits which may be derived from reclamation of strip and surface mined lands;

5. The appropriate roles of State and private interests in strip and surface mined land reclamation, and the costs to be borne by each; and

6. The objectives to be attained by a program for the reclamation of strip and surface mined lands through consideration of economic benefits and use of land in relation to costs, and the avoidance of unwarranted financial gain by private owners of reclaimed property.

The study was assigned to the Subcommittee on Natural Resources, consisting of Senators George Rait, Chairman, Francis J. Butler, Milton G. Kelly, Clarence G. Schultz, Robert L. Stroup; and Representatives Milon Austin, Lyle L. Dawson, Jr., Ralph E. Diehl, M. E. Glaspey, Glen Goodman, Ralph Hickle, C. Arnold Lillehaugen, Edward Metzger, Mike Olienyk, Albert L. Rivinius, Albert Seibel, and Oscar Solberg.

Over the course of the biennium, the Subcommittee on Natural Resources met on six occasions, one of which was a conducted field trip to one of the coal mining areas in the western part of the State, in order to view at first hand the effects of strip mining operations. During the other five meetings, a considerable amount of testimony was received from coal mining operators, State officials, and other interested persons regarding the nature of strip mining in North Dakota, and what direction any recommended legislation concerning strip mining reclamation should take. In order to better understand the content of the study, it will be helpful to first consider the history of strip mining of lignite coal in North Dakota and to note those current trends that have come to the attention of the Committee.

**History of Lignite Mining**

The coal mining industry began in western North Dakota when early settlers found lignite coal to be a convenient source of fuel and began mining it for domestic use. Mining generally was begun along streams or coulees where lignite was present at the surface and could be easily gathered. In some instances, underground drifts were driven into the banks, and the coal was mined in this manner. If the lignite deposit was near the surface, the second step was to work back from the stream bed, stripping off the overburden by means of horses and scrapers. Since such means of stripping were rather inefficient, much of the lignite was mined by underground methods in the early days.

The realization in recent years that lignite is an important source of fuel for the industrial world, coupled with advancements in equipment and technology, brought a tremendous increase in the mining of this natural resource. Important reserves were pursued and mined in areas where the overburden exceeded 75 feet in depth. As an illustration of this increased activity, the quantity of lignite mined in 1884, the first year for which statistics are available, was only about 35,000 tons, while the latest report of the State Mine Inspector shows that approximately 4,413,000 tons were produced from July 1, 1967, to June 30, 1968. Along with the increase in the production of lignite coal over the years has come a shift from underground mining to the strip mining type of operation. In 1923, strip mining accounted for only twenty-four percent of the total annual production, while by 1968 this figure had risen to over ninety-nine percent.

In conjunction with the increase in tonnage mined and the prevalence of strip mining methods has come a corresponding decrease in the number of operating mines. The number of licenses issued reached an all-time high in 1935 when 357 were issued. A steady decline has since prevailed, with a total of only 27 licenses being issued in the year 1967. It is interesting to note that the Knife River Coal Mining Company, the Truax-Traer Coal Company, Baukol-Noonan, Incorporated, and the North American Coal Corporation, in the cumulative operation of eight mining sites, account for ninety-five percent of the total tonnage mined in North Dakota, and it is anticipated that this figure will rise, reaching all but one hundred percent. Three of these companies market at least eighty percent of their mined coal within the State, while the fourth, the Knife River Coal Mining Company, markets approximately one-half of its production in North Dakota.

A further examination of North Dakota lignite from the standpoint of use shows that consumption for electrical generation accounts for over ninety percent of the total tonnage mined each year. The remainder of the consumption is distributed between uses for industrial and residential heating and certain specialty uses such as lawn fertilizer and barbecue briquettes. It is projected that consumption for industrial and residential heating purposes will decline in the future, and while uses for specialty purposes will likely increase, the volume consumed for these purposes will remain a minute fraction of the total produced. It is also anticipated that consumption for electrical generation will increase sharply within the next few years.

In regard to the amount of land affected by lignite surface mining techniques within North Dakota, prepared studies and testimony presented to the Committee have indicated that about seven thousand acres of land have been mined at this time, with close to three hundred acres being added yearly to this total through the current annual production of approximately four and one-half million tons of lignite. It was also projected that the rate of land disturbance will probably increase to approximately four hundred acres annually, based on an anticipated yearly production of six to six and one-half million tons, soon to be realized when the Minnkota Electric lignite generating plant now under construction near Center, North Dakota, is completed and in operation.

Of particular importance to the members of the Committee was a cost analysis of the ability of the lignite industry to bear the cost of reclaiming affected land, conducted by Dr. W. E. Koenker and Mr. Ralph D. Kingsbury of the University of North Dakota. As a result of this report, it was concluded that an increase of two and one-half cents per ton in operator costs for the reclamation of strip mined land would not cause any material shift from the use of lignite for power purposes to such alternative sources as bituminous coal, atomic power, and hydro power. The report did indicate that the possibility exists that sub-bituminous coal might become competitive with lignite under these circumstances; however, one ameliorating factor is that in the course of testimony received by the Committee, it did not appear that reclamation costs would reach a figure that would require mining operators to add two and one-half cents per ton to the production price of coal mined in North Dakota.

Therefore, as a result of the foregoing trends, it was found by the Committee that while the number of coal mining operators has decreased over the years, the annual production of lignite coal has greatly increased, with the bulk of production being done by a few operators. The majority of coal mined is utilized within the State, mostly for the production of electrical energy. And, while the seven thousand acres of land affected by surface mining is small in comparison with the total State area of approximately 44,450,000 acres, the Committee found that the damage done on these lands is by no means insignificant, due to the severe disturbance caused by the methods necessary to remove coal through strip mining. In order to better understand the extent of this disturbance, it is necessary to briefly examine the strip mining process.

**Method of Strip Mining**

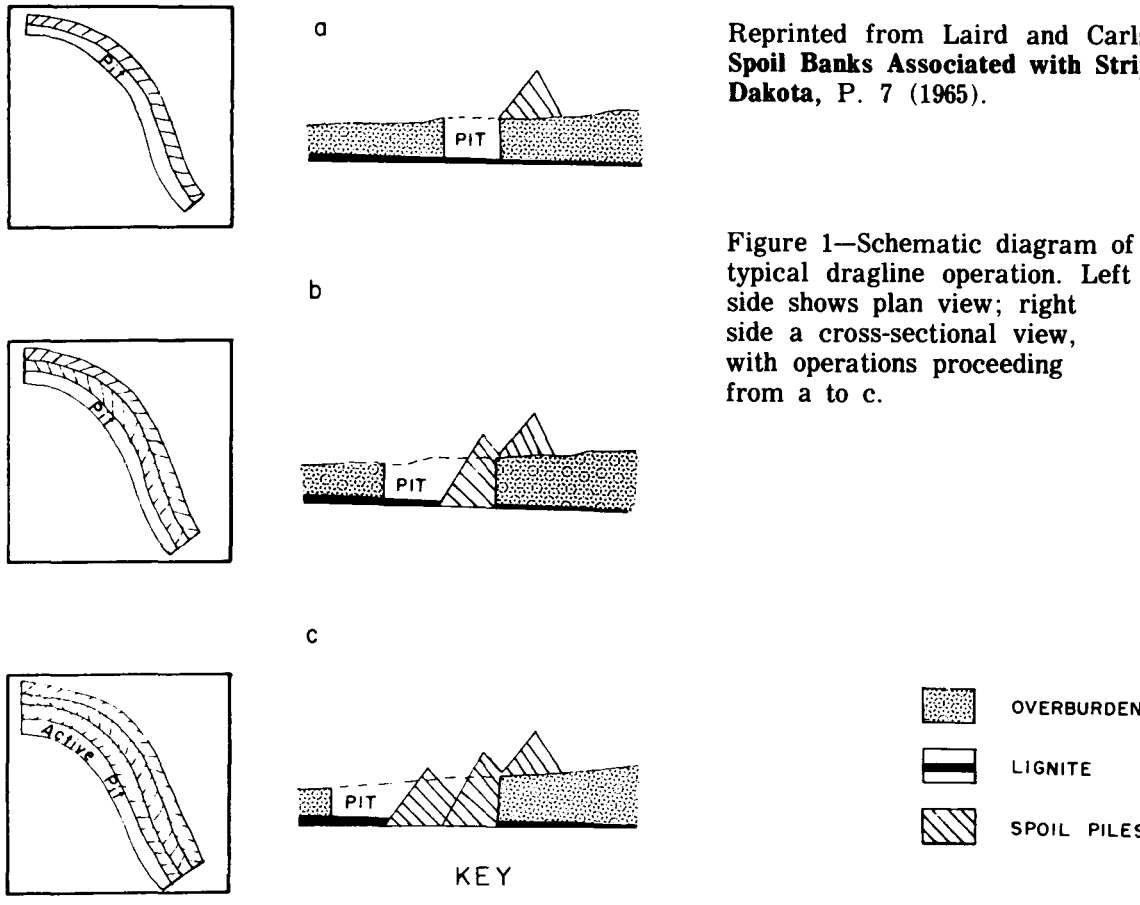
A typical strip mining operation follows the sequence pictured in Figure 1. Cuts are made in long rows with the overburden from the initial cut being placed on the original land surface. Subsequent cuts are made parallel to the initial cut, and the overburden is dumped in the previously mined site. As the work progresses, these deposits of overburden form a series of long, conical ridges, and are termed "spoil piles" or "spoil banks." The height

and shape of the spoil piles will vary considerably, depending on the composition and depth of the overburden. Normally, the slope grade of the spoil piles will be approximately forty percent, and the height of the initial pile will vary from twenty-five to fifty feet while subsequent piles will usually average from eight to twenty-five feet.

As a natural result of the strip mining process, earth materials are placed in the reverse order of their original state. Thus, topsoils will be found at the base of the spoil pile, while the deeper clays will have been placed on top. It was found by the Committee that very little stripping of the topsoil in order that it be placed on the top of the pile after mining has been attempted, purportedly since the topsoil in mining areas is thin and of poor quality.

As can be imagined from the foregoing description, mineral lands exhibit a very harsh contour after stripping operations have been completed, and the steep slope grades make any maintenance for agricultural purposes all but impossible. While the condition of the land is suitable for grazing, the production of grass poses a problem because of the lack of topsoil and the inability of the slopes to retain a sufficient amount of moisture, so even this use is severely limited. While the contour of the land is ideally suited as a wildlife habitat, again the lack of a cover growth of grass or trees will restrict considerably this type of utilization.

**Figure 1**




Reprinted from Laird and Carlson, **Study of the Spoil Banks Associated with Strip Mining in North Dakota**, P. 7 (1965).

Figure 1—Schematic diagram of typical dragline operation. Left side shows plan view; right side a cross-sectional view, with operations proceeding from a to c.

**Voluntary Reclamation**

At the present time, any reclamation practiced on strip mined lands is performed by the individual operator on a voluntary basis. Testimony received during the course of the study indicated that some notable efforts at reclamation have been and will continue to be made by coal mining operators within the State. Basin Electric Power Cooperative, which contracts with the Truax-Traer Coal Company for lignite coal in an amount which requires the mining of approximately one hundred acres of land annually, has realized the importance of the reclamation of strip mined lands and, therefore, provided in its contract that Truax-Traer is to level the mined lands to a "rolling countryside." Basin Electric has estimated that the cost of such leveling will vary between $100 and $150 per acre of mined land. There has been no planting on the leveled lands, except for some experimental work.

The Knife River Coal Mining Company has continued a program of tree planting on spoil bank lands which was begun in 1964, and to date has planted approximately 250,000 seedling trees. A forester is employed on a part-time basis, and detailed statistics on the survival rates of various species of trees is maintained for future use.

The Committee found that voluntary reclamation practices, such as the examples above, are of considerable merit and that such practices are likely to continue due to an increasing public awareness of the deleterious effects of strip mining. It was also found, however, that for several reasons such voluntary practices are not likely to bring about the rehabilitation of land and its return to useful productiveness on a scale that is desired. First, since there is no concerted effort to reclaim all land, voluntary reclamation at its best will serve to rehabilitate only a portion of those lands that are affected. Secondly, there is no uniform standard of reclamation to which lands are restored. Thirdly, the ultimate use for which the land is best suited is not taken into consideration as a factor affecting the degree of reclamation. As an example, it is quite possible that the physical location and productive capabilities of land that is to be rehabilitated might in one case indicate that the land should be reclaimed for cropland, requiring a high degree of reclamation. In another instance, characteristics of the land may clearly show that it should be reclaimed for wildlife use, making only a minimal amount of reclamation necessary. Clearly, a single organization or agency with considerable experience and expertise is needed to weigh the alternatives and provide for that degree of reclamation for which varied types of lands are best suited.

Finally, it was felt by the Committee that if reclamation practices are to be successful, much needs to be done in the area of experimentation. Different methods of reclaiming spoil pile lands must be investigated, varied types of vegetation must be examined to determine adaptability and performance, and soils must be analyzed to provide necessary information as to the types of growth they will best support.

A consideration of the above-mentioned factors led the Committee to the belief that reclamation on a voluntary basis would not achieve the desired results, and only under a comprehensive program administered by a State agency could practices that would eventually lead to the satisfactory rehabilitation of all strip mined lands to be developed.

**Achievements by Other States and the Federal Government**

Other States and the Federal Government have for some time been concerned with the unfortunate results that have come about through the strip mining of lands. Various proposals have been presented to congress over the years in an attempt to pass an Act providing for reclamation, but with no success. Senate Bill 3132, one of the more recent attempts, would have established criteria for use by the States in developing their own reclamation plans, provided financial and technical assistance to those States that adopted acceptable plans, and imposed Federal standards of reclamation upon States that failed to pass plans measuring up to Federal requirements. On March 8, 1968, the President submitted to Congress a message that dealt in part with the subject of reclamation of strip mined lands:

> "An air traveler over some of the richest country in America can look down upon deep scars gouging the earth, acres of ravaged soil stretching out on either side. Advances in mining technology have allowed us to extract the earth's minerals economically and swiftly. But too of-

ten these new techniques have been used unwisely and stripping machines have torn coal and other minerals from the surface of the land, leaving two million acres of this Nation sterile and destroyed. The unsightly scars of strip mining blight the beauty of entire areas, and erosion of the damaged land pours silt and acid into our streams. America needs a nationwide system to assure that all lands disturbed by surface mining in the future will be reclaimed. This can best be achieved through cooperative efforts between the States and the Federal Government."

On the State level, the injurious effects of strip mining have caused considerable alarm, especially in those areas where large resources of coal are situated. At the present time, eight States have passed comprehensive strip mining laws designed to provide for the rehabilitation of lands. An examination of these Acts shows the following similarities:

1. All Acts require that a permit to mine a specific tract be gained from the administering agency in advance, and prescribe penalties for failure to do so.

2. All Acts require a fee for the issuance of permits, based on the number of acres to be mined.

3. All Acts require that a plan indicating what steps are to be taken for reclamation be filed with the application for the permit. The reclamation plan is approved and the permit issued only if the plan meets statutory specifications for acceptable reclamation for such lands.

4. All Acts require a bond to be deposited by the operator to assure that reclamation of the land is completed according to the approved reclamation plan. The bond is subject to forfeiture in the event of non-compliance with the plan.

5. Five of the Acts are limited to coal strip mining operations only, while the remaining three Acts apply to all minerals.

While the statutes of the various states are similar in many respects as indicated above, considerable variation is seen in the reclamation standards to which disturbed land must be restored. Standards range from the requirement that the excavation be completely backfilled, as in some instances under the Pennsylvania Act, to a requirement that the land be restored to a "rolling topography," as in the Ohio Act. Other States require variations which may involve a "rolling topography" on some lands — notably those that border public highways, a strike off of spoil pile peaks to a minimum width on non-croplands, and a restoration of croplands to a minimum grade slope in addition to a strike off of spoil pile peaks to a minimum width. Considerable testimony was presented to the Committee as to the standards that should be recommended for reclamation. It was pointed out that soil and climatic variations, type of minerals mined, land values, and population distributions all enter in to account for the varying standards that have been adopted by other States. In order to arrive at standards appropriate for North Dakota, charts were prepared by the Design Division of the State Highway Department so that the effects of various proposals could be visually perceived, and are presented as Figures 2 and 3 on pages 60 and 61 to illustrate the various slope grades and spoil pile peak strike offs on croplands and afforested lands that were considered by the Committee.

**Contribution Toward Reclamation Costs by Owners of Severed Mineral Interests**

One of the directives of House Concurrent Resolution "K" was that an examination should be made of the possible effect of unwarranted financial benefit to the owner of strip mined lands should they be reclaimed. A consideration of this facet of the study led the Committee to the realization that such gains would in all likelihood result, especially in the instance where leasing agreements were in effect on unmined lands at the time reclamation requirements were imposed. Basically, in this situation the landowner would have contracted with the mining operator for a royalty on the assumption that the land would be considerably diminished in value due to the limited use to which it could be put after mining. Therefore, if, after the leasing agreement was entered into, the mining operator was required to reclaim the land to make it suitable for a higher use than was originally contemplated, the resulting benefit would amount to a "windfall" which the landowner had not bargained for at the time of the leasing agreement, and to

which it is questionable whether he should be entitled. In an attempt to rectify this inequity, the Committee considered a proposal which would place a tax on the royalty interest of the landowner for coal mined from his land, with the tax to be apportioned back to the county within which it was collected. The apportioned funds under the proposal would then be spent by each county for the reclamation of lands within its confines that had been strip mined in the past and which were owned or leased by the State or a political subdivision. After considerable deliberation on the practicality of such an approach, it was decided that it not be recommended at the present time since it was felt that the reclamation of lands that were affected by mining long before the collection of the tax would be strongly objected to by the taxpayer. Also, the Committee noted that if the Strip Mining Reclamation Act presently pending in Congress should be enacted into law, Federal funds would then become available for the rehabilitation of lands previously affected by strip mining.

**Findings by the Committee**

As a result of the field trip to certain strip mining localities in the State and through testimony reported to the Subcommittee on Natural Resources during the course of the study, it was found that as presently practiced, strip mining presents a hazard to the safety of those persons who attempt to maintain mined land in an unrehabilitated state, causes a reduction in the tax base on the county level and affects local economy by taking land out of productivity. Further, it was found that strip mining produces unsightly land areas and is detrimental to wildlife, since only limited vegetation can be expected to grow on unreclaimed spoil bank lands for reasons previously discussed. Additionally, the leaching downward of unconsolidated materials tends to cover and destroy what vegetation might grow on level areas between the spoil banks. Because of these factors, the Committee found that reclamation of strip mined spoil bank lands was desirable and necessary in the public interest of the State of North Dakota.

**Recommendations**

The Committee has prepared and recommends approval of a bill which would provide a Strip Mining Reclamation Act for North Dakota. The bill would apply to all minerals and would require each mining operator to obtain a permit from the Public Service Commission before mining in an area where the overburden is ten feet or more in depth. Permit fees would be paid by the operator, and he would submit a reclamation plan and a bond in the amount of $200 per acre to ensure compliance with the reclamation plan in the event it is approved. Reclamation standards to which the land would be restored are as follows:

1. Ridges and peaks within six hundred sixty feet of and visible from a public road, public building, or cemetery would be graded to a "rolling topography" traversable for maintenance, with no more than a twenty-five percent slope grade.

2. On lands to be afforested, ridges and peaks would be struck off to a minimum width of twenty-four feet, and roadways with a maximum grade of twenty percent would be constructed at intervals of not more than six hundred sixty yards.

3. On lands to be seeded for pasture, ridges and peaks would be struck off to a minimum width of thirty-five feet.

4. On lands which are to be used for crops, ridges and peaks would be graded to a slope of not more than twenty-five percent, and valleys would be filled to allow maintenance with farm machinery.

The individual reclamation plan would set forth to what use and accompanying standard the land would be restored. The plan would then be approved or disapproved by the Public Service Commission, drawing on the expert knowledge of the State Soil Conservation Committee, the State Game and Fish Department, the State Forester, and other individuals and agencies with experience in this field.

The operator would have eight years after termination of the permit in which to reclaim the affected land, and further extensions could be made in the discretion of the Commission. In the event that the operator defaults by not completing reclamation as scheduled, the bond could be forfeited and the land reclaimed by the Commission.

Under the proposed bill, the Public Service Com-

mission would be designated as the administrative agency, and the State Mine Inspector as the chief administrative officer. It is the opinion of the Committee that the Public Service Commission, as an elected body, would be best suited to impartially administer the terms of the bill; and, since the State Mine Inspector is now required to inspect mining sites in North Dakota, little additional effort would be necessary on his part to perform the function of administrative officer. In both instances, the Committee believed that to utilize an existing agency and office for administration would keep administrative costs to a minimum. The proposed bill also contains an appropriation item in the amount of five thousand dollars for the biennium, which the Committee felt was adequate. It is expected that the bulk of the appropriation would be used to accumulate and evaluate a supply of technical materials needed for effective administration, and to cover any costs of formal hearings.

Finally, authority would be given to the Commission to cooperate with Federal agencies in order to receive technical and financial assistance for reclamation purposes. It is expected that interchanges of advice and assistance could then take place between the Commission and such agencies as the Bureau of Sport Fisheries and Wildlife, the Bureau of Reclamation, and the United States Soil Conservation Service. Also, the Commission would then be in a position to take immediate advantage of any financial assistance that might become available if a Federal Strip Mining Reclamation Act is passed.

**Conclusion**

Testimony received by the Committee has indicated that the extent of land disturbance caused by strip mining in North Dakota is of considerable significance, especially in those counties where coal is mined. With the demand for fossil fuels on the increase, it is a certainty that the acreage mined each year will increase substantially in the future. Therefore, it is believed by the Committee that adoption of the recommendations and the legislation presented will result in wise resource planning for those counties of the State where strip mining is prevalent, and will serve to protect our natural resources for enjoyment by future generations.

# PASTURE & AFFORESTED LANDS

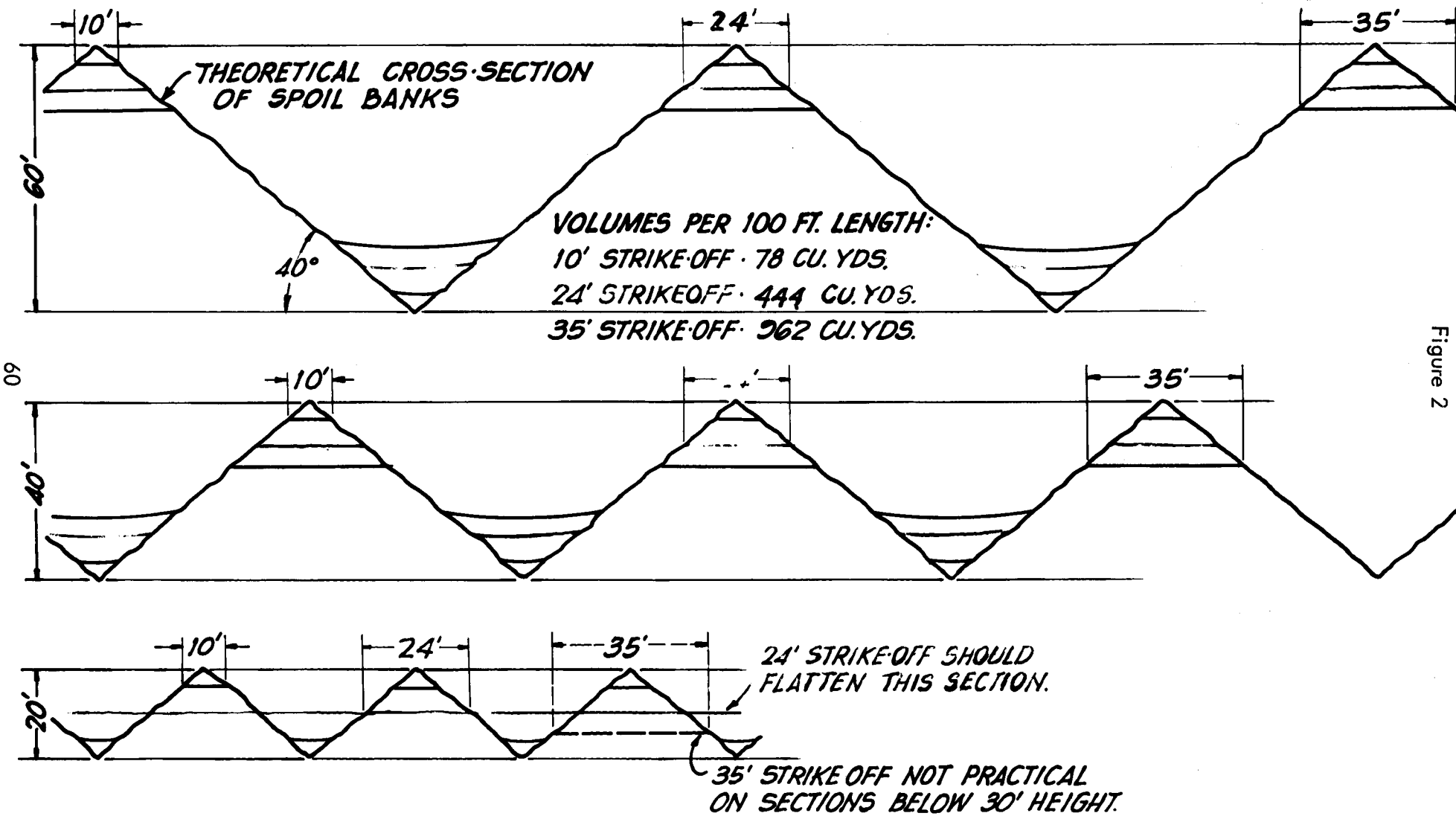



Figure 2

# CROPLAND

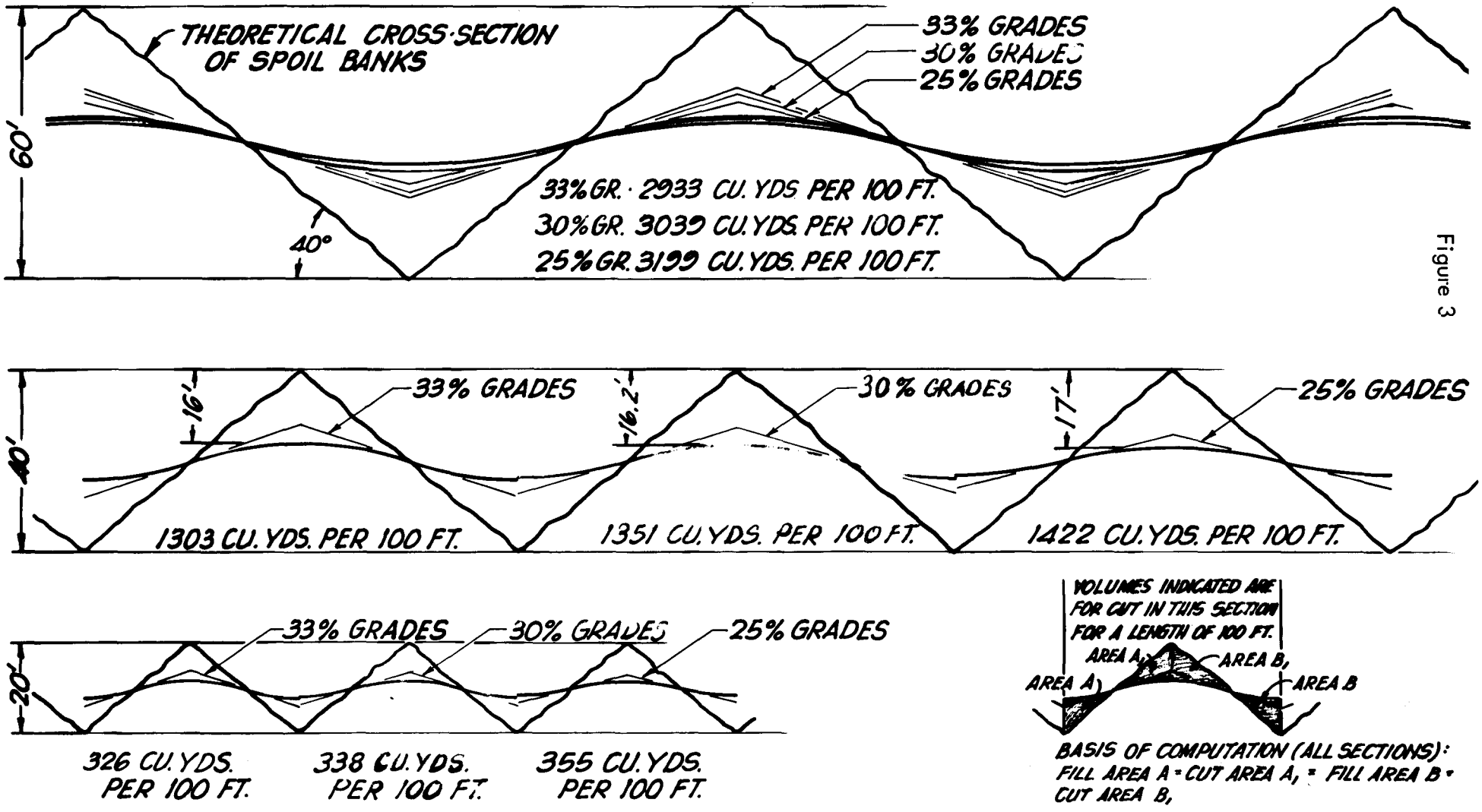



Figure 3

- NOTES -

# STATE AND FEDERAL GOVERNMENT

Senate Concurrent Resolution "JJJ" directed the Legislative Research Committee to study the feasibility of consolidating the administration of most or all of the State agricultural activities in the Department of Agriculture. Pursuant to Senate Concurrent Resolution "PPP" the Legislative Research Committee undertook to study the feasibility of adopting a merit system for all State employees. Senate Concurrent Resolution "AAA" directed the Legislative Research Committee to study the State Retirement Program to determine whether any reforms were needed and whether it was feasible to include employees of political subdivisions under the program. The Committee was also directed to study the management and investment practices of all public funds of the State. House Concurrent Resolution "T-1" directed the Legislative Research Committee to study and determine the proper care and rehabilitation methods to be used on juvenile offenders between the ages of eighteen and twenty-one.

These studies were assigned to the Subcommittee on State and Federal Government, consisting of Senators George Longmire, Chairman, Philip Berube, Richard W. Goldberg, Herbert L. Meschke, Kenneth L. Morgan, David E. Nething, and Grant Trenbeath; Representatives Gordon S. Aamoth, Arthur G. Bilden, Helmer Dahlen, Henry Ganser, Brynhild Haugland, Peter S. Hilleboe, Joe B. Leibhan, Olaf Opedahl, Earl Rundle, Simon A. Simonson, Iver Solberg, Earl Stoltenow, Marvin Tollefson, Kenneth Tweten, and Robert Wells.

### Consolidation of Agricultural Activities

Due to an unexpected loss of staff personnel during 1967 and early 1968, the Committee felt it necessary to suspend work on at least one of the studies assigned to the Subcommittee on State and Federal Government. Because a study of the possibility of consolidating the various agricultural functions had been carried out by the Committee in 1961, which study was still relatively current, the Committee decided, after reviewing that study and a staff memorandum outlining developments to date, to postpone that study.

### Investment Practices of State Funds

Senate Concurrent Resolution "AAA" directed, in part, that the Committee investigate the investment practices of the following State funds: the State Fire and Tornado Fund; the State Bonding Fund; the Workmen's Compensation Fund; the Teachers' Insurance and Retirement Fund; the Highway Patrolmen's Retirement Fund; the University and School Land Fund; and the State Employees' Retirement Fund.

The total assets of the seven funds amount to approximately $123 million and, consequently, the management, safety, and yield on investment of the moneys held in these funds is a public trust of great importance. To assist it in carrying on this study, the Committee made arrangements for Dr. William Koenker, Vice President for Academic Affairs of the University of North Dakota, to prepare a report analyzing the investment practices of the funds.

Dr. Koenker presented his report to the Committee on April 5, 1968, and made the following six recommendations:

1. Three of the ex-officio members of the State Investment Board should be replaced by persons with demonstrated competence in the investment field.

2. A full-time portfolio manager should be appointed who would be responsible to the State Investment Board.

3. The University and School Land Fund should be placed within the jurisdiction of the State Investment Board, and consideration should be given to consolidation of some of the funds and to the question of continuance of the present farm loan programs of some of the funds.

4. Consideration should be given to the question of bringing the State Employees' Retirement Fund under the jurisdiction of the State Investment Board, with the proviso that the employment of a professional investment counseling firm for the retirement fund would continue.

5. Arrangement should be made to provide accurate, prompt listing of acquisitions, sales,

and trades of the securities of each of the funds, such as is now being provided in part by the State Treasurer's office.

6. Consideration should be given to allowing the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Retirement Fund to invest in common stocks as a hedge against inflation.

At a later meeting of the Committee, State officials representing several of the funds commented on Dr. Koenker's report. The Committee also heard testimony from the investment counselor for the Bank of North Dakota who noted that much had already been done to divest the funds under the jurisdiction of the State Investment Board of their low-yielding bonds and to replace them with higher-yielding bonds and mortgages. This had been accomplished primarily through trading low-yielding tax exempt bonds for higher-yielding, non-exempt securities, the proceeds of which are not taxable in the hands of a State agency.

The Committee heard further testimony to the effect that the employment of a full-time investment counselor for the State Investment Board was not necessary if the Board's present jurisdiction was not increased, and that, in regard to Dr. Koenker's fourth recommendation, it would be preferable to consolidate the Teachers' and Patrolmen's Retirement Funds with the State Employees' Retirement Fund.

The Committee was of the opinion that it was not practical to recommend changes in the status of the University and School Land Fund because of the constitutional restrictions on the operations of that fund. It was the consensus of the membership that any action in regard to this fund would have to be based upon a favorable vote on the proposed amendment to the section of the Constitution which deals with that fund at the general election in November. Since such amendments failed to pass at the general election, no substantial improvement is possible.

After further consideration of the feasibility of merging the three retirement funds, it was determined that a complete actuarial study of the three funds would have to be undertaken before a determination as to the proper legislative action could be made. Therefore, the Committee recommends that the Forty-first Legislative Assembly adopt a resolution calling for a study of the feasibility of merging the three retirement funds. The Committee makes no other recommendations in regard to the investment practices of the several State funds.

**Expansion of Employees' Retirement System**

Another directive of Senate Concurrent Resolution "AAA" required the Committee to determine whether reforms were needed within the State Employees' Retirement Program, and whether it was feasible to expand the coverage of the program to include employees of political subdivisions.

Recommendations in regard to amendment of the present law were presented by the Executive Secretary of the State Retirement Board, and were, for the most part, accepted by the Committee and incorporated into the recommended bill to be discussed later in this report. The primary recommendation concerned removal of the limitation on the State agencies' matching contribution to the fund. The present law requires the agencies to contribute an amount equal to four percent of the employee's salary up to a limit of $300. If the present limit were raised from a four percent contribution on the first $7,500 of salary to a contribution based on the first $12,500 of salary, the added cost to the State, assuming present levels of employment and salaries, would be $62,312.60. If the ceiling were to be removed completely, that is, if State agencies were to contribute four percent of an employee's total salary, the additional cost to the State would be $77,052.48. The difference in amount caused by fixing the contribution ceiling at $12,500 and removing it completely is $14,739.88.

Fourteen States presently provide for a State contribution based on the total salary paid to the employee. The rate of employer contribution is actuarially determined without any type of limitation in 21 States. The remainder of the States, including North Dakota, determine the amount of employer contribution on a maximum yearly salary less than the possible total salary, or by some other formula. The statistics on retirement programs of

other states are taken from a summary of the employer-employee contribution provisions of retirement plans in other states, which summary is attached as Appendix "A".

Section 54-52-02 of the present State Employees' Retirement law states that the program will "improve State employment, reduce excessive personnel turnover, and offer career employment to high-grade men and women." Because of the limitation on the amount of an employees' salary that is matched by the State, the plan is largely failing in its objective of being a material factor in the recruitment and retention of the most qualified public employees. These employees receive larger salaries because their education, experience, and abilities permit them to command higher salaries in the labor market. If the State is to have this type of person in its employ, it must reasonably match the salary and benefits that they can obtain elsewhere. Because they are most in demand on the labor market, they are the most mobile and most likely to be lost if the State fails to compete reasonably in the labor market. In short, we pay higher salaries to them only because they are difficult to obtain and retain. Yet, the limitation on the amount of retirement contributions which the State will match under the present law works to recruit and retain the lower-paid employees who are the easiest to recruit, retain, and replace; but, because it generally does not compare favorably with other retirement systems in business and government, it fails to obtain its objective where it is most needed.

It is the opinion of the Committee that these goals are likely to be reached only if the ceiling on agency matching contribution is removed, thereby resulting in the employees retirement program serving as an added inducement to "high-grade men and women" to enter and remain in State service.

The Committee heard much testimony from persons representing city and county employees in favor of extending the coverage of the State Employees' Retirement System to those employees. Such extension of coverage is feasible so long as provision is made to separate, for accounting purposes, the funds from which prior service benefits are to be paid to each group of employees. Therefore, the Committee recommends a bill which extends the coverage of the retirement program to city and county employees on a local option basis, removes the ceiling on employer matching contributions, and makes certain other amendments to improve the administration of the program.

Section 1 of the bill creates a new section of the North Dakota Century Code which allows the governing bodies of cities and counties to enter into agreements with the State Retirement Board to extend the coverage of the retirement program to city and county employees. The section sets out certain provisions which must be included in the agreement, including a provision for separate accounting for prior service benefits of the two added groups of employees. The dates to be used for computation of prior service benefits of city and county employees are also set out in this section.

Section 2 allows the governing body of the city or county, on its own motion or upon petition by twenty percent of the permanent employees, to call a referendum among the permanent employees regarding participation in the retirement system. A majority vote in favor of participation will not, however, require the governing body to enter into the agreement provided for in section 1 of the bill unless it also approves the action. The section also gives policemen and firemen an option to join the remaining city employees in participation in the retirement system.

Section 3 creates a new section of the Code providing for an additional county tax levy, with the approval of the electorate of the county, to provide the funds necessary for a county to meet its contribution obligation under the retirement program.

Section 4 allows cities with populations of less than 10,000 persons to levy an additional tax in an amount sufficient to meet their matching contribution obligations if the voters of the city approve the levy at a special or regular citywide election.

Section 40-46-02 of the North Dakota Century Code allows cities of over 10,000 population which have adopted a civil service system to levy a four-mill tax to be used to pay the city's share of Federal

social security and the city's contribution towards a city pension plan. Section 5 of the recommended bill amends this section to permit the tax levied under it to be used to defray the cost of the matching contribution to the Public Employees' Retirement Fund. This amendment is to apply to a city with 10,000 or more population regardless of whether the city has adopted a civil service system.

The recommended bill also provides that three members of the State Retirement Board be elected from the participating membership rather than from the State employees group, and that the State Health Officer shall be an ex-officio member of the Board.

Section 10 of the recommended bill amends section 54-52-06 of the present law to remove the ceiling on the employer's matching contribution. Section 12 creates two administrative expense and benefit funds from which city and county prior service benefits are to be paid. Numerous amendments were made to add the words "city" and "county" where applicable, and section 54-52-24, which dealt with a loan to the State Retirement Board since repaid, was repealed.

The Committee also considered the possibility of creating a retirement program for legislators. A motion was adopted requesting the Committee staff to solicit the views of the Executive Secretary of the State Retirement Board regarding possible methods of implementing such a program. In the event legislators would be called on to contribute towards a retirement program out of moneys beyond those received as legislative salaries, the Executive Secretary was to request an opinion from the Internal Revenue Service regarding the tax status of those moneys.

**Creation of Personnel Division and Classification Of Employee Positions**

Senate Concurrent Resolution "PPP" required the Committee to study the feasibility of creating a merit system covering all State employees. The phrase "merit system" embraces a group of major personnel programs which can be grouped as follows:

1. Classification, pay, and fringe benefits.

2. Recruitment and examination.

3. Certification.

4. Training and employee relations.

At the present time, employees of the State Health Department, the Public Welfare Department, the Department of Employment Security, the Office of Civil Defense, and the Merit System Council are covered by a merit system administered by the Merit System Council. Those State employees not covered by the merit system have, through their representatives, urged that the present merit system be extended, or that a similar program be adopted on their behalf.

The Committee recognizes that classification of employee positions according to duties and responsibilities is the foundation of a personnel system. The other elements of a sound personnel management program should be structured upon a classification system.

Position classification provides standards for evaluation of job performance and is useful in determining an employee's ability to continue in his present position and his potential for a higher position. The orderly grouping of positions, which results from a classification plan, offers important advantages. Classification provides a system for controlling salaries. This is important in terms of fiscal integrity and in providing a systematic salary structure equitable to employees. Inequitable salary relationships adversely affect employee motivation and morale, with severe loss in economy and effectiveness of operations.

The general principle underlying the classification system, "equal pay for substantially equal work," and its corollary of variation in rates of base pay "in proportion to substantial differences in the difficulty, responsibility, and qualification requirements of the work performed" are eminently fair to employees and compatible with prevailing economic and political philosophy. In addition, a well designed classification plan provides a uniform titling practice, a basis for budgetary and other statistical information, and for organization planning.

Because the Committee desired to know the cur-

rent status of personnel management within the numerous State agencies, it commissioned the Legislative Budget Analyst and Auditor with the cooperation of the Executive Budget Analyst and the Department of Accounts and Purchases, to make a study of job classification and salary levels of clerical and stenographic employees throughout the State.

The data for the study was gathered by mailing questionnaires to most of the major departments of State government and to the State charitable and penal institutions. The colleges, State Highway Department, Bank of North Dakota, State Mill and Elevator, and the Employment Security Bureau were not included in the study. In completing the questionnaires, the departments and institutions used the Merit System Council's classification standards as a guide in classifying all of their clerical and stenographic positions. The study called for the classification of 626 employees out of a total of approximately 3,000 employees. The final results of the study were stated on the basis of information on 465 employee positions, 86 of which represented employees covered by the present merit system.

The number of clerical and stenographic employees outside the present merit system receiving salaries that are lower than the equivalent merit system salaries equals 42.2% or 160 of 379 employees. Twenty-nine, or 7.6% of the 379 non-merit system employees, receive salaries in excess of the maximums provided for under the merit system. Fifty-one out of sixty-nine, or 73.9%, of the clerical and stenographic employees at the charitable and penal institutions earn less than the minimum salaries for similar positions under the Merit System.

Computing the cost of adjusting salary levels to merit system requirements was not the main purpose of this analysis; however, it should be noted than an additional $6,669 per month, or $160,056 per biennium, would be required to bring the salaries of this selected group up to the minimum salary level for that grade. If the salaries higher than the merit system levels were reduced, a minimum savings of $1,021 per month, or $24,504 per biennium, would result.

As a result of this report, the following observations can be made:

1. Present classification titles and procedures originate from within departments and have little relationship to titles used by other departments.

2. The salary levels for employees not covered by the merit system vary substantially, with a significant percentage not reaching even the minimum for equivalent positions under the merit system.

3. The salary levels for employees at the charitable and penal institutions have more exceptions to the merit system standards than do other departments.

Finally, it should be noted that the positions covered by this report are the most easily classifiable; therefore, the discrepancies noted above are probably not as great at this skill level as they would be at a higher skill level.

In addition to the probability that interdepartmental salary disparities would be lessened by the creation of a supervised classification system, thus increasing employee morale and efficiency, the Committee recognized that the budget review work of the legislative Appropriations Committees, which is now rendered extremely difficult due to the variety of nomenclatures and rates of pay attached to employee positions encompassing approximately the same duties, would be made substantially easier if a reliable classification of employee positions were completed.

Because no personnel system is feasible without the foundation of a classification system, the Committee makes no recommendation on establishment of a merit system, but does recommend establishment of a personnel classification system.

The Committee is aware that the initial cost of classifying employees would be high if done under contract with a professional consulting firm. Therefore, a bill is recommended which would create a personnel division within the Office of the Budget of the Department of Accounts and Purchases. The Director of the Personnel Division

will be responsible for an original classification of all employees, commencing with clerical and stenographic positions, and for continuing supervision of the established classification system.

Section 1 of the bill declares it to be the legislative intent that the classification of employee positions and the setting of uniform pay scales for like positions be an ongoing endeavor.

A Personnel Division is created by section 2, and is to be within the Office of the Budget. The Director of the Budget is to appoint, on a nonpartisan basis, a Supervisor of the Personnel Division who will serve at the Director's pleasure. The Supervisor would be responsible for the creation and continued supervision of an employment position classification system, and would be required to report any abuses within the established system to the Director of the Budget and the Chairman of the Subcommittee on Budget of the Legislative Research Committee. The Director of the Budget is given the power to disapprove salary vouchers which represent payment in excess of the authorized pay scale for a position classified under this bill.

Section 4 of the bill provides the method of establishing the classification system. Upon a request by the Supervisor of the Personnel Division, the head of each department will appoint an employee to serve as a "Job Analyst." The Supervisor will provide training for the "Job Analysts" who will then classify all nonexempt employees within covered governmental units. No "Job Analyst" would be allowed to classify employee positions within his own department. Certain specified employment positions are to be classified by December 1, 1970.

Legislators, elected officers, judges, legislative and judicial employees, patients or inmates employed by state institutions, non-governmental professional or scientific personnel carrying out special projects, and part-time or seasonal employees are exempted from classification, as are all persons employed by the State institutions of higher education.

The Director of the Budget is required to develop a compensation plan as soon as the initial employee classification is completed and present that plan to the Legislative Assembly. Following the legislative session, the Director is required to update the compensation plan based on legislative appropriations, and is then authorized to implement the completed plan.

The Merit System Council is directed to cooperate with the personnel division to the fullest extent. The Council is to administer examinations to potential employees if requested, and is to maintain a list of eligible persons from which department heads may hire employees if they so desire.

The last section of the bill provides that employees who are aggrieved by their classification may appeal to the Merit System Council.

**Creation of Central Youth Authority**

Pursuant to directives of House Concurrent Resolution "T-1", the Committee reviewed alternative solutions to the problem of custody and confinement of 18 to 21-year-old juvenile offenders at any of the existing institutions within the State.

The 18 to 21-year-old offender group presently constitutes a minority of the inmate population of the State's three penal institutions. There were, as of September 27, 1968, sixteen boys and girls in the 18 to 21-year-old age range confined in the Industrial School; twenty-eight at the State Penitentiary; and eleven at the State Farm, for a total of fifty-five. The relative smallness of this group makes construction of a separate facility to house them economically impractical. However, existing institutions are not, in many cases, equipped to handle this age group, and sentencing to these institutions is on a somewhat haphazard basis.

The Superintendent of the Industrial School pointed out that the School's program was geared to a high school operation, and that often the 18 to 21-year-old youth did not fit into this environment, and caused trouble among the younger confinees. When juvenile jurisdiction of an 18 to 21-year-old offender is waived, the criminal court in which he is then tried has the authority to sentence him to the Industrial School, often for a fixed-term sentence. The crux of the Industrial School's rehabilitation program is based on sentences until the youth reaches age 21, with a possibility of early

release. The program often has little chance of success if the offender knows that he will be released on a date certain. Accordingly, the Committee recommends a bill to amend several sections of title 12 to prevent courts' exercising criminal jurisdiction from sentencing 18 to 21-year-old offenders to the Industrial School, and to provide that defendants under 18 years of age who are sentenced to the Industrial School be sentenced for a term ending at age 21.

Section 3 of the bill amends section 12-30-07 to provide that punishment for second degree rape shall be imprisonment in the penitentiary and to delete the prior provision allowing minors to be sentenced to the Industrial School. Section 4 amends section 12-30-09 to provide that rape in the third degree by a person under 18 years of age may be punished by a sentence to the Industrial School until the defendant attains majority. Subsection 1 of section 12-51-07, relating to the State Farm, is amended to create an exception, for third degree rape, to the proviso that sexual offenders will not be sentenced for the State Farm.

The Committee was aware that the preceding bill did not solve the problem of determining the proper facilities and programs necessary for the rehabilitation of older juvenile offenders. As it is not economically feasible to construct a separate facility, the Committee decided that a plan should be devised which would allow the best use of available facilities.

The Committee recognized that the juvenile facilities presently available within the State were not adequate to accomplish the rehabilitation of every type of delinquent personality and, therefore, authority should be granted to allow North Dakota offenders to be sent to proper facilities in neighboring States under agreements with such States.

While formulating this plan, the Committee reviewed a report entitled "A Study of Services for the Control and Treatment of Juvenile Delinquency in the State of North Dakota," which was prepared by the Children's Bureau of the United States Department of Health, Education, and Welfare. The report was commenced in September 1967, at the request of Governor William Guy and Chief Justice Obert Teigen. The prime recommendation made by the authors of this report was that a single agency be established which would be responsible for overall administration of services for and detention of delinquent or neglected children.

In an attempt to provide for the best use of existing facilities, and to promote an expansion for the choice of facilities available to agencies responsible for delinquent rehabilitation, the Committee recommends a bill which creates a Central Youth Authority under the Public Welfare Board. The Director of the Public Welfare Board or his designee is to be the chief administrator of the Youth Authority.

Juvenile courts, district courts, and county courts of increased jurisdiction under this bill would have the option of sentencing to the custody of the Youth Authority. Upon receiving custody of a juvenile offender, the Authority would make a thorough evaluation of the individual's background and personality, and then determine, if returning the child to the custody of a parent or guardian or placing in a foster home is not in his best interests, which of the various juvenile or penal facilities or programs would best serve to rehabilitate the individual. If the determination is that rehabilitation will require the child to be sent to an out-of-State facility, the Authority will have the power to contract with that out-of-State facility for the care and custody of the child. The Youth Authority will retain continuing jurisdiction over all juveniles originally sentenced to its custody. The Authority may temporarily commit a juvenile to any in-State juvenile facility during the evaluation period.

The bill creates a Central Youth Authority Advisory Board consisting of the Superintendent of the Industrial School, the Warden of the State Penitentiary, and the Chief Parole Officer, which Board will aid and advise the Youth Authority in arriving at placement and rehabilitation policies.

The Director of the Youth Authority is to report to the sentencing judge all actions taken in regard to a child committed to his custody, and is to obtain that judge's approval before committing a child to an out-of-State juvenile facility. Each agency or institution, within or

without the State, which has custody of a child pursuant to commitment by the Youth Authority, must make a quarterly report to the Authority regarding the progress made in rehabilitating the child.

The Youth Authority is to receive the cooperation of all State agencies whose assistance may be necessary, and the Authority is empowered to cooperate with and receive aid from appropriate Federal agencies.

**Miscellaneous Action**

At the request of the Committee, the Warden of the Penitentiary presented a survey of the cost of training an inmate of one of the State penal institutions at a vocational education facility within the State. It was noted that the Warden has no authority to allow prisoners to be released for schooling, but that a bill to provide such authority is being drafted by the North Dakota Crime Commission.

| RATE OF EMPLOYEE CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYEE CONTRIBUTION IS PAID | RATE OF EMPLOYER CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYER CONTRIBUTION IS PAID |
|---|---|---|---|
| Alabama | | | |
| 4% | Total Salary | Actuarially Determined | -- |
| Alaska | | | |
| 3.5% | Total Salary | Actuarially Determined (Currently 7%) | -- |
| Arizona | | | |
| 5% | Total Salary | 5% | Total Salary |
| Arkansas | | | |
| 4% | $6600 | 5% | $6600 |
| California | | | |
| Actuarially Determined | -- | Actuarially Determined | -- |
| Colorado | | | |
| 6% | Total Salary | 6% | Total Salary |
| Connecticut | | | |
| 5% | Total Salary | -- | (None, but upon retirement, 40% pension paid from Retirement Fund and 60% from General Fund) |
| Delaware | | | |
| Non-contributory (Legislative Appropriation) | | Non-contributory (Legislative Appropriation) | |
| Florida | | | |
| 6% (no Social Security) | Total Salary | 6% (no Social Security) | Total Salary |
| 4% (w/Social Security) | Total Salary | 4% (w/Social Security) | Total Salary |
| Georgia | | | |
| 3% | First $4200 | Actuarially Determined (Currently 6.2%) | -- |
| 4% | Over $4200 | | |
| Hawaii | | | |
| 6% (plus ½% for Post Retirement) | Total Salary | Actuarially Determined | -- |
| Idaho | | | |
| 3% | First $400 | Actuarially Determined | -- |
| 6% | Over $400 | | |

| RATE OF EMPLOYEE CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYEE CONTRIBUTION IS PAID | RATE OF EMPLOYER CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYER CONTRIBUTION IS PAID |
|---|---|---|---|
| Illinois | | | |
| 7% | Total Salary | Amount required to pay benefits, less that portion provided by member's contributions, etc. | |
| Indiana | | | |
| 3% | $8500 | Pension | -- |
| Iowa | | | |
| 3½% | $7000 | 3½% | $7000 |
| Kansas | | | |
| 4% | Total Salary | Fixed annually by Board of Trustees (currently 5.3% of salary plus .5%) | -- |
| Kentucky | | | |
| 4% | Total Salary | Actuarially Determined (currently 7%) | -- |
| Louisiana | | | |
| 6% | Total Salary | 8% | Total Salary |
| Maine | | | |
| 5% | Total Salary | Actuarially Determined | -- |
| Maryland | | | |
| Actuarially Determined | -- | Actuarially Determined | -- |
| Massachusetts | | | |
| 5% | Total Salary | Commonwealth provides balance necessary to meet requirements of formula. | |
| Michigan | | | |
| 3% | First $4200 | Actuarially Determined | -- |
| 5% | Over $4200 | | |
| Minnesota | | | |
| 3% (w/Social Security) | Total Salary | 5% (w/Social Security) | Total Salary |
| 6% (no Social Security) | Total Salary | 7% (no Social Security) | Total Salary |

| RATE OF EMPLOYER CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYEE CONTRIBUTION IS PAID | RATE OF EMPLOYER CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYER CONTRIBUTION IS PAID |
|---|---|---|---|
| Mississippi<br>4½% | $15,000 | 4½% | $15,000 |
| Missouri<br>4% | $15,000 | 4% | -- |
| Montana<br>5.75% | Total Salary | 3.5% plus .3% | Total Salary |
| Nebraska<br>3%<br>6% | First $48,000<br>Over $48,000 | 3.12%<br>6.24% | First $4800<br>Over $4800 |
| Nevada<br>6% | Total Salary | 6% | Total Salary |
| New Hampshire<br>Actuarially Determined<br>(2.81% - 10.98 %) | Basic Salary | Actuarially Determined | -- |
| New Jersey | Contractual Salary | Actuarially Determined | -- |
| New Mexico<br>5%<br>($100 per year for Legislators) | Regular Salary | 5% | Regular Salary<br>(Legislators Matching) |
| New York<br>Actuarially Determined | -- | Actuarially Determined | -- |
| North Carolina<br>5%<br>6% | First $5600<br>Over $5600 | Actuarially Determined | -- |
| North Dakota<br>4% | Total Salary | 4% | $7500 |

| RATE OF EMPLOYEE CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYEE CONTRIBUTION IS PAID | RATE OF EMPLOYER CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYER CONTRIBUTION IS PAID |
|---|---|---|---|
| Ohio<br>7% | Total Salary | Actuarially Determined<br>(currently 8%) | -- |
| Oklahoma<br>3% of $375<br>4% on next $275 | $650 | 3%<br>(May be changed to actuarial determination) | Same Salary |
| Oregon<br>4% - 7% | Total Salary | Actuarially Determined | -- |
| Rhode Island<br>5% | Total Salary | 5.55% | Total Salary |
| South Carolina<br>4%<br>6% | First $4800<br>Over $4800 | 7.5% | Total Salary |
| Tennessee<br>Class A - 3%<br>5%<br>Class B - 7% | First $7800<br>Over $7800<br>Total Salary | Actuarially Determined<br>(currently A - 3.14%<br>B - 5.55%<br>C - 8.17% | -- |
| Texas<br>5% | Total Salary | 5% | Total Salary |
| Utah<br>4% | Total Salary | 4% | Total Salary |
| Vermont<br>Actuarially Determined | -- | Actuarially Determined | -- |
| Virginia<br>5½% | Total Salary<br>(in excess of $1200) | Actuarially Determined<br>(currently 3.09%) | -- |

| RATE OF EMPLOYEE CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYEE CONTRIBUTION IS PAID | RATE OF EMPLOYER CONTRIBUTION | MAXIMUM SALARY UPON WHICH EMPLOYER CONTRIBUTION IS PAID |
|---|---|---|---|
| Virgin Islands | | | |
| 4% | $7500 | Actuarially Determined (currently 7.63%) | -- |
| Washington | | | |
| 5% (plus $2.50 Service Charge per year) | Total Salary | Actuarially Determined (currently 6% plus $4.56 Service Charge per year) | Total Salary |
| West Virginia | | | |
| 4½% | Total Salary | 7½% Employee's Compensation | |
| Wisconsin | | | |
| 4½% | OASDI | Full cost not met by employee. Employee cost can never exceed ½ the cost of the formula. | |
| 7% | Excess | | |
| Wyoming | | | |
| 5% | $8600 | 5% | $8600 |

There was no information available for the States of Pennsylvania and South Dakota.

# NOTES

# TRANSPORTATION

Senate Concurrent Resolution "A" of the Fortieth Legislative Assembly directed the Legislative Research Committee, in cooperation with the State Highway Department and the State Highway Patrol, to study motor vehicle inspection and other highway safety problems in North Dakota. The study was assigned to a Subcommittee on Transportation consisting of Representatives Ralph Winge, Chairman, Ardean Aafedt, Otto Bauer, Jack Bernabucci, Arne Boyum, William DeKrey, Donald Giffey, I. O. Hensrud, Fern E. Lee, Thomas J. McDonald, Clifford Moquist, E. E. Schaffer, and Francis E. Weber; Senators Richard E. Forkner, Lester Larson, A. W. Luick and William A. Stafne.

The Committee was aware throughout this study that the Federal Highway Safety Act of 1966 contained a penalty clause authorizing the withholding of ten percent of otherwise available Federal highway funds from those states failing to reach substantial compliance with the highway safety standards by December 31, 1968. Subsequent congressional action moved the date for such compliance to December 31, 1969.

## MOTOR VEHICLE INSPECTION

The Committee took as its primary responsibility the study of motor vehicle inspection. As a reference-guideline to this study, the Committee relied upon the Federal Highway Safety Program Standard 4.4.1 titled "Periodic Motor Vehicle Inspection." This standard, along with twelve others, was promulgated and approved by the United States Department of Transportation pursuant to the Highway Safety Act of 1966 passed by the United States Congress. The vehicle inspection standard provides that:

> "Each State shall have a program for periodic inspection of all registered vehicles or **other experimental, pilot, or demonstration program approved by the Secretary,** to reduce the number of vehicles with existing or potential conditions which cause or contribute to accidents or increase the severity of accidents which do occur, and shall require the owner to correct such conditions." (Emphasis supplied.)

It was noted at the outset of this study that North Dakota has no formal requirements regarding motor vehicle inspection but that authority was provided by law for the Highway Patrol to conduct random motor vehicle inspection. During the course of this study, the Subcommittee was periodically informed of the progress of the Highway Patrol random inspection program.

A discussion of the history and effectiveness of motor vehicle inspection follows.

### History of Motor Vehicle Inspection

**General**

The history of motor vehicle inspection in the United States began with a voluntary inspection program conducted in the State of Massachusetts during the year 1926. In the following year the governors of New York, Massachusetts, and Maryland proclaimed "save a life" campaign. In these campaigns, motor vehicle owners had their automobiles voluntarily inspected and repairs of faulty equipment made by designated garages.

During the years 1928 and 1929, Pennsylvania, New Jersey, and Delaware joined this program. In 1929, Pennsylvania, Maryland, and Delaware enacted laws requiring periodic motor vehicle inspection in officially designated inspection garages or service stations. As a result of these actions, a number of states and cities enacted legislation for compulsory motor vehicle inspection.

During World War II, inspection programs in more than seventeen states and fifteen cities were curtailed and many of them were not resumed. By 1967, however, twenty-one states had enacted motor vehicle inspection laws; others had been enacted and repealed; and a number of those in existence had been modified.

**Types of Inspection Programs**

Only those types of inspection programs considered by the Committee to be acceptable in and adaptable to North Dakota will be discussed in this report.

**State-Appointed and Supervised Program:** The procedures for designating motor vehicle inspection stations usually follow the same pattern. The administration, inspection, and enforcement differ, however, depending upon legislation, as developed

by the individual states utilizing this type inspection program.

Garages or stations usually file an application with the agency responsible for the supervision and administration of the program. An investigation is then conducted to determine the applicant's eligibility. In determining the applicant's eligibility, space, manpower, and equipment requirements, as set forth in the legislation or regulations, must be met by the applicant for him to qualify. Oral examinations are sometimes given the applicants to determine whether they understand the responsibilities associated with the inspection program and whether the applicant's personnel are qualified to perform the inspection program, as set forth in the rules and regulations.

If a station meets all of the space, manpower, and equipment requirements, it is appointed as a designated inspection station, with or without a fee charged, depending upon the legislation of the particular state. Training programs are conducted and continuous checks are made to ensure that the designated stations are operating in accordance with the rules and regulations, to certify mechanics' competency and to determine the availability of minimum required tools and equipment.

The actual routine of inspection is usually set forth in documents provided to the inspection stations by the agency which supervises the program. The actual items to be inspected are set forth in the regulations. These vary within states and are usually detailed in the documents provided to the inspection stations and, often, to the motorists.

When a vehicle successfully meets the inspection requirements, an inspection sticker is issued by the station and placed on the windshield. Different colors and sizes of stickers are used by various states to designate inspection years or inspection periods. These are so designed as to be readily noticed by law enforcement personnel. If the vehicle, however, fails inspection due to unsafe, defective equipment, repairs must be made within a designated period of time and the vehicle submitted for reinspection before being issued an inspection certificate.

**State-Owned and Operated Program:** The major difference between state-appointed and state-owned programs is that inspections are carried out by civil service personnel. The state-owned programs can be further categorized as fixed-station, similar in procedure to the state-appointed program, or random. In the fixed-station type of state-owned and operated program, the state employees work in stations owned or leased by the government. The construction, equipment, and equipment lavout is usually based upon a single specification and is generally standard for all stations of a given state. The items inspected are generally the same as those in the state-appointed system. The Committee determined that this type of inspection program would be reasonably applicable only in small states with highly concentrated populations and, therefore, rejected it for consideration for North Dakota.

On the other hand, the Committee considered the random-type inspection program to be very applicable to the needs of North Dakota. In this type of state-owned and operated program, it is normally provided that every driver of a passenger vehicle shall stop and submit the vehicle to an inspection of its mechanical condition and equipment at any roadside location where the inspection agency is conducting tests of passenger vehicles and where signs are displayed requiring such stop. It appeared to the Committee that an innovative type of random inspection provided the most acceptable alternative to periodic motor vehicle inspection if the fixed-station type of inspection was not acceptable.

**Advantages Claimed for Each System**

A number of advantages have been claimed by proponents for each of the programs discussed above. Supporters of the state-appointed and supervised programs claim that:

1. A large number of stations may be authorized, permitting a choice on the motorist's part, even in smaller communities, and providing for greater convenience to the motorist by reducing travel to a minimum.

2. The system may be quickly and easily organized, since stations are already in existence and need to be examined only for floor space, manpower, and equipment requirements.

3. The selection and training of a large inspection force is eliminated.

4. Financial considerations and problems incident to the location, selection, and purchase of the site are eliminated.

5. Questions regarding governmental competition with private enterprise are eliminated.

6. Any needed corrective work usually can be done at the same garage where the inspection is performed—often by the vehicle owner's regular mechanic.

Proponents of the state-owned and operated programs claim that:

1. It assures uniform inspection of all vehicles in accordance with the regulations.

2. The inspection program can be more easily and effectively supervised and controlled.

3. It provides opportunities for other official activities relating to drivers.

4. It reduces improper inspection practices for the purposes of commercial gain.

5. It eliminates patronage and other problems that can arise in the official selection of appointed garages.

6. It induces inspectors to give primary attention to equipment affecting safety rather than that which can involve a substantial expenditure for repair.

7. Because of the random nature of the program, the motorist will be encouraged to keep his vehicle in good shape at all times.

**Disadvantages Attributed to Each Program**

Some of the disadvantages of the privately-owned, state-appointed programs have been stated as follows:

1. It sets up a potential source of discrimination among repair shops at the pleasure of a state agency.

2. Uniformity of inspections and regular enforcement are impossible because of the lack of adequate supervision.

3. Embarking upon a program involving private enforcement of state laws could be unsound.

4. A lack of confidence by motorists in private repair shops exists.

5. This type of system contains temptation to discover defects leading to substantial repair.

Some of the disadvantages attributed to the state-owned and operated programs are as follows:

1. The permanent, in-place stations have proved satisfactory and economical only in a limited number of states having high motor vehicle registration densities.

2. A sufficient number of permanent, in-place stations would not be available because of the cost of construction, equipment, and maintenance.

3. The "random" inspection program is an inconvenience to the motorist, because he has no choice in determining when his vehicle is to be inspected.

4. It is an encroachment on private enterprise and imposition of a government program at taxpayers' expense.

**Effectiveness of Motor Vehicle Inspection in Preventing Accidents**

An extensive search of available literature was made by the Committee staff in an effort to find information which would establish factual relationships between motor vehicle inspection and death rates. These efforts can best be described by the following quotation contained in the study of motor vehicle inspection by the AAA Foundation for Traffic Safety, April 1967:

"Efforts to establish the value of compulsory vehicle inspection in terms of improved traffic safety have been inconclusive but do suggest that inspection is associated with a somewhat reduced fatality rate. The experience with existing inspection systems indicates

that they offer much opportunity for improvement. Efforts at improvement could well be guided by more extensive detailed accident investigation to determine just which vehicle defects contribute significantly to accidents, and by development of objective methods of inspection which rely less on the judgment and care of the individual."

Of those states inspecting motor vehicles, a relatively uniform decrease in rejection rates from year to year tends to indicate that vehicle condition would be a factor in traffic safety and accident prevention. It can be assumed that, based upon common sense and the skeleton statistics available, effective motor vehicle inspection helps take unsafe vehicles off our public streets and highways and should make the average driver more aware of the mechanical condition of his motor vehicle.

## COMMITTEE ACTION

Based upon the alternative of "other experimental, pilot, or demonstration program approved by the Secretary" offered in the Federal standard, the Committee strongly considered an "innovative" random inspection program formulated in Committee discussion and eventually outlined in bill form by the staff. The bill provided for compulsory inspection of motor vehicles at random by the Highway Patrol, licensed inspection stations for voluntary inspection of motor vehicles as an alternative to being stopped in a random inspection, and inspection of all used motor vehicles by licensed automobile dealers. The Committee attempted to informally obtain an opinion from the Department of Transportation as to the acceptability of such an inspection program, but was unsuccessful. It appeared that acceptability of such a program under the Federal standard would depend upon a review of the program after its implementation in a state primarily to determine its effeetiveness in reducing accidents. Since the acceptability of any random inspection program recommended by the Committee could not be conclusively determined at the present time, such a program was finally rejected by the Committee.

Although the Committee was somewhat doubtful that motor vehicle inspection, on its own merits, provided the most effective use of tax dollars in reducing traffic accidents and deaths, compliance with the Federal highway safety standards wherever feasible and the desire to keep North Dakota in the forefront of highway safety as well as eligible for maximum financial assistance from Federal sources prompted the Committee to recommend a bill providing for periodic motor vehicle inspection under the administration of the Highway Patrol.

The recommended bill provides for inspection of motor vehicles by the Highway Patrol upon reasonable cause to believe that a motor vehicle is unsafe or improperly equipped; requires owners and drivers to comply with inspection laws; requires periodic inspection and certificate of such inspection for all motor vehicles registered in the State; provides for acceptance in North Dakota of inspections in other States; authorizes suspension of registration of unsafe vehicles; provides for the appointment, operation, and suspension of official inspection stations; and provides a penalty for improper representation as an official inspection station.

## OTHER COMMITTEE ACTION

As mentioned previously, the Department of Transportation, pursuant to the Highway Safety Act of 1966, approved twelve other highway safety standards in addition to the periodic motor vehicle inspection standard. These additional standards constituted a frame of reference for the Committee's study of other highway safety problems. The additional standards and Committee action with reference to those standards are set forth as follows:

### Motor Vehicle Registration

The Committee considered the status of the present motor vehicle registration laws and regulations in comparison to this standard and determined that North Dakota is in substantial compliance with the standard and no legislative action is necessary.

### Motorcycle Safety

In connection with this standard, the Committee determined that present regulations of the motor vehicle registrar requiring a passenger seat and footrest on a motorcycle were adequate to meet the standard. To otherwise comply with the standard, a bill requiring eye protection for motorcycle operators is recommended.

**Driver Education**

The Committee considered and rejected a bill providing State financial aid to schools for offering classroom and laboratory instruction in driver education. However, a bill is recommended requiring both classroom and laboratory instruction in driver education as a condition for accreditation by the Department of Public Instruction on and after July 1, 1971. A representative of the Department of Public Instruction met several times with the Committee to discuss present driver education programs in the high schools. According to information presented, thirty hours of classroom instruction in driver education are presently required for graduation from high school; however, only approximately twenty-seven percent of the high school students in North Dakota receive the behind-the-wheel or laboratory phase of driver education. The standard on driver education generally states that "Each State, in cooperation with its political subdivisions, shall have a driver education and training program." Specifically, the program shall provide "each student with practice driving." In support of the recommended bill, the Committee noted that it would provide a time period within which further school district reorganization would take place to provide a broader tax base to support an expanded driver education program and at the same time would show a desire by the State to comply with the driver education standard.

The driver education standard also requires that "commercial driving schools are licensed and commercial driving instructors are certified in accordance with specific criteria adopted by the State." Since North Dakota lacks any present law authorizing regulation of such schools, a bill is recommended providing for regulation and licensing of commercial driving schools by the Highway Patrol.

**Driver Licensing**

The standard on driver licensing provides generally that: "Each State shall have a driver licensing program: (a) to insure that only persons physically and mentally qualified be licensed to operate a vehicle on the highways of the State, and (b) to prevent needlessly removing the opportunity of the citizens to drive." Among other things, the standard specifically requires that "each driver submits acceptable proof of date and place of birth in applying for his original license." A bill is recommended requiring such information with an original application for a driver's license.

Another specific requirement of this standard pertains to re-examination of drivers for visual acuity every four years. Evidence indicates that the crucial years for visual deterioration occur before the age of twenty-one and after the age of forty-four. A bill is accordingly recommended requiring all licensees applying for an original license or renewal, excepting those between the ages of twenty-one to forty-four, to be re-examined for visual acuity every four years.

**Emergency Medical Services**

The Committee considered this standard but no legislation is recommended with reference to it. The standard generally requires a program to ensure medical attention for persons involved in highway accidents. It is noted that North Dakota has no program for emergency service with statewide application. There appears to be adequate ambulance service in the urban population centers, but with certain exceptions no rural or highway emergency service exists. The Highway Patrol does however, conduct a statewide emergency radio net which accepts calls under a statewide emergency number to dispatch available assistance to an emergency situation. Since the Health Department, in cooperation with the Highway Department, is in the process of conducting a statewide survey of emergency medical service, it was felt that any action by the Committee prior to completion of this survey would be premature.

**Alcohol in Relation to Highway Safety**

No recommendations are submitted in connection with this standard. The Committee did spend considerable time hearing and discussing periodic reports from the State Toxicologist regarding his analysis of blood samples of motor vehicle accident victims pursuant to section 19, chapter 292, S. L. 1967, authorizing such a study and analysis. This study by the State Toxicologist terminates July 1, 1969.

In connection with his reports to the Committee at its meeting of October 24-25, 1968, the State Toxicologist discussed certain areas of alcohol and traffic safety which he considered to be of vital im-

portance to the larger subject of highway safety. He urged that the present study which he is conducting be continued beyond the present cutoff date, perhaps on a permanent basis with certain modifications.

## APPENDIX "A"

### DISCUSSION OF INDIVIDUAL STATE PROGRAMS
**From AAA Foundation for Traffic Safety, April 1967**

### U.S.A. STATE PROGRAMS

**Arizona:** A compulsory motor vehicle inspection law was enacted in the State of Arizona in 1962 and was implemented in January 1963. The program continued for a period of two years and was repealed in 1965. The motor vehicle inspection program was administered by the Motor Vehicle Department of Arizona. A state-appointed and supervised system was used in the State of Arizona. The total number of state personnel involved in administering the program was 7 and the total number of stations conducting inspections was approximately 1,847. One inspection per year was conducted during the period 1 January - 31 March. A fee of $1.00 was charged the motorist for the inspection. A new bill has again been introduced to the state legislators for consideration. The new bill also provides for inspection at state-appointed stations.

**Arkansas:** A motor vehicle inspection program was enacted in the State of Arkansas in 1937 and became effective the same year. In 1939, the program was repealed. The program was administered by the State Police Department. The inspections were conducted in state-appointed stations and a fee of $.50 was charged for the inspection. A new bill has been presented to the legislature which proposes inspection at state-appointed stations under the supervision of the State Police.

**California:** The State of California enacted a roadside "safety lane" type inspection program for implementation in 1966. The program is operated by the State Highway Patrol. It consists of the setting up of roadside inspection lanes at varied strategic locations in the designated Highway Patrol zones of the state. An inspection team in each zone consists of five personnel. The program is a spot-check or random system, insofar as the motorist is concerned.

**Colorado:** A motor vehicle inspection program was was enacted in the State of Colorado in 1935 and was implemented in 1936. A number of revisions to the program have been made during the years 1953, 1957, and 1959. The program is administered by the Department of Revenue, utilizing state-appointed stations. A total of 9 personnel are employed by the state to administer the program, and the inspections are conducted by approximately 4,000 stations scattered throughout the state. Two inspections per year are required under the law, and these are conducted during the periods of 1 April - 31 May and 1 October - 30 November. A fee of $1.50 is charged the motorist for the inspection.

**Connecticut:** A compulsory motor vehicle inspection program was enacted in the State of Connecticut in 1930 and was implemented the same year. The program was administered by the Motor Vehicle Department. The inspections were conducted with portable equipment at 36 state-owned, semi-permanent concrete platform locations. A total of 100 Motor Vehicle Department inspection personnel were utilized to operate the 36 stations. The program was discontinued in 1942 for the duration of the war; however, it was not resumed after the war ended. During the 1961 Connecticut legislature, a motor vehicle inspection program was again considered and rejected. State law, however, authorizes a voluntary inspection system in licensed garages and used vehicles registering in Connecticut for the first time must pass a safety inspection. A fee of $1.00 is charged for this service. Connecticut has various new bills in legislation which call for semi-annual inspection. One of these would apply to vehicles that are three or more years old. All of the bills would provide for state-appointed stations.

**Delaware:** The Delaware program was enacted and implemented in 1933. The program is administered by the Motor Vehicle Department. The inspections are conducted in a state-owned system. Approximately 40 state personnel are utilized to conduct the inspections, which are performed in 3 lanes in 3 different counties of the state. One inspection per year is conducted at a time convenient to the motorist. No fee is charged for this inspection program.

**District of Columbia:** A motor vehicle inspection program was enacted in the District of Columbia in 1938 and implemented in 1939. The program is administered by the Motor Vehicle Division of the District of Columbia. It is a state-owned system administered by approximately 63 state personnel. Inspections are conducted at two locations, with 4 inspection lanes at each location. One inspection per year is conducted at a time convenient to the motorist. The motorist must then return for an inspection within twelve months following his last inspection. A fee of $1.00 is charged for the inspection.

**Georgia:** A motor vehicle inspection program was enacted in the State of Georgia during the year 1963 and implemented in 1965. The program is administered by the State Department of Safety and utilizes state-appointed or licensed inspection stations. One inspection per year is required during the period 1 January - 30 June. A fee of $1.25 is charged for the inspection.

**Hawaii:** A motor vehicle insection program was enacted in 1961 and implemented during the same year. The program is administered by the police of the four counties in which the inspection programs are conducted. Each county is responsible for motor vehicle inspections within its borders. State-appointed stations are utilized for conducting the inspections. A total of 5 personnel are used in administering the program, with the inspections being conducted in approximately 300 authorized stations within the four counties. One inspection per year is conducted at a time convenient to the motorist. A fee of $2.00 is charged for the inspection.

**Indiana:** A bill is being considered in this state which would require annual inspection at state-appointed stations. Fleet owners with ten or more vehicles would inspect their own vehicles.

**Louisiana:** The Louisiana program was enacted in 1960 and implemented in 1961. The program is administered by the State Police Department. The state-appointed system is utilized in Louisiana. The number of state personnel involved in administering the program is 20 and the number of stations utilized for the inspection program is approximately 1,580. One inspection per year is required and conducted during the period 1 December—31 March. A fee of $1.00 is charged to the motorist for the inspection.

**Maine:** Maine's inspection program was enacted in 1930 and implemented in 1931. Revisions to the original program have been made during the years 1954, 1957, 1959, and 1961. The program is administered by the State Police Department. Inspections are conducted in the State of Maine by state-appointed stations. A total of 7 state personnel are utilized to administer the program, and the inspections are conducted by approximately 1,700 authorized stations. Two inspections per year are required under the law and these are conducted at times convenient to the motorist. A fee of $1.00 is charged the motorist for the inspection.

**Maryland:** An inspection program, utilizing state-appointed stations, was initiated in Maryland in 1943 and discontinued in 1945. A new bill is again being considered for annual inspection at state-appointed stations.

**Massachusetts:** A motor vehicle inspection program was enacted by the State of Massachusetts in 1929 and implemented in 1930. Various revisions to the 1929 act were made in 1935, 1951, and 1961. The program is administered by the Motor Vehicle Department of the state. Inspections are conducted by state-appointed stations. A total of 44 state personnel are utilized to administer the program and the inspections are conducted in approximately 3,200 authorized inspection stations. Two inspections per year are conducted during the periods 1 April - 15 May and 1 September - 15 October. A fee of $1.00 is charged for the inspection.

**Minnesota:** Companion bills in each house of the Minnesota legislature propose annual inspection at state-appointed stations for vehicles over one year old. Fleet operators with four or more vehicles would inspect their own vehicles.

**Mississippi:** A motor vehicle inspection program was enacted in the State of Mississippi in 1960 and implemented in 1961. The program is administered by the Department of Public Safety and utilizes state-appointed inspection stations. A total of 16 state personnel are used to administer the program. The actual inspections are conducted in approximately 1,322 stations in the state. One inspection per year is required between the period 1 January - 31 March. A fee of $1.25 is charged for the inspection.

**Missouri:** A bill is presently under consideration for an annual inspection program at state-

appointed stations in the State of Missouri.

**Nebraska:** The State of Nebraska conducted a state-wide inspection system from 1937 through 1939, when the statute was repealed. Recent legislation, however, has authorized the State Highway Patrol to conduct roadside inspections. Nebraska is presently considering annual inspection at state-appointed stations. Operators of five or more vehicles would inspect their own vehicles. Dealers would be made liable for any injury resulting from a vehicle not being inspected.

**New Hampshire:** A motor vehicle inspection program was enacted in the State of New Hampshire in 1930 and was implemented in 1931. The program is administered by the State Department of Safety and state-appointed or licensed inspection stations are utilized for conducting the inspections. A total of 7 state personnel are used to administer the program, and approximately 1,100 licensed stations conduct the inspection program. Two inspections per year are required during the months of May and October. A fee of $1.50 is charged for the inspection.

**New Jersey:** A motor vehicle inspection program was enacted in the State of New Jersey in 1936 and implemented in 1938. The program is administered by the Motor Vehicle Department of the state. This is a state-owned system, utilizing 68 inspection lanes and 605 state personnel to administer and conduct the inspection program. One inspection per year is required and this inspection is conducted at the convenience of the motorist, who must return for his next inspection within twelve months from the date of his last inspection. A fee of $1.00 is charged for the inspection.

**New Mexico:** A motor vehicle inspection program was enacted in the State of New Mexico in 1953. The program is administered by the Motor Vehicle Department of the state. The inspections are conducted by state-appointed or licensed inspection stations. Nine state personnel are utilized to administer the program. The inspections are conducted in approximately 1,175 stations within the state. Two inspections per year are required and these are conducted during the even months of the year. A $1.00 fee is charged for the inspection.

**New York:** A motor vehicle inspection program was enacted in the State of New York in 1954 and implemented in 1957. The program is administered by the Motor Vehicle Department and the State Police. The system involves the use of state-appointed or licensed stations. Seventy state personnel are utilized to administer the program, which is conducted in approximately 9,200 authorized stations within the state. One inspection per year is required for vehicles over four years old at times convenient to the motorist. A fee of $2.00 is charged for the inspection. New York is considering legislation which would amend its present law to set up two state-owned inspection stations on an experimental basis. Another bill would require dealers to inspect all new and used vehicles before sale.

**North Dakota:** North Dakota has a resolution to study the feasibility of establishing a vehicle inspection system.

**Ohio:** This state has a bill to provide for "spot" inspection by police. Another bill provides for semi-annual inspection at privately-owned stations. Fleet operators with ten or more vehicles may inspect their own vehicles.

**Oregon:** Oregon proposes annual inspection at privately-owned stations. Another bill provides for annual inspection at county stations.

**Pennsylvania:** A motor vehicle inspection program was enacted in the State of Pennsylvania in 1928 and implemented in 1929. The program is administered by the Department of Revenue and the State Police. The system of state-appointed or licensed stations is utilized to conduct the inspection program. Approximately 117 state personnel are used to administer the program, and the inspections are conducted in approximately 13,100 licensed stations within the state. Two inspections per year are required during the periods 1 May - 30 June and 1 November - 31 January. A fee of $3.00 is charged per inspection.

**Rhode Island:** An inspection program was enacted in the State of Rhode Island in 1958 and was implemented in 1959. The program is administered by the Motor Vehicle Department of the state. The system utilizes state-appointed or licensed stations. Seven state personnel are used to administer the program, and the inspections are conducted in approximately 1,100 licensed or authorized stations. One inspection per year is required at a time convenient to the motorist. A fee of $1.00 is charged for the inspection. A bill is under consideration for changing the annual inspection to semi-annual.

**South Carolina:** A motor vehicle inspection program was enacted in the State of South Carolina in 1937 and was implemented in 1938. The program was repealed and discontinued in 1943. The program was conducted with seventeen mobile, state-owned units. Approximately 100 state personnel were used to operate these units. Two inspections per year were required. South Carolina is now proposing voluntary inspection annually at state-appointed stations. Companion bills would require annual inspection at state-designated stations. Fleet operators would be exempt.

**Texas:** A motor vehicle inspection program was enacted in the State of Texas in 1951 and implemented during the same year. The program is administered by the Department of Public Safety and utilizes state-appointed or licensed inspection stations. Eighty-five state personnel are used to administer the program, and the inspections are conducted in approximately 4,800 authorized inspection stations. One inspection per year is required during the period 1 September - 15 April. A fee of $1.00 is charged for the inspection.

**Utah:** A motor vehicle inspection program was enacted in the State of Utah in 1936 and implemented during the same year. Revisions to this program were made during the year 1953. The program is administered by the State Police Department and utilizes state-appointed or licensed inspection stations. Eight State Police personnel are utilized to administer the program, and the inspections are conducted in approximately 1,174 stations. One inspection per year is required during the period 1 March - 31 May. A fee of $1.00 is charged for the inspection.

**Vermont:** An inspection program was enacted in the State of Vermont during the year 1935 and was implemented during the year 1936. The program is administered by the Motor Vehicle Division of the state and involves the use of state-appointed or licensed inspection stations. Five state personnel are utilized to administer the program and inspections are conducted in approximately 757 authorized inspection stations. Two inspections per year are required during the months of May and October. A $1.00 fee is charged for the inspection. Vermont would amend its existing law to provide for inspection of vehicles within five days, instead of thirty days, after registration.

**Virginia:** A motor vehicle inspection program was enacted in the State of Virginia in 1932 and was implemented during the same year. Revisions to this law were made in 1958. The inspection program is administered by the State Police Department and involves the use of state-appointed or licensed inspection stations. Thirty-nine state personnel are utilized to administer the program, and the inspections are conducted in approximately 2,050 authorized inspection stations. Two inspections per year are required at times convenient to the motorist. A fee of $1.00 is charged for the inspection.

**Washington:** A motor vehicle inspection program was enacted and implemented in the State of Washington during the year 1937. The program was discontinued in 1942, even though the statutes are still on the books. The State Highway Patrol conducted the vehicle inspection program at no cost to the motorist. The cost to the state was approximately $2 million per year and this apparently is what led to its discontinuance. In addition, the lack of penalties and enforcement powers were also cited as a basis for discontinuing the program. A new bill proposes "spot" inspection by police.

**West Virginia:** A motor vehicle inspection program was enacted in the State of West Virginia during the year 1953 and was implemented in 1955. The inspection program is conducted by the Department of Public Safety and utilizes state-appointed or licensed inspection stations. Sixteen state personnel are used to administer the program, and inspections are conducted in approximately 1,300 authorized inspection stations. One inspection per year is required at the convenience of the motorist. A fee of $1.25 is charged for the inspection.

**Wyoming:** One bill is being considered in Wyoming which would require annual inspection; another would require at least one and not more than two inspections. Both would be conducted at private garages.

## APPENDIX "B"

## ALCOHOL AND TRAFFIC FATALITIES IN NORTH DAKOTA

### A PRELIMINARY REPORT
**1 July 67 thru 30 September 68**
**From Richard W. Prouty, North Dakota State Toxicologist**

### GENERAL STATISTICS

(1) 272 Traffic Deaths during this reporting period (involved in an accident that occurred after 0001 hours 1 July 1967 and died prior to 2400 hours 30 September 1968)

(2) In 179 of these 272 Deaths (66% of the cases) bloods were drawn and submitted to the Laboratory for analysis.

(3) 8 of these specimens were unsuitable for analysis (5 contaminated with formaldehyde and 3 broken in route), therefore 264 suitable specimens received for analysis.

49 of the 93 cases not received for study were deaths in which the victims were less than 14 years old or victims who survived the accident for 24 hours or more prior to death.

Therefore, lack of cooperation and negligence by the collecting agencies was demonstrated in only 44 plus 5 equals 49 of the 272 cases or 18% of the Traffic fatalities.

(4) 171 Cases analyzed:

(a) Drivers—91 Occupants—57 Pedestrians—11 Unknown—2

(b) 5 of Occupants less than 14 years of age (1,2,3,5 and 13 years)

(c) 93 of 166 victims analyzed (56%) 14 years of age or older blood alcohol—0.05% or more.

(d) 78 of 166 victims analyzed (47%) 14 years of age or older blood alcohol—0.10% or more.

### SINGLE VEHICULAR FATAL ACCIDENTS

(1) 74 Deaths received for analysis from Singular Vehicular Accidents.
Drivers—51 Occupants—21 Unknown—2

(2) 56 of these 74 victims (76%) blood alcohol—0.05% or more.

(3) 47 of these 74 victims (64%) blood alcohol—0.10% or more.

(4) 42 of 51 Driver victims (82%) blood alcohol—0.05% or more.

(5) 37 of 51 Driver victims (73%) blood alcohol—0.10% or more.

(6) 12 of 21 Occupant victims (57%) blood alcohol—0.05% or more.

(7) 9 of 21 Occupant victims (43%) blood alcohol—0.10% or more.

(8) All of the undetermined victims (100%) blood alcohol—0.05 or more.

### DEATHS IN 14-20 YEAR AGE GROUP

(1) 49 Traffic deaths in the 14-20 year age group were received for analysis.

Drivers—25 Occupants—20 Pedestrians—4

(2) 37 of 49 victims (76%) 14 to 20 yrs. old had been drinking.

(3) 28 of 49 victims (57%) 14 to 20 yrs. old blood alcohol—0.05% or more.

(4) 19 of 49 victims (39%) 14 to 20 yrs. old blood alcohol—0.10% or more.

(5) 34 of 49 victims (70%) 14 to 20 yrs. old died in accident with driver in themselves having blood alcohol—0.05% or more.

(6) 20 of 25 driver victims (80%) 14 to 20 yrs. old had been drinking.

(7) 17 of 25 driver victims (68%) 14 to 20 yrs. old blood alcohol—0.05% or more.

(8) 15 of 25 driver victims (60%) 14 to 20 yrs. old blood alcohol—0.10% or more.

(9) 14 of 20 occupant victims (70%) 14 to 20 yrs. old had been drinking.

(10) 9 of 20 occupant victims (45%) 14 to 20 yrs. old blood alcohol—0.05% or more.

(11) 3 of 20 occupant victims (15%) 14 to 20 yrs. old blood alcohol—0.10% or more.

(12) 2 of 4 pedestrian victims (50%) 14 to 20 yrs. old blood alcohol—0.05% or more.

(13) 1 of 4 pedestrian victims (25%) 14 to 20 yrs. old blood alcohol—0.10% or more.

**PEDESTRIANS FATALLY INJURED**

(1) 11 pedestrian deaths received for analysis.

(2) 8 of 11 of these victims (73%) blood alcohol—0.05% or more.

(3) 8 of 11 of these victims (73%) blood alcohol—0.10% or more.

(4) In 9 of the 11 pedestrian deaths, either the pedestrian or the driver of the automobile striking the pedestrian had a blood alcohol concentration greater than 0.10%. In one of the two remaining cases, although no chemical test was performed, there was gross evidence of alcohol impairment in the driver who was arrested for public intoxication.

Therefore, in 10 of the 11 pedestrian deaths (91%), either the driver or the pedestrian had a blood alcohol level of .10% or more.

# NOTES

# Explanation of Legislative Research Committee Bills

## Senate Bills

**Senate Bill No. 31—Sale of Soldiers' Home Land.** This bill directs the Board of Trustees of the Soldiers' Home to sell certain real property presently used in the Soldiers' Home farm operations. See Committee report on Budget.

**Senate Bill No. 32—Guarantee Loan Program.** This bill directs the Bank of North Dakota to establish a State Guarantee Loan Program whereby the State and the Federal Government would cooperate in the guarantee of loans made by private lending agencies to eligible students in the State. The present State Scholarship Loan Program would be discontinued and the moneys in the fund would be transferred to the new program for the guarantee of loans. See Committee report on Budget.

**Senate Bill No. 33—Data Processing.** This bill provides for the establishment of an Office of Central Data Processing which will provide data processing services consisting of personal services as well as equipment capability to State agencies and institutions, and also will limit the expansion of nonintegrated data processing systems in State government. See Committee report on Data Processing.

**Senate Bill No. 34—Higher Education Data Processing Study.** This bill directs the Legislative Research Committee to develop a plan for an integrated data processing system for the institutions under the authority of the Board of Higher Education, and provides for an appropriation. See Committee report on Data Processing.

**Senate Bill No. 35—Calculation of Foundation Aid Payments.** This bill changes the numerical basis for foundation aid payments to eligible school districts from the average daily membership for the previous school year to enrollment for the current school year with provision for adjustment of the payments from year to year as may be required, depending upon the comparison of the average daily membership at the end of the school year to the current enrollment for that year. See Committee report on Education.

**Senate Bill No. 36—Quorum When the Board of Public School Education Meets to Consider the School Construction Fund.** This bill changes the quorum requirement from the full membership of the Board to five members when the Board of Public School Education meets to consider the school construction fund. See Committee report on Education.

**Senate Bill No. 37—Reorganization or Annexation of School Districts Not Operating a High School.** This bill requires, within three years of the effective date of the Act, reorganization or annexation of any school district in this State which is not operating a high school within its school district to a district operating an accredited high school. See Committee report on Education.

**Senate Bill No. 38—Custody of Abandoned Property.** This bill creates an abandoned property office within the Office of the Attorney General, which shall take custody of personal property that has remained unclaimed for fifteen years or more, and severed mineral interests which have lain dormant for thirty years or more. Reports by persons holding abandoned personal property will be required. In the case of severed mineral interests, any person may request examination of an interest to ascertain whether it is abandoned. Notice to the owner by publication and mail is to be given before custody is taken. Abandoned severed mineral interests will be taken in trust for the owner in perpetuity, and proceeds from the sale of abandoned personal property will be placed in the State General Fund for the owner in the event they are ever claimed. The administrator is to hear and determine claims, and an appeal to district court will lie for

persons adversely affected. See Committee report on Finance and Taxation.

**Senate Bill No. 39—Authority for Political Subdivisions to Grant Tax Exemptions to New Industry.** This bill allows cities or counties, depending on the location of the new industry, to negotiate a partial or complete five-year ad valorem tax exemption with the approval of the State Board of Equalization. The new or expanded industry may also be exempted, upon approval of the State Board of Equalization, from State income tax. See Committee report on Industry and Business.

**Senate Bill No. 40—Eminent Domain.** This bill amends several obsolete sections of the Code, provides definitions of terms frequently used in condemnation proceedings, and otherwise modernizes the general eminent domain law. See Committee report on Judiciary.

**Senate Bill No. 41—Moving Expenses Pursuant to Eminent Domain Proceedings.** This bill authorizes payment for the estimated cost of moving personal property pursuant to eminent domain proceedings. See Committee report on Judiciary.

**Senate Bill No. 42—Legislative Research Committee Changed to Legislative Council.** This bill changes the name of the Legislative Research Committee to "Legislative Council" in order to better recognize its current responsibilities. It would also allow the Council or its interim committees to subpoena witnesses. The membership of the Legislative Council will be increased by adding the four floor leaders to the present five senators and six representatives. The bill also amends numerous sections to provide the name change. See Committee report on Legislative Procedure and Arrangements.

**Senate Bill No. 43—Legislative Code of Ethics.** This bill sets forth standards for legislative conduct in regard to conflict of interest and abuse of office. It creates a joint standing committee on legislative conduct to which questions of proper ethical behavior may be referred for advisory opinion. The Committee also investigates complaints of misconduct on the part of a legislator and may hold a public hearing if it determines sufficient cause exists. If the preliminary investigation or the public hearing reveals no misconduct, the Committee has authority to dismiss the complaint. Necessary disciplinary action shall be referred to the appropriate House for action under Section 48 of the North Dakota Constitution. See Committee report on Legislative Procedure and Arrangements.

**Senate Bill No. 44—Creation of Legislative Compensation Commission.** This bill creates a Legislative Compensation Commission composed of five members (not in State employ) appointed by the Governor for four-year terms. The Commission would, after study, recommend proper expense allowances during the session and proper interim compensation to the Legislature within the first ten days of the session. Such compensation plan shall go into effect if it is not rejected by the Legislature within thirty days from its presentation. See Committee report on Legislative Procedure and Arrangements.

**Senate Bill No. 45—Strip Mining Reclamation Act.** This bill designates the Public Service Commission as the supervisory agency for the reclamation of strip mined lands, with the State Mine Inspector as the executive officer. Operators will be required to obtain permits to mine where the overburden is over ten feet in depth, to file a reclamation plan, and to post a performance bond. The reclamation plan will have to comply with standards written into the bill, which vary according to the use for which the land is to be reclaimed, and the bond shall be forfeited in the event of noncompliance. See Committee report on Natural Resources.

**Senate Bill No. 46—Expansion of State Retirement System.** This bill expands the State employees retirement coverage to include employees of the counties and the cities at their option, and provides authority, upon approval of the electorate of the political subdivision, to levy taxes in an amount sufficient to cover the cost of the system. The present limit on the employer's matching contribution is also removed. The bill creates separate funds for the payment of city or county prior service benefits. See Committee report on State and Federal Government.

**Senate Bill No. 47—Creation of Personnel Division and Classification System.** This bill establishes a Personnel Division within the Office of the Budget, and provides that the Supervisor of the

Personnel Division will be appointed by the Director of the Budget. The Supervisor will be responsible for the initial establishment of an employee position classification system and for continuing supervision of it. Certain specified employee positions (clerical and stenographic) will have to be classified during this biennium. The Director of the Budget is to develop and implement a compensation plan based on a completed classification and within appropriations available for salaries. See Committee report on State and Federal Government.

**Senate Bill No. 48—Periodic Motor Vehicle Inspection.** This bill requires inspection of the mechanical condition and equipment of all motor vehicles at least once but not more than twice each year and provides authority to the Superintendent of the Highway Patrol to license and otherwise regulate stations conducting such inspection. See Committee report on Transportation.

**Senate Bill No. 49—Driver Education.** This bill requires school districts to offer classroom and laboratory instruction in driver education as a condition precedent to accreditation by July 1, 1971. See Committee report on Transportation.

**Senate Bill No. 50—Visual Acuity Examination for Driver's License Applicants.** This bill requires examination and re-examination for visual acuity every four years for driver license applicants between the ages of forty-four and seventy. See Committee report on Transportation.

**Senate Concurrent Resolution No. 1—Study of Recessed Session Plan.** This resolution calls for a study of the feasibility and cost of implementing a recessed session plan, wherein the Legislature would meet for a short session in January of the odd-numbered year and then recess until January of the next year. Joint standing committees will be assigned bills and research studies at the first session and then hold hearings on them during the interim. See Committee report on Legislative Procedure and Arrangements.

# NOTES

# HOUSE BILLS

**House Bill No. 32 - Farm Activities at Charitable and Penal Institutions.** This bill provides for the Board of Administration's coordination of farm activities at the charitable and penal institutions, and also authorizes the Board to employ a qualified farm manager to provide assistance to such institutions. See Committee report on Budget.

**House Bill No. 33 - Sale of Industrial School Land.** This bill directs the Board of Administration to sell land, except that portion used for gardening, owned by the State for the farm operations at the State Industrial School. See Committee report on Budget.

**House Bill No. 34 - State Penitentiary Land Sale and Exchange of Property at the State Hospital.** This bill directs the Board of Administration to sell certain urban pressure property owned for the benefit of the penitentiary and authorizes the State Health Department to exchange certain property with a private party for the benefit of the State Hospital. See Committee report on Budget.

**House Bill No. 35 - Vocational Education.** This bill appropriates $500,000 to the State Board for Vocational Education for the purpose of implementing and supplementing training programs in basic occupational and trade skills within existing physical facilities at the Bismarck, Devils Lake, and Williston community colleges, and includes a statement of legislative intent regarding vocational education in North Dakota. See Committee report on Education.

**House Bill No. 36 - Replaces County Reorganization Committees With Regional Committees and Provides State Committee with Authority to Reorganize.** This bill provides for the replacement of the present county reorganization committee system with a regional committee system, selection of regional committee members, submission of a regional reorganization plan by July 1, 1972, and authorizes the State Committee to impose a reorganization proposal in certain instances. See Committee report on Education.

**House Bill No. 37 - Moratorium on Certain School District Construction Projects.** This bill authorizes the Superintendent of Public Instruction, or on appeal, the Board of Public School Education, to prohibit school district construction projects over $25,000 when it is found that such project would not be fully usable by any reorganized district encompassing the applicant district likely to be created during the effective period of the Act. The authority provided in this bill terminates July 1, 1973. See Committee report on Education.

**House Bill No. 38 - Proceeds from Sale of Deceased Inmates' Possessions to be Placed in General Fund.** This bill amends section 12-45-07 of the North Dakota Century Code to require that proceeds received by the State Treasurer from the sale of personal effects of inmates who die while in the State Penitentiary or State Training School shall be placed in the General Fund of the State Treasury rather than the Benefit Fund for Penal Institutions. See Committee report on Finance and Taxation.

**House Bill No. 39 - Cancellation of General Taxes, Hail Indemnity Taxes, and Special Assessments of Record.** This bill amends section 57-28-21 of the North Dakota Century Code to provide that the Board of County Commissioners shall cancel any general taxes, hail indemnity taxes, and special assessments that are of record at the time a deed for tax lands is issued to a purchaser, except special assessments that have not become due at the time of the sale. Also, section 57-28-17 is amended to require the County Auditor to remove from the record any special assessment or part thereof that has been canceled by a municipality. See Committee report on Finance and Taxation.

**House Bill No. 40 - Municipal Industrial Tax Exemption to Be Optional.** This bill amends section 40-57-17 of the Municipal Industrial Development Act to provide that the tax exemption allowed by this section may be applied for at the option of the project operator. The acceptance of the exemption is mandatory upon a business financing by Municipal Industrial Development bonds under present law. See Committee report on Industry and Business.

**House Bill No. 41 - Home Rule.** This bill authorizes cities of 100 or more population to adopt home rule charters and thereafter to govern themselves under the broader powers granted to home rule cities. See Committee report on Judiciary.

**House Bill No. 42 - Disposal of Old Legislative Chairs.** This bill provides that the Director of Accounts and Purchases shall, after establishing a fair appraised value, offer the replaced chairs from the House and Senate for sale with preference, for a period of ninety days, to present or former legislators to purchase one chair. See Committee report on Legislative Procedure and Arrangements.

**House Bill No. 43 - Conduct of Legislative Investigations.** This bill sets out standards for legislative investigating committees in regard to their establishment, membership (minimum of five members), quorum, hearings, issuance of subpoenas, notice to witnesses, extension of right to counsel, and taking of testimony. The bill defines contempt and allows an investigating committee to apply to its parent House or to the Burleigh County District Court for a contempt citation. Contempt may be punished by imprisonment for 180 days, a fine of $250, or both. See Committee report on Legislative Procedure and Arrangements.

**House Bill No. 44 - Amendments Caused by Constitutional Recognition of Organizational Session.** This bill creates a new section which defines the phrases "organizational session" and "regular session", and provides for the organizational session of the Legislative Assembly in December. The bill provides that the Speaker and the President Pro Tempore shall be elected at each organizational session and shall serve until the next organizational session. The twenty-five dollar per day expense allowance shall be paid during the organizational and regular sessions, and any portion of a day spent traveling to or from a session shall be counted as a full day for expense allowance purposes. See Committee report on Legislative Procedure and Arrangements.

**House Bill No. 45 - Creation of Central Youth Authority.** This bill establishes a Central Youth Authority within the Public Welfare Board. The Youth Authority may receive custody of juveniles from committing courts and may place them at any juvenile facility within the State, or may contract to place them at a proper facility outside the State, with the approval of the sentencing court. Commitment to the custody of the Central Youth Authority will be an alternative to the possibilities of disposition presently available to the court. See Committee report on State and Federal Government.

**House Bill No. 46 - Sentencing of 18 to 21-year-olds.** This bill amends certain sections of Title 12 of the North Dakota Century Code to provide that criminal courts cannot sentence juveniles between ages 18 to 21 to the State Industrial School. The bill also provides that all sentences to the Industrial School are to run until the defendant reaches age 21. See Committee report on State and Federal Government.

**House Bill No. 47 - Eye Protection for Motorcycle Operators.** This bill requires motorcycle operators to wear eye protection approved by the Motor Vehicle Registrar. See Committee report on Transportation.

**House Bill No. 48 - Regulation of Commercial Driving Schools.** This bill provides the Superintendent of the Highway Patrol with authority to regulate and supervise commercial driving schools and sets license fees for such schools and instructors. See Committee report on Transportation.

**House Bill No. 49 - Driver Licensing.** This bill requires evidence of date and place of birth with every original application for a driver's license. See Committee report on Transportation.

**House Concurrent Resolution No. 1 - Charitable and Penal Institution Farm Operations.** This resolution directs the Industrial School, State Penitentiary, and the Soldiers' Home to discontinue certain farm operations and sell surplus property, and directs the State Hospital to expand its beef operation. See Committee report on Budget.

**House Concurrent Resolution No. 2 - Study of Merger of Retirement Funds.** This resolution

calls for a Legislative Research Committee study of the feasibility of merging the State Employees Retirement Fund, the Teachers' Insurance and Retirement Fund, and the Highway Patrolmen's Retirement Fund. See Committee report on State and Federal Government.

# NOTES