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# **SUMMARY**

## **BRIEFLY - - - THIS REPORT SAYS**

### **BUDGET**

The Legislative Council's Budget Committee was formed to give the legislature an opportunity to review the Executive Budget prior to the session. In addition, the committee conducted a number of studies and visited state institutions and projects.

The Council recommends establishing, on a trial basis, an aircraft pool coordinated by the Highway Department. Some state planes are not fully utilized even though several state agencies and departments would use more air travel if the service were available. The Council does not recommend establishing a statewide motor pool for state agencies and departments. The discontinuance of purchase discounts by major car companies reduces the potential savings of a pool to where the savings do not warrant the substantial investment necessary to establish a motor pool.

The Council reviewed the use of the Revenue Bond Act at state institutions of higher education. Since the first bond issue in 1950 to June 30, 1969, \$40,742,063 of bond proceeds have been invested in campus projects, primarily for dormitories. Of this amount, \$34,772,000 was outstanding on June 30, 1969. The Council advises the Board of Higher Education to exercise caution before authorizing additional bond issues, and recommends that income from revenue bond facilities be used to pay operating expenses.

The Council does not believe a fee system requiring regulated utilities to pay the costs to the Public Service Commission in regulating the utilities is presently feasible. But the Council does recommend fee changes for a number of state services relating to business and products so that the charges will equal the costs of providing services. The Council also recommends improved accounting procedures so that these costs can be easily determined.

### **DATA PROCESSING**

The Council, through consultants Peat, Marwick, Mitchell & Co. and Dr. G. P. Weeg, sought a plan for the orderly, efficient and economic development of needed data processing services at state institutions of higher education. The consultants warned that expansion of current data processing installations, as opposed to development of a central facility, could cost the State an additional \$300,000 per year before the end of the 1973

school year. The Council recommends establishing an Office of Higher Education Computer Services to provide data processing services to the colleges and universities. During the 1971-1973 biennium, it would provide data processing services to state colleges from the computer located at the University of North Dakota. During the 1973-1975 biennium, North Dakota State University and the State School of Science are also scheduled to use the central computer. A central staff would reduce costs and make possible development of common systems for the institutions. The Council also recommends an appropriation of \$798,533 to provide these data processing services and to operate the central office during the 1971-1973 biennium.

### **Microfilm Study**

The Council recommends a central microfilm unit supervised by the Secretary of State. After an initial appropriation, the unit would be sustained by charges to the various departments using its services. The Council also recommends strengthening the Secretary of State's authority as State Records Administrator.

## **EDUCATION**

### **Elementary and Secondary**

The Council studied state elementary and secondary public school laws to weed out unused and archaic provisions, reconcile conflicts and ambiguities, eliminate surplus language, and arrange the subject matter logically. The recommended bill completely revises laws dealing with vocational education and vocational rehabilitation, compulsory attendance and transportation, state school aid, reorganization of school districts, and other individual educational areas. Every effort was made to avoid any controversial substantive change. In addition, the Council recommends separate bills clarifying release time for religious instruction, permitting school board members compensation for travel expenses, providing additional information for voters in an excess levy election, and requiring that a majority of the school board attending a board meeting is needed to transact business rather than just a majority of those voting.

### **Higher Education**

A number of studies were made with the assistance of the Board of Higher Education. One study indicated needed improvements in both the staff and the collection sizes at college and university libraries. Cost studies on graduate English curriculums at the two universities indicated a loss would result with the elimination of either program due to the loss of graduate assistants for undergraduate teaching. Of course, the result might not be the same in other instructional areas. Faculty teaching loads were also studied, but the great variance in teaching loads at each institution makes these reports helpful only for comparative purposes within a single institution over a number of years. It was also found that professional and regional accrediting associations exert considerable influence by establishing standards for faculty loads. Other higher education inquiries included space utilization and activity fees and their allocation. The Council recommends a concurrent resolution urging the Board of Higher Education and the presidents and administrators of each college and university to continue and enlarge studies and efforts to prevent course overlap and duplication, and to evaluate and update studies of instructional programs, space utilization, and teaching loads.

## **EDUCATIONAL FINANCE**

The Council, through a Special Committee on Educational Finance, studied problems facing the State's school districts. Data compiled by the University of North Dakota pointed out characteristics which seem to contribute to the districts' financial difficulties, such as poor pupil-teacher ratios, high transportation costs, and too many courses. Several educational finance models were studied, and the Council recommends a bill embodying a variation of one of them. The bill seeks to equalize the financial contribution to education among high school districts by, in effect, requiring each high school district to levy 34 mills and each elementary district to levy 22 mills. The bill also goes a long way toward equalizing educational opportunities among school districts so each child has a chance for a quality education regardless of where he or she lives.

The Council also received a report on parochial education from the North Dakota Catholic Conference. Parochial schools, as stated in the report, are facing severe financial problems. It said state aid is necessary if these schools are to continue to contribute to public education. The conference asks that 30 percent of the present per-pupil Foundation Aid payment be granted to parochial schools for enrolled students, up to the amount expended for lay faculty in the schools. The Council does not have a recommendation in this area.

## **ELLENDALE BRANCH-UND**

The Council formed a special committee to seek possible alternative uses for facilities at Ellendale Branch-UND after two of the school's classroom and administrative buildings were destroyed by fire January 9, 1970. Testimony and Board of Higher Education surveys generally indicate the institution faces a period of declining enrollment. On the basis of testimony from a 10-member consulting committee, and from the study of its own special committee, the Council is not recommending alternative uses for the campus facilities.

The Council believes the present facilities, valued in excess of \$3 million, are adequate for present enrollment levels and provide for some future growth. The Council recommends the Ellendale Branch-UND fire insurance moneys and interest be placed in a special fund to be accumulated and applied towards construction of classroom facilities at the school when and if enrollment requires their construction. The Council recommends Ellendale Branch -UND remain a branch of the University of North Dakota.

The Council also recommends that the Board of Higher Education and the State Board of Vocational Education jointly explore and implement feasible vocational and technical training courses at the institution, and that enrolled students be charged substantially less tuition than at other state institutions of higher education.

## **FINANCE AND TAXATION**

The Council conducted three interim tax studies of the North Dakota tax structure, including the classification and assessment of property; of the tax exemptions provided by state law; and of the present tax impact on various population groups.

### **Tax Structure Study**

In order to establish uniformity of taxation and to effectuate the legislative intent in the repeal of personal property taxes, the Council recommends a bill redefining real property to include, basically, only the land itself and buildings, as well as the systems for providing utility services, such as heating and plumbing, for buildings.

Although state law requires all property be assessed at its true and full value, the average property assessment is something less than 25 percent of market value. The repeal of the personal property tax has reduced the bonding base of political subdivisions. The Council recommends a bill requiring the assessment of property at market value, reducing statutory mill levies to one-fourth their former amounts, and reducing bond limitations to approximately one-third their former amounts.

In order to aid the State's economy and to encourage the continued operation of oil wells where the cost of production nearly equals the revenue generated, the Council recommends a bill exempting from the gross production tax the oil produced by marginal and near marginal oil wells, unless such wells are in a unitized pool.

All income tax collections and withholdings are presently deposited in the general fund and credited as income tax receipts. Because this results in a distorted picture of actual income tax receipts, the Council recommends creation of an income tax refund reserve as a special fund in the State Treasury, and recommends the creation of a special income tax study commission to explore alternative methods of computing income tax liability.

### **Tax Exemption Study**

In order to provide uniform tax treatment for students who eat on campus and those who eat off campus, the Council recommends a bill removing the sales tax exemption on food purchased from college and university cafeterias and dining rooms, including fraternity and sorority houses. The Council also recommends bills removing the sales tax exemption on newspapers, and the sales and use tax exemptions on banks and building and loan associations.

Among Council recommendations regarding changes in property tax exemptions is one providing that property owned by nonprofit athletic and educational corporations at any state educational institution must be used for athletic or educational purposes to be exempted. Another recommended bill increases the statutory presumption of the size of a farm from 5 to 10 acres and provides that at least 50 percent of the total gross annual income from all sources of the persons in the household must be derived from the farm. The purpose of this change is to ensure that the exemption for farm structures is restricted to actual farmers.

Several problems have been encountered by the State Board of Equalization in administering tax exemptions related to industrial development. The Council recommends that applicants for tax exemptions must publish two notices of such application in the official newspaper prior to the time the governing body of the municipality is to consider the application. An-

other bill provides that if a project operator moves the business to a new location within the State, he must reapply in order to retain the property tax exemption.

The Council also recommends a bill changing the Municipal Industrial Development Act to provide that a leasehold be classified as personal property for only five years so that such property, now classified as personal property but exempted from the personal property tax for five years, would not continue to be so classified and be exempted beyond the five-year period.

In order that existing industries which expand will receive the same tax treatment as new industries, the Council recommends a bill including such expansions within the provisions of the tax exemption statutes.

### **Tax System Study**

The study of the impact of changes in tax laws on state revenue and on the various classes of taxpayers, in addition to providing answers to questions regarding the impact of state income, sales, and property taxes, furnished valuable information regarding the effect upon North Dakota if the state income tax base were federalized to include recent changes in Federal law. The State Tax Department will receive a computerized model for use in evaluating proposed changes in tax laws upon completion of the study.

### **GOVERNMENT ADMINISTRATION**

Public welfare, mental retardation, and nursing homes were the major areas of study in this field. In each of these areas study findings resulted in a number of Council recommendations to improve the quality and effectiveness of governmental service through streamlined administrative procedures and governmental reorganization on the state and local level.

The Touche Ross & Co. consulting firm studied public welfare at all governmental levels within the State. Based on these findings and its own deliberations, the Council recommends welfare legislation to: reorganize the State Public Welfare Department, improve welfare personnel management, upgrade the control over medical assistance programs, improve the accounting and budgeting functions of the department, and improve the administration and quality of social services on the local level by encouraging the formation of multicounty welfare districts.

Dr. Oliver P. Kolstoe, a former North Dakotan and a Professor of Special Education at the University of North Colorado, directed a study of the adequacy of services for the mentally retarded in the State. From this study, the Council has recommended legislation requiring counties to establish boards of special education. To ensure that the mentally retarded receive services which are available and to identify those services, the Council recommends that the State Public Welfare Board create an office of mental retardation coordinator in one of its eight Area Social Service Centers.

The Council also recommends a bill aimed at controlling the rate of growth of health care facilities by requiring that nursing homes, homes for the aged and infirm, and hospitals, before being constructed or substantial-

ly expanded, must be certified by the State Public Health Department in consultation with the State Public Welfare Board, before such facilities will be eligible to receive payments from the State for the care and treatment of welfare recipients.

## **INDUSTRY AND BUSINESS**

The Council conducted an extensive study of business and industrial development in North Dakota and concluded that most of the basic problems revolve around adequate financing. The Council recommends a bill creating an Industrial Building Mortgage Program under the supervision of the Bank of North Dakota to reduce investor risk by guaranteeing loans made by private financial institutions on industrial buildings. The program would be financed by a transfer of \$1 million from the profits of the Bank of North Dakota. The maximum amount of guaranteeable loans would be \$10 million. The bill also provides for insurance premiums up to three percent per year on the principal obligation of each mortgage. The Advisory Board of the Bank of North Dakota would approve all such loans. Only the amount in the fund, and not the credit of the bank or the State, would be pledged.

Because revenue bond interest rates have risen above the legal limits for political subdivisions, the Council recommends a bill increasing the statutory interest rate ceilings on bonds, warrants, and certificates of indebtedness to eight percent, except when there is competitive bidding, in which case there would be no interest rate ceilings. Competitive bidding would be required on all issues over \$100,000.

The Council recommends legislation removing the citizenship requirement for the licensing of physicians in order to attract more doctors to this State.

Although evidence indicates that coal mining companies operating in North Dakota which employ miners belonging to the United Mine Workers of America contribute far more in royalties to the union welfare fund than North Dakota miners will ever recover in benefits, the legal and administrative problems the State would encounter trying to regulate the welfare funds make it inadvisable to pass legislation on this subject.

## **JUDICIARY**

### **Governmental Immunity**

The Council recommends modification of North Dakota's governmental immunity doctrine by requiring mandatory insurance for the State and its political subdivisions in three areas of common risk:

1. Highways, streets, or roads in construction or maintenance periods.
2. Motor vehicles owned by the State or its political subdivisions, whether or not the vehicles are engaged in emergency situations.
3. Public buildings and their premises.

The Council recommends minimum bodily injury coverage of \$100,000 per person and \$300,000 per accident, with a property damage minimum of \$100,000 per occurrence.

To ensure uniformity among insurance policies and to establish specific guidelines for the insurance companies in bidding, the Insurance Commissioner would set forth specifications for this required insurance.

#### **Full-Time State's Attorneys**

The Council recommends that State's Attorneys and Assistant State's Attorneys in counties whose population exceeds 35,000 be full-time employees of that county and be forbidden to engage in the private practice of law.

#### **Unsatisfied Judgment Fund**

Because the Unsatisfied Judgment Fund is insufficiently funded and will probably remain so for the next 10 years, the Council recommends that, in addition to the \$1 fund fee now assessed to all license plates, a \$50 fee, also to go to the fund, be charged to all persons registering a car who cannot show financial responsibility or insurance of \$10,000 per person, \$20,000 per accident for bodily injury, and \$5,000 for property damage.

#### **Financial Responsibility**

The Council recommends that the Highway Commissioner not be required to suspend the license of an uninsured motorist involved in an accident if that motorist can take out insurance in the minimum amounts required and if it appears that the motorist was not negligent or responsible for the accident.

#### **Corrupt Practice Immunity**

In view of recent court decisions giving immunity to persons who either testify or who are not allowed to testify before grand juries under section 16-20-10 of the North Dakota Century Code concerning corrupt practices, the Council recommends repeal of that section.

### **LEGISLATIVE PROCEDURE AND ARRANGEMENTS**

The Council is authorized by law to make arrangements for the Legislative Session and to make recommendations for the smooth functioning of the legislature. It has taken action and made recommendations in numerous areas. Other recommendations and more detailed explanations may be found in the text of this report.

#### **Rules Amendments**

The Council recommends Rules amendments for: implementing the "5-3-2 committee plan"; requiring the Council staff to check all introduced bills for form and style; requiring fiscal notes on Council study resolutions; processing Council study resolutions in the legislature's Legislative Council Resolutions Committees; and for conference committee procedure.

### **Recommended Legislation**

To prevent fraud and other misuses of the initiative and referendum, the Council recommends a bill requiring the Secretary of State to investigate the propriety of a certain percentage of petition signatures. A concurrent resolution for a constitutional amendment dealing with this subject is also recommended. The Council recommends a bill providing that Capitol employees have final paychecks withheld until they return Capitol keys or pay a fee in lieu of return. Finally, the Council recommends a bill changing printing deadlines for legislative journals and the Session Laws.

### **Legislative Data Processing**

The Council has purchased a statutory search and retrieval system for use on the State's central computer. The system can search the entire Century Code to find sections dealing with a specific subject. In addition, the Council will have an electronic bill typing system ready by the 1973 session.

### **Legislative Physical Facilities**

The Council recommends the Large Hearing Room be used as the House Appropriations Committee room to provide that committee with more desirable quarters and to free the former committee room for House stenographers. The former supply room has been divided for use by the Senate Floor Leaders' secretaries, and the former House chief steno's office has been expanded to include the old House phone booth area. The legislative telephone booths will be in the west end of Memorial Hall for use by both Houses. The Council recommends that the Sergeant-at-Arms of each House act as that House's supply clerk.

### **Legislative Printing**

Bills and the Session Laws will be printed offset from original copy to speed delivery and cut costs. The Council also arranged for pre-printed and pre-numbered bill paper to minimize printer composition and save typing time. The Council recommends enrolling and engrossing clerks be hired directly by the Enroller and Engrosser so he can have more control over the quality of his product.

### **Legislative Employees**

The Council has again arranged for a legislative intern program with six UND and NDSU interns. In addition, two students have been hired to handle input to the bill status reporting system during the session. House and Senate resolutions calling for a joint meeting of the Employment Committees to outline employment policies are also recommended. The Council recommends Rules amendments to reduce telephone attendants from four to three; eliminate the post of House postmaster; and to increase Senate committee clerks by one.

## **MODEL LAWS AND INTERGOVERNMENTAL COOPERATION**

### **Intergovernmental Cooperation**

The Council became involved in two primary areas of interstate cooperative effort during this biennium: cooperation in the use and operation of penal facilities and programs; and cooperation in providing medical education to regional students, with the emphasis on getting more general practitioners in rural areas.

Two **Ad Hoc** interstate committees were formed to study these areas, and it is hoped they will make their recommendations prior to the meeting of the legislatures of the States involved. One committee, consisting of representatives from Montana, North Dakota, South Dakota, and Wyoming, is studying interstate cooperation in providing penal facilities and programs. It arranged for a study to be carried out at no cost to the States by the Federal Law Enforcement Assistance Administration. When the study is completed, the committee will make its recommendations. Regardless of the outcome of the LEAA study, it is felt it will be useful to authorize the Director of Institutions to contract for the out-of-State incarceration of North Dakota prisoners, and the Council recommends such a bill.

The other **Ad Hoc** committee, consisting of Iowa, Minnesota, North Dakota, and South Dakota, is having draft legislation prepared to create a permanent interstate organization to oversee the operation of a new regional medical school. The curriculum would emphasize the training of family doctors for practice in rural communities. The draft legislation should be approved in time for submission to the respective legislatures.

### **Model Laws**

The Council studied uniform and model laws in force in North Dakota, and those recommended for passage by national organizations which draft Uniform and Model Acts. The Council recommends bills amending North Dakota statutes dealing with aeronautics, regulation of hazardous substances, labeling and testing of seeds, paternity suits, and the temporary stopping and searching of suspicious persons. In addition, the Council recommends bills embodying new uniform or model laws dealing with recognition of foreign acknowledgments; interstate rendition of accused persons; service of process on the United States; and cancellation and nonrenewal of auto liability insurance policies. The latter bill limits the reasons for which policies may be cancelled, and provides that the reasons for either cancellation or nonrenewal must be given the insured upon his demand.

## **POLITICAL SUBDIVISIONS**

### **County Government**

Arthur Andersen & Co. consultants did an in-depth study of county government, and pinpointed numerous procedural and organizational reforms which should be made in most counties. The Council recommends a bill providing an incentive to carry out these reforms through a grant-in-aid, administered by the Legislative Council, to counties attempting to

change governmental form or to consolidate with another county or counties, or to do both, and to implement many of the administrative methods recommended in the Arthur Andersen report.

In addition, the Council recommends specific bills providing for: a calendar fiscal year for counties, preparation of monthly financial statements by county auditors and annual consolidated financial statements by the state auditor; purchasing of supplies through the Department of Accounts and Purchases; payment of flat annual salaries for county commissioners within present maximums; permissive central filing of documents for certain county offices; and specific authority for political subdivisions to invest in certificates of deposit.

### **Consolidation of County and City Governments**

After studying county-city consolidated governments operating in other States, the Council recommends a bill to create an optional form of county government, under section 170 of the North Dakota Constitution, known as the county-city consolidated governmental form. The bill vests legislative authority in a nine-man county-city council. Executive authority would be vested in either an elected county-city mayor or an appointed county-city manager. The mayor would have veto power over ordinances passed by the council. The new optional governmental form would have to be approved by 55 percent of the voters of the county voting on the question.

The Council also recommends alternate concurrent resolutions proposing constitutional amendments providing for county home rule. One alternate sets the basic outline for a county home rule charter in the Constitution, and the other says the legislature shall provide for a county home rule charter by statute. A county which chose to be governed by home rule could select its governmental form.

## **STATE AND FEDERAL — INSTITUTIONS**

### **Single Policy Insurance Group**

The Council studied the extent and type of hospital, medical, and life insurance offered by the State to its employees. From this study and the testimony of several insurance industry representatives that assisted in the study, a bill is recommended creating a uniform group for hospital, medical, and life insurance benefits for state employees. The Council also recommends increasing the State's employee insurance contribution from \$5 to \$7.50.

### **State Boards and Commissions**

After a study of the responsibilities and membership of various state boards and commissions, the Council recommends bills changing 27 of these, ranging from a simple change in membership to outright elimination or transfer of duties.

### **Retirement Funds Merger**

The Council studied the feasibility of merging the State Employees' Retirement Fund with the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Fund, but consulting actuaries found nearly insurmountable problems involved with such a merger and the Council makes no recommendations in this area.

### **Consolidation of Health and Consumer Protection Activities**

As a result of testimony and study regarding the duplication of health and consumer protection activities in the State Health and the State Laboratories Departments, the Council recommends transferring the licensing of restaurants, hotels, boardinghouses, lodginghouses, motor courts, and trailer courts, now done by the State Laboratories Department, to district boards of health where health districts are functioning, to city boards of health where city boards of health are functioning, or to the State Health Department where there is neither. The Council believes the licensing performed is a health protection function rather than a consumer protection function and should be handled by the Health Department. The recommended bill eliminates duplicate and wasteful activities between the two departments that sometimes forces businesses to undergo two inspections.

### **State Farm**

The Council's Committee on State and Federal — Institutions toured the State Farm and found the buildings and facilities needing renovation and repair. Counseling, recreational, and educational programs are sadly lacking. A bill was proposed to house and feed State Farm prisoners at the State Penitentiary, but this was opposed by the Judicial Council and is not recommended by the Legislative Council.

## **TRANSPORTATION**

### **Department of Motor Vehicles**

The Council considered forming one consolidated department to handle all functions concerning motor vehicles, but believed that a complete reorganization was not required at present. However, because of duplication in the area of routine patrolling between the enforcement portion of the Truck Regulatory Division and the Highway Patrol, the Council believes a consolidation of these two departments would provide a larger force with overall enforcement authority, and therefore recommends the transfer of the enforcement portion of the Truck Regulatory Division to the Highway Patrol.

### **Highway Tax Distribution Fund**

The Council discussed the distribution formula, but will wait for the Highway Department's survey of the needs and levels of service of state roads before recommending any changes. A review of the distribution fund revealed that some of the revenues allocated to political subdivisions

were being spent in violation of article 56 of the North Dakota Constitution which requires spending the highway tax distribution money only for construction, reconstruction, repair, and maintenance of public roads or highways, and that some counties were not distributing the money from the fund to the municipalities. The Council recommends that moneys received by counties and cities from the highway tax distribution fund be set up in a separate and a distinct account to facilitate easy review, and that allocations for the municipalities be sent directly to the municipalities.

**REPORT**  
**of the**  
**NORTH DAKOTA LEGISLATIVE COUNCIL**

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



**FORTY-SECOND LEGISLATIVE ASSEMBLY**

**1971**

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COUNSEL

## North Dakota Legislative Council

STATE CAPITOL — BISMARCK 58501

TELEPHONE (701) 224-2916

January 3, 1971

The Honorable William L. Guy  
Governor of North Dakota

Members, Forty-second Legislative Assembly  
of North Dakota

Pursuant to law, we have the honor to transmit to you the report and recommendations of the Legislative Council to the Forty-second Legislative Assembly.

Major recommendations include initiating a state aircraft pool on a trial basis; creating a central data processing office in the Board of Higher Education to serve state colleges and universities; a complete updating of the State's school district laws; a new method of financing for high school and elementary school districts; placing insurance money from the Ellendale Branch-UND fire into a special fund for possible future use by the school; a redefinition of real property in line with the legislative intent when eliminating the personal property tax; reorganization and upgrading of the State's welfare services; an industrial building mortgage program to encourage new industry in the State; requiring the State and its political subdivisions in some instances to carry liability insurance; creating a central state microfilm unit in the Secretary of State's office; optional forms of county government including county home rule and county-city consolidated government; a uniform insurance group for state employees and several changes in state boards and commissions; and transferring enforcement functions of the Truck Regulatory Division of the Highway Department to the Highway Patrol.

This report also contains brief summaries of each committee report and of each recommended bill and resolution.

Respectfully submitted,

Bryce Streibel  
Chairman

North Dakota Legislative Council

# HISTORY AND FUNCTIONS OF THE LEGISLATIVE COUNCIL

## HISTORY OF THE COUNCIL

The Legislative Council was created in 1945 as the Legislative Research Committee. Its name was changed by the 1969 Legislature to more accurately reflect the scope of its duties. The legislative council movement began in Kansas in 1933. At present, 45 States have such a council or its equivalent. Five States use varying numbers of special committees.

The establishment of legislative councils 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 councils.

The work and stature of the North Dakota Legislative Council 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; 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 postaudit and fiscal review; water laws; constitutional revision; and county government reorganization.

Major Council studies and recommendations of the current biennium include initiating a state aircraft pool on a trial basis; creating a central data processing office in the Board of Higher Education to serve state colleges and universities; a complete updating of the State's school district laws; a new method of financing for high school and elementary school districts; placing insurance money from the Ellendale Branch-UND fire into a special fund for possible future use by the school; a redefinition of real property in line with the legislative intent when eliminating the personal property tax; reorganization and upgrading of the State's welfare services; an industrial building mortgage program to encourage new industry in the State; requiring the State and its political subdivisions in some instances to carry liability insurance; creating a central state microfilm unit in the Secretary of State's office; optional forms of county government including county home rule and county-city consolidated government; a uniform insurance group for state employees and several changes in state boards and commissions; and transferring enforcement functions of the Truck Regulatory Division of the Highway Department to the Highway Patrol.

In addition, many projects of lesser importance were studied and considered by the Council, some of which will be the subject of legislation during the 1971 session.

## FUNCTIONS OF THE COUNCIL

In addition to making detailed studies which are requested by resolution of the Legislature, the Council 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 Council provides a continuing research service to individual legislators, since the services of the Council 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 Council drafts bills for individual leg-

islators prior to and during each legislative session upon any subject on which they may choose to introduce bills. In addition, the Council 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 Code.

In addition to providing technical accounting assistance to the Committee 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 Council staff provides stenographic and book-keeping services to the Legislative Audit and Fiscal Review Committee, the Capitol Grounds Planning Commission, and the Legislative Compensation Commission.

#### **METHODS OF RESEARCH AND INVESTIGATION**

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

makes recommendations to the Legislative Assembly and, where appropriate, the Council will prepare legislation to carry out such recommendations, which bills are then introduced by members of the committees.

During the interim, the Council contracted with several individual consultants and consulting firms for major studies. These were Touche Ross & Co.; Arthur Andersen & Co.; Peat, Marwick, Mitchell & Co.; George Stennes & Associates; the Bureau of Business and Economic Research and the Bureau of Educational Research and Services, both at the University of North Dakota; Dr. Oliver P. Kolstoe; Dr. G. P. Weeg; Dr. John E. Thompson; and Dr. Gordon Richardson. In all other instances, the studies carried on by the Council during this interim were handled entirely by the committee concerned and the regular staff of the Council. 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 Council is designated by statute as the State's committee on interstate cooperation. The most important and noteworthy activity of the Council in this field has been through the Midwestern Regional Conference and the Four-State Legislative Conference. The Four-State Legislative Conference met in Montana and the Midwestern Regional Conference in Michigan during the interim. In addition, members of the Council's Committee on Model Laws and Intergovernmental Cooperation participated and served on several Ad Hoc interstate committees during the biennium.

Representatives of the Council have participated in the National Legislative Conference, and the Council Director is currently Chairman of that national organization.

# REPORTS AND RECOMMENDATIONS

## BUDGET

Section 54-44.1-07 of the North Dakota Century Code directs the Legislative Council to create a special Committee on Budget to which the Director of the Budget is to present the budget and revenue proposals recommended by the Governor.

Members of the Committee on Budget are: Representatives Robert F. Reimers, Chairman, Wesley Belter, Jack Bernabucci, Ralph E. Diehl, Carl J. Freeman, Karnes Johnson, L. C. Mueller, James A. Peterson, Oscar Solberg, and Kenneth Tweten; and Senators L. D. Christensen, Richard W. Goldberg, Lester Larson, Kenneth C. Lowe, Robert Melland, Dave M. Robinson, Oscar Sorlie, Carrol Torgerson, Frank Wenstrom, and I. J. Wilhite.

In addition to fulfilling its responsibilities prescribed by statute, the committee completed six studies directed by resolutions of the Forty-first Legislative Assembly. Study Groups "A" and "B" were appointed to conduct the studies called for by the resolutions. Senate Concurrent Resolution No. 12, regarding the feasibility of a motor pool and state-owned vehicles; House Concurrent Resolution No. 56, regarding a state motor pool; House Concurrent Resolution No. 9, regarding the feasibility of a state aircraft pool; and Senate Concurrent Resolution No. 45, to determine the effect of the use of the State's Revenue Bond Act, were assigned to Study Group "A" of the Committee on Budget. The members of Study Group "A" are: Representatives Oscar Solberg, Chairman, Jack Bernabucci, Ralph E. Diehl, James A. Peterson, and Kenneth Tweten; and Senators L. D. Christensen, Lester Larson, Robert Melland, and Dave M. Robinson.

House Concurrent Resolution No. 71, regarding the feasibility of a fee system for the Public Service Commission, and House Concurrent Resolution No. 43, regarding fees charged by the State for the regulation of business activities and business products, were assigned to Study Group "B" of the Committee on Budget. Members of Study Group "B" are: Senators Frank Wenstrom, Chairman, Richard W. Goldberg, Kenneth C. Lowe, Carrol Torgerson, and I. J. Wilhite; and Representatives Wesley Belter, Carl J. Freeman, Karnes Johnson and L. C. Mueller.

The report of the Committee on Budget was submitted to the Legislative Council at the biennial meeting of the Council held at Camp Grafton. The report and recommended legislation were adopted for submission to the Forty-second Legislative Assembly by the Legislative Council on November 18, 1970.

### STUDY GROUP "A"

The findings and recommendations of Study Group "A" were accepted and approved by the Committee on Budget as presented in this report. The data necessary for a determination of the feasibility of establishing a central aircraft pool for use by agencies, departments, and institutions of the State of North Dakota and for the Revenue Bond Study was gathered and presented in report form by George M. Unruh, Jr., Certified Public Accountant, Grand Forks, North Dakota. The study regarding the feasibility of a motor pool to provide motor vehicle transportation to state agencies, departments, and institutions was conducted by the staff of the Legislative Council.

### Central Aircraft Pool

The scope of the aircraft pool study, as conducted by Mr. Unruh, included an inventory of all aircraft owned or leased by the various state agencies, departments, and institutions, and the operating costs and utilization of such aircraft. All data for the study was based upon conditions and ownership of aircraft as of June 30, 1969. The inventory of state-owned or leased aircraft as of June 30, 1969, is provided in Exhibit No. 1 of this report.

The actual cost per hour for the use of each aircraft is given, along with the estimated costs if the utilization level is increased to 500 and 1,000 hour levels, in Exhibit No. 2 of this report.

### Recommendations

Based upon the findings and recommendations contained in the report, the committee by resolution recommends that:

#### All State Departments, Agencies, and Institutions

1. Encourage travel by light aircraft when airline service is inadequate or unavailable and it is cheaper to fly than to drive. Such light aircraft may be existing state aircraft or chartered aircraft.
2. Designate an officer to approve employees' requests for travel by light aircraft.
3. Apply to the Highway Department for all light aircraft transportation.

## The Highway Department

4. Pilots' Division be given responsibility for the operation of a "trial aircraft pool", with any administrative duties of the two Highway Department pilots being assigned as secondary to meeting the requests for air transportation.
5. Schedule and arrange administrative travel by Highway Department aircraft and through coordination with other agencies operating aircraft.
6. Arrange for chartered aircraft for authorized air travel when state aircraft are unavailable or not suitable for the contemplated trip.

## All Agencies Operating Aircraft

7. Charge other agencies actual costs (including pilot's time when applicable) plus administrative support costs for use of state-owned aircraft.
8. Maintain accurate records of man-hours (by position) expended in support of air transportation functions.
9. Maintain an operation log for each aircraft showing the names and departments of all passengers, plus all stops enroute to and from destination.

## The Department of Accounts and Purchases

10. Reappraise the administrative use of light aircraft after July 1, 1972, to determine:
  - a. The advisability of continuing state ownership and the proper organizational placement of an air transportation unit; or
  - b. The advisability of contracting with private operators for all light aircraft transportation.

Mr. Unruh concluded that the use of light aircraft for transportation of administrative personnel offers economies to State Government. The recommendations made in his report are primarily designed to increase the use of existing aircraft which will not only provide a more efficient means of travel for state employees, but also reduce the per-hour costs of operating such aircraft.

The Study Group concluded that by implementing the consultant's recommendations, a sound basis would be established for providing the services of light aircraft transportation. The Study

Group recommended that the Highway Department, the Game and Fish Department, and the Aeronautics Commission establish such an aircraft pool during this biennium. However, the establishment of such a pool has not yet been accomplished.

In order to encourage agencies and departments to use available hours on the Highway Department's Cessna 401, the Study Group suggested that the Highway Department re-evaluate its method of charging for its use. The Study Group hopes that the department can establish a method of charges based on an incremental cost formula which would provide an incentive for the use of the aircraft by other departments and agencies.

For further statistical information to support the recommendations made regarding a central aircraft pool, please refer to the "State of North Dakota Central Aircraft Pool Report to the Committee on Budget of the Legislative Council" by George M. Unruh, Jr., C.P.A., dated February 1970.

## REVENUE BOND STUDY

The information for the Revenue Bond Study was obtained by means of detailed questionnaires sent to all state institutions where revenue bond facilities are located, and by a review of the applicable bond indentures on file in the office of the Commissioner of Higher Education. A summary of revenue bond proceeds since the first issue, dated February 1, 1950, and bonds payable by institution as of June 30, 1969, is as follows:

**Summary of Revenue Bond Proceeds Payable  
by Institution as of June 30, 1969**

	Proceeds to June 30, 1969	Bonds Payable June 30, 1969
Dickinson State College ..	\$ 2,295,000	\$ 2,153,000
Mayville State College ....	1,750,000	1,619,000
Minot State College .....	2,980,000	2,783,000
North Dakota State University .....	8,163,617	6,610,000
N.D.S.U. Bottineau Branch .....	545,000	507,000
N. D. State School of Science, Wahpeton ....	5,397,000	4,581,000
University of North Dakota .....	16,371,446	13,955,000
Ellendale Branch — UND	440,000	375,000
Valley City State College	2,800,000	2,189,000
	<b>\$40,742,063</b>	<b>\$34,772,000</b>

Mr. Unruh concluded that the colleges and universities do not follow a uniform method of accounting to allocate the cost of heat, light, power, water, and janitorial and other services to the dormitories and other facilities at the institutions which receive the benefits of such services. On the basis of calculations presented in his report, the State of North Dakota, through its appropriated funds to the institutions, has participated substantially in the construction, furnishing, operation, and maintenance of revenue bond facilities. For the year ended June 30, 1969, Mr. Unruh's report indicates that the institutions furnished \$851,152 worth of heat, light, power, water and janitorial and other services to revenue bond facilities. The providing of such services was not found to be contrary to the legislative intent of the Revenue Bond Act.

Based upon the information presented in the Revenue Bond Study, the committee recommends a bill which would require each institution under the control of the Board of Higher Education to maintain records of revenues received and the expenses incurred in the operation of each revenue producing building or other revenue producing campus improvement. The definition of "expenses incurred" includes the estimated value of heat, electricity, water, repairs, insurance, management, and janitorial and maintenance services provided. The bill also provides that information recorded in such records shall be included in the institutions' published and audited annual or biennial financial reports. The bill proposed by the committee also provides that where expenses are incurred in the operation of revenue bond facilities, such expenses shall be payable from the gross revenues of the revenue bond project, except when contracts or revenue bond indentures in existence at the time of the passage of the Act preclude such payments.

The committee also recommends a resolution advising the Board of Higher Education to exercise caution before deciding to issue additional bonds for revenue producing buildings and other campus improvements. The committee believes such a recommendation is necessary since enrollments may not increase at the same rate as that experienced in the past, and because fewer students may wish to live in dormitory facilities when rental costs are increased to pay for a greater share of the operational costs of the facilities. The committee also points to \$34 million of bonds outstanding as of June 30, 1969, an amount which should not be increased too rapidly since such an obligation already places a heavy financial burden on future enrollments. The experience of the University of North Dakota - Ellendale Branch where reduced

enrollments present a potential loss of revenue for bond payments was also cited as an example in its advising the board not to issue additional revenue bonds without first having complete confidence that the facility will generate revenue for their repayment.

For additional financial data and statistics regarding revenue bond facilities at the institutions under the control of the Board of Higher Education, please refer to the report entitled "State of North Dakota Revenue Bond Study" prepared by George M. Unruh, Jr., C.P.A., February 1970. Copies are available at the Legislative Council office.

### **MOTOR POOL**

The study of the feasibility of a motor pool to furnish automobile transportation for state employees' travel, as directed by House Concurrent Resolution No. 56 and Senate Concurrent Resolution No. 12, of the Forty-first Legislative Assembly, was conducted for Study Group "A" of the Committee on Budget of the Legislative Council by the staff of the Legislative Council.

The information for this report was gathered through questionnaires submitted to all state agencies, institutions, and departments. In addition to data furnished by questionnaires, the office of Central Data Processing made available computer reports listing the reimbursements to persons traveling on state business. Such information was then tabulated and compiled for presentation in a manner to be of assistance in considering the feasibility of a motor pool for providing lower-cost transportation facilities to state agencies, departments, and institutions.

Contained within the report are analyses of motor vehicle inventories, current operation and maintenance costs, mileage of state employees furnishing their own vehicles for state travel, and the advantages and disadvantages of operating a state-administered motor pool in providing transportation services in the future.

### **Concept of a Motor Pool**

For the purposes of this study a state motor pool concept involves centralizing the maintenance, operation, replacement, and control of either all or part (depending upon the size of the pool and the agencies which it is to service) of the state-owned vehicles in one department. The title of motor pool departments varies from State to State;

however, the function performed is basically the same. The motor pool performs maintenance on the state-owned automobiles under its control, assigns vehicles on a full or part-time basis, and generally maintains a pool of "on call" vehicles. The motor pool follows established guidelines on replacement of its vehicles and in some instances makes all purchases of gas, tires, batteries, and accessories. Gas, tires, batteries, and accessories purchases are oftentimes made from regular retail outlets. The motor pool often provides these services for all state agencies, or in the event some agencies maintain their own pool, the motor pool's services may be offered to agencies not maintaining their own pool.

### Operating Policies of a Pool

A sufficient charge is made for the use of all vehicles to cover the operating and administrative costs of a motor pool. Such charges may be based on a two-part rate; a basic rate for length of time used and a second rate for miles traveled. The basic rate charge is found necessary by many pools, since a vehicle depreciates because of the passage of time as well as from the number of miles driven. The other part of the rental rate, the per-mile charge, is designed to cover current operating costs. Once a central motor pool operation is functioning, it is expected to become self-supporting.

All institutions and departments authorized to operate motor pools should maintain detailed financial records, recording all costs, and charges should be based on such costs for use of pool cars. Low charges, justifiable on the basis of accurate records, are incentives to encourage the use of motor pool cars.

### Study Findings

To assist in the understanding of the current methods of travel for state purposes, the following statistics are presented regarding the miles driven in the fiscal year ended June 30, 1969:

#### Transportation by Private Vehicle and State Car

The number of miles driven for state purposes during the year ended June 30, 1969, was:

Private car mileage — 6,759,751

State car mileage.... — 10,722,633

The private car mileage is analyzed further in the following categories and the corresponding mileages are listed:

	No. of Employees	Miles
1. Private car mileage generated by state employees from Bismarck .....	567	2,618,301
2. Private car mileage generated by state employees located outside of Bismarck....	903	2,971,448
3. Private car mileage for state purposes generated by people who are not state employees .....	1,126 <sup>1</sup>	1,170,002
	<b>2,596</b>	<b>6,759,751</b>

<sup>1</sup>This mileage was traveled by state legislators, members of various commissions, witnesses, consultants, and persons invited for various conferences sponsored by state agencies.

Five hundred fifty-seven passenger vehicles are owned by the State and have an original cost basis in excess of \$1 million. The accumulated mileage of these vehicles amounts to 25,382,795 miles, and they were driven approximately 10,722,633 miles during the fiscal year ended June 30, 1969.

Of the passenger cars owned by state agencies, 171 vehicles are located in Bismarck, and 386 vehicles are located in various other cities in the State. These figures include vehicles of the Highway Department, Highway Patrol, and the Game and Fish Department, 135 of which are located in Bismarck and the remaining 219 at various locations within the State. The mileage driven during the 1968-1969 fiscal year for these three agencies was 6,948,642 miles. Other agencies owning vehicles have 36 vehicles in Bismarck, and 167 vehicles at other locations within the State. One hundred thirty-seven of the 167 vehicles are owned and operated by educational and charitable and penal institutions. Several of the colleges and universities operate their own motor pools.

An analysis of activities in those agencies, departments, and institutions owning their own vehicles indicates a lack of uniform operational policies and of detailed recordkeeping. The background of supervisory personnel varies from agency to agency, and the basis for approving the use of state cars ranges from an approval from the president's office to "office staff" approval. The need for improved accounting in North Dakota for the cost operations is apparent from the response to questionnaires calling for data to assist in this study, as only one-half of the agencies owning vehicles provided information on all relevant costs of motor vehicle operation.

Before determining whether a motor pool for the State of North Dakota is feasible, it is important to evaluate the significant advantages and disadvantages to the State of establishing a pool. Even though monetary advantages may appear significant, there are nonmonetary factors which should receive careful attention. The following sections point out the advantages and disadvantages that could be expected to accrue to the State from the establishment of a motor pool:

#### **Advantages of a Motor Pool**

1. Savings of \$73,263 annually are available by establishing a pool.
2. Employees who are currently incurring a high number of miles by private vehicle might not have to purchase an additional car needed to travel for the State.
3. More uniform usage of existing vehicles would result since a central motor pool could rotate the use of vehicles between departments. Furthermore, a central motor pool could provide the knowledge and experience necessary to develop a uniform vehicle replacement policy to provide the most economical, safe, and dependable transportation for state employees.
4. Economies in the area of gasoline, repairs, and maintenance, which might not be available to an individual or small agency, could be achieved.
5. The procurement of additional vehicles under a central pool would result in improved practices and procedures in determining if additional vehicles are necessary and should be purchased.
6. The administrative costs of supervising the operation and maintenance of vehicles by each individual agency would be eliminated and in lieu thereof persons skilled in the handling of motor vehicles in the motor pool department would be assigned the task, freeing the professional administrator's time for other work.

#### **Disadvantages of a Motor Pool**

1. Some employees may become reluctant to travel, since they will question the willingness of motor pool personnel to maintain established standards of condition and reliability of motor pool cars, and these standards may not be as great as the individual employee has for his own vehicle.
2. It can also be anticipated that for many employees the same level of comfort, such as seating, air conditioning, and the same handling ease as the employee's own car would have, will not be available. In addition, the same level of safety, such as the quality of tires, may not be as great as an individual would desire.
3. An organization would be created calling for the employment of additional staff and operating funds. The initial funding would be substantial, especially in the purchase of a substantial number of new vehicles.
4. When private vehicle mileage is considered by the employee to be a fringe benefit, (i.e., spreading costs of insurance and obsolescence over greater mileage) a loss of remuneration to the employee may result.
5. Flexibility of state employees' travel plans may be reduced as advanced requests for vehicle use should be given to allow the motor pool management to schedule the priority of use in the most economical manner possible.
6. At times, the motor pool may not have enough cars to meet demand, and consequently, private cars may be used. In this case, criticism might occur due to the lack of a uniform system.
7. Some vehicles may need special equipment or may carry bulky equipment for work purposes, which would be of little or no use to other users of the motor pool, and yet the time and effort for its continual transfer from car to car or from car to storage will not be justifiable.
8. An employee's personal use of a state vehicle at his job location may be questionable but necessary in some instances. Many employees would believe it unreasonable if they were expected to use state vehicles only to drive between the worksite and places where they are staying.
9. Use of a motor pool car may be an inconvenience since the user must pick up the vehicle on either his own time or state time,

and will also be either required or encouraged to obtain gasoline and other necessary services at contract stations or state bulk facilities.

Recently, major car manufacturers have discontinued a significant portion of the discounts previously made available to governmental units and fleet operators. Since it is predicted that automobiles purchased for the State will cost \$600 more per vehicle because of such action, the savings available to the State in establishing a motor pool were reduced substantially. The study points out that establishing a Bismarck pool for all agencies in the Bismarck area and providing state vehicles to all employees traveling 18,400 miles or more per year, would produce savings in excess of \$73,000 per year. To achieve such savings, the purchase of 143 additional vehicles would be necessary. This would bring the total number of cars in a Bismarck fleet to 309 vehicles. Even though many of the vehicles would be permanently assigned outside the Bismarck area, the responsibility for a uniform policy of usage and low-cost operation would be provided by the pool. By assigning the responsibility for repair and maintenance to the central pool on a statewide basis, current expenditures for repairs and maintenance could be reduced since many of the agencies, institutions, and departments purchase repairs and maintenance at retail rather than wholesale prices.

The committee gave serious consideration to recommending the establishment of a motor pool in the Bismarck area because of the savings available. However, after considering the disadvantages of a motor pool and the initial investment necessary for its establishment, the committee does not believe that the available savings are sufficiently substantial to support a recommendation to establish a motor pool. If, however, at some future date, vehicles can again be purchased at prices comparable to those in the past, the establishment of a motor vehicle pool should be reconsidered. Since the North Dakota State Highway Department has experience in administering a motor pool for its own department, it would seem logical that it be considered for the administration of a statewide motor pool, in the event one should be proposed in the future.

Upon review of the study, the committee found that some state institutions and associations do not utilize the services of the Purchasing Division of the Department of Accounts and Purchases to purchase automobiles. Those organizations which do not utilize the services of the Department of Accounts and Purchases are:

North Dakota State University  
State School of Science  
University of North Dakota  
Ellendale Branch — UND  
Valley City State College  
North Dakota Mill and Elevator Association

The lack of uniformity in the per-gallon price of gasoline purchased on the basis of state contracts with the various service stations in the State was also brought to the attention of the committee. In addition, it was reported that substantial savings are available whenever bulk, rather than pump, gallonage can be purchased by the various state agencies and institutions.

Additional information regarding the practicality of establishing a motor vehicle pool is presented in the report entitled, "The Feasibility of a Motor Pool", available at the Legislative Council office.

#### **STUDY GROUP "B"**

The findings and recommendations of Study Group "B" were presented to and approved by the Budget Committee. These recommendations related to the study called for in House Concurrent Resolution No. 71, regarding the feasibility of a fee system to pay for regulatory costs incurred by the Public Service Commission and to the study called for by House Concurrent Resolution No. 43, which directed the Legislative Council to study fees charged by state agencies for the licensing, inspection, or regulation of business activities or business products.

#### **Fee System for Public Service Commission**

To determine the feasibility of establishing an assessment system so that those utilities regulated by the Public Service Commission pay for the cost of regulation, the Study Group considered a number of methods of assessment and heard testimony from representatives of the Public Service Commission, the regulated utilities, and the rural electric cooperatives.

The appropriation from the general fund for the activities of the Public Service Commission for the biennium ending June 30, 1971, is \$785,160. If the assessment system called for in the resolution were established, an amount in excess of \$360,000 could be collected from the regulated utilities. Even though the establishment of the fee system would reduce the need of the Public Service Commission for funding from the state general fund, the com-

mittee does not recommend such a system to finance the regulatory costs of the Public Service Commission for the following reasons:

1. To require the Public Service Commission to depend upon the organizations which it regulates for financial support does not strengthen its ability to make decisions which may be in the public interest, but may not be in the best interest of the regulated utility.
2. Since the rural electric cooperatives are not regulated by the Public Service Commission and because costs are incurred by the commission in conducting hearings requested by the rural electric cooperatives, it is not possible to arrive at an assessment system whereby all of the regulatory costs could be charged to all utilities on the same basis.
3. The accounting and reporting systems required to establish and maintain the assessment system in a manner agreeable to the regulated utilities would create much additional work for the Public Service Commission.
4. None of the parties testifying in regard to the system are in agreement with any of the assessment plans considered.

#### **Fees Charged for Regulation of Business or Business Products**

The Study Group analyzed the fee structure of 21 agencies and departments of State Government. The departments and agencies included in the study are the following:

Livestock Sanitary Board  
Aeronautics Commission  
Workmen's Compensation Bureau  
Securities Commission  
Truck Regulatory Division  
State Tax Department — Motor Fuels Tax  
Division  
Attorney General Licensing  
Insurance Department  
Seed Department  
State Water Commission  
State Mine Inspector  
State Laboratories Department  
Labor Department  
Land Department  
Athletic Commission  
Department of Agriculture

Poultry Improvement Board  
Department of Banking and Financial  
Institutions  
Real Estate Commission  
Secretary of State

Each of the state agencies and departments charging fees considered within the scope of the study was requested to complete for Study Group analysis a questionnaire presenting information for the year ended June 30, 1969, to indicate the number of transactions, the revenues received, and expenses incurred for each category of inspection, licensure, or other service provided. Total revenues from fees analyzed by the Study Group amount to \$1,827,727 for the year ended June 30, 1970. The Study Group analyzed each activity to determine the relationship between revenues collected and the cost of providing service. In instances where the cost of providing service was either substantially greater or less than revenues collected, the Study Group considered recommending changes to either increase or reduce revenues to the cost of the service provided. The following statutory changes are recommended by the committee as a result of its review:

1. Increase the milk and cream testers' license fee from \$2 for an initial fee and \$1 for a renewal fee to an annual fee of \$5, and increase the penalty from \$1 to \$5.
2. Eliminate the license requirement for the sale of oleomargarine as the committee determined that such licensing does not relate to services provided or serve a regulatory purpose.
3. Change the following fees charged by the State Laboratories Department so that the amount of the fee would equal the cost of the service provided:
  - a. Increase the egg dealers' license fee from \$10 to \$15, and the fee for a retailer of eggs from \$1 to \$3.
  - b. Increase the fee for the inspection of insecticides and fungicides offered for sale from \$5 for the first 5 products and \$1 for each one thereafter, to \$3.50 for each product.
  - c. Reduce the fee for the inspection of fertilizers from 10 cents per ton to 5 cents per ton.
  - d. Increase the license fee for restaurants and boardinghouses from \$5 to a minimum of \$10. The maximum fee for a

license would be \$30, depending on the seating capacity of the establishment.

- e. Increase by \$10 the license fees for motor courts which currently range from \$5 to \$40, except for the \$5 fee which would be increased to \$10. Fees for the licensure of trailer courts would also be increased. The maximum fee charged would be increased from \$50 to \$100 and would apply to trailer courts capable of accommodating more than 100 trailers.
4. Discontinue the practice of the State Seed Department providing fee testing of grain samples.
5. Increase brand book fees charged by the Department of Agriculture from \$2.50 to \$5 per book.
6. The State Land Commissioner's authority to charge fees for certain services would be clarified and the commissioner would have the authority to set and establish fees in amounts equal to the cost of services provided.
7. Increase the minimum fees charged by the Department of Banking and Financial Institutions from \$200 to \$500 for bank examinations, and from \$50 to \$100 for credit union examinations. In addition, the provision regarding the maximum fee of \$3,000 for bank examinations would also be removed.

Since information regarding fees similar to that reviewed by the Study Group would be of value on a regular basis, the committee recommends a bill to require all state agencies, departments, and institutions which license, inspect, or regulate business activities or products and charge fees for such services to prepare and submit to the State Auditor's office before August 31 of each year a report for the last fiscal year giving information about the cost of providing each service and the revenues collected for the granting or providing of such service. Such report shall also be filed with the Committee on Budget of the Legislative Council in addition to other filings required by law.

Even though the Study Group reviewed the activities of all departments and agencies included in the study with the objective of recommending changes when revenues did not equal the cost of service, the Study Group was unable to achieve this objective in a number of instances for the following reasons:

1. The fees charged are consistent with those of surrounding States.
2. Revenue in some instances is substantially less than the cost of service; however, it was determined that such fee structure is in the public interest.
3. Even though it may appear that changes should be made now, it is not possible to project with sufficient accuracy the future cost of providing such services.
4. Even though the cost of service may be less than revenues collected, the level of service may not be adequate to meet the needs of the industry being regulated, and consequently, a reduction in fees would appear unwarranted.
5. The impact to the general fund of the State is such that a reduction in fees charged is not recommended because of an apparent need for revenue during the next biennium.

The study group was encouraged to reduce the petroleum inspection fee charged by the State Laboratories Department. The collections for the fiscal year ended June 30, 1969, were \$288,000 while the cost of providing the inspection service was \$76,000. The Study Group recognizes the difference between the revenues collected and the costs of providing the service; however, it does not recommend a reduction in the fee because of the loss of revenue to the State which would result.

## **TOURS OF INSTITUTIONS AND STATE PROJECTS**

The Chairman appointed Tour Groups to visit the various state institutions and projects to conduct onsite inspections regarding requests for buildings, major improvements, and major repair of facilities. Budget requests to the Executive Office of the Budget from agencies for special assessments, pollution control devices, land acquisitions, buildings, renovation, and minor improvements are in excess of \$14 million for the 1971-1973 biennium. The Tour Groups completed their visitations during late September and early October of 1970. The members of each Tour Group and the institutions and projects which each group visited are as follows:

**Membership****Tour Group No. 1**

## Representatives

Oscar Solberg, Chm.  
Ralph E. Diehl  
Kenneth Tweten

## Senators

L. D. Christensen  
Lester Larson  
Robert Melland  
Kenneth C. Lowe

**Tour Group No. 2**

## Senators

Frank Wenstrom, Chm.  
Richard W. Goldberg  
I. J. Wilhite

## Representatives

Wesley Belter  
Carl J. Freeman  
Karnes Johnson

**Tour Group No. 3**

## Representatives

Robert Reimers, Chm.  
Jack Bernabucci  
James A. Peterson

## Senators

Dave M. Robinson  
Oscar J. Sorlie  
Carrol Torgerson

**Tour Group No. 4 (Study Group "A")**

## Representatives

Oscar Solberg, Chm.  
Jack Bernabucci  
Ralph E. Diehl  
James A. Peterson  
Kenneth Tweten

## Senators

L. D. Christensen  
Lester Larson  
Robert Melland  
Dave M. Robinson  
Oscar Sorlie

**Tour Group No. 5 (Study Group "B")**

## Senators

Frank Wenstrom, Chm.  
Richard W. Goldberg  
Kenneth C. Lowe  
Carrol Torgerson  
I. J. Wilhite

**Institutions and  
Projects Visited**

State Hospital  
Valley City State Col-  
lege  
Ellendale Branch —  
UND  
State School of Science  
Soldiers' Home

Minot State College  
School of Forestry  
Forest Service  
North Central Experi-  
ment Station  
Tuberculosis Sanatori-  
um  
School for Deaf

North Dakota State  
University Coop-  
erative Extension  
Service Experiment  
Stations, Main and  
Sub  
Mayville State College  
University of North  
Dakota  
Mill and Elevator As-  
sociation  
Grafton State School

State Industrial School  
State Penitentiary and  
Farm  
Bank of North Dakota

Chateau De Mores  
Dickinson Experiment  
Station  
Dickinson State Col-  
lege

**Representatives**

Wesley Belter  
Carl J. Freeman  
Karnes Johnson

While visiting the state institutions and projects, each Tour Group made a number of observations and recommendations which will be filed with the Appropriations Committees to assist in their analysis of budget requests during the Forty-second Legislative Assembly. Copies of the Study Group reports are available at the Legislative Council office.

**Pollution Control Devices**

The highlights of each Tour Group's activities were reported at the October 21 meeting of the Budget Committee. Most institutions are requesting funds for pollution control devices. Such devices for all the state institutions are estimated to cost \$531,350. To reduce the pollution problem and to expand present heating plants with a minimal outlay of funds, administrators of the institutions encouraged the committee to sponsor legislation to repeal the Native Fuels Act which precludes the institutions in the eastern part of the State from utilizing oil and gas fired boilers since natural gas must be purchased from other than North Dakota sources. The committee received testimony from the architectural consultant to the Board of Higher Education indicating that not only do oil and gas fired boilers reduce the pollution problem, thereby eliminating the need for some of the pollution control devices, but heating costs are less when oil and gas fired boilers rather than lignite coal fired boilers are installed. The committee recommends legislation to repeal sections 48-05-02 and 48-05-04 of the North Dakota Century Code which require state institutions to purchase native fuels.

**Major Repair, Remodeling, and  
Construction Projects**

During their visitations, members of Tour Groups questioned the quality of service received by many of the state institutions in regard to major repair, remodeling, and construction projects. In one instance, the design of a facility was such that the equipment installed cannot become fully operable without extensive remodeling. It was found that the same firm which provided engineering services for this project has been employed to provide engineering assistance to other state projects, even though the previously mentioned project has not been corrected.

Based upon the findings and observations made during the Budget Tours, the committee recommends that the Director of Institutions, the Board of Higher Education, the Department of Health, and other agencies and institutions which contract for architectural, engineering, and related services exercise greater care in the selection of professional consultants employed to provide such services, and that greater emphasis in the selection process be based on the quality of past performance on projects completed for the State.

### **Fire Hazards**

After fire destroyed much of the Flour Mill Division of the North Dakota State Mill and Elevator in July of 1970, Representative Bryce Streibel, Chairman of the Legislative Council, asked the Budget Committee to conduct a review to identify and suggest action to eliminate potential fire hazards on state properties, to identify projects necessary to avoid such hazards, and to reexamine current insurance practices for state facilities. The fire losses at the North Dakota State Mill and Elevator, the Ellendale Branch - UND, and the State Penitentiary, all occurring during this biennium, were the basis for Representative Streibel's request for a study. It was reported that all state institutions and departments were requested to identify and include in their budget requests amounts for projects necessary to eliminate fire hazards.

The committee advises the Office of the Executive Budget and the Senate and House Appropriations Committees of the Forty-second Legislative Assembly that the Legislative Council's Committee on Budget recommends that the administrators of the state institutions, departments, and agencies include in their budget requests amounts for projects and systems necessary to eliminate fire hazards. The committee recommends that special consideration be given to funding those projects which will eliminate fire hazards.

### **N.D.S.U. Experiment Station and Cooperative Extension Service**

Senate Bill No. 2 of the Forty-first Legislative Assembly provides that public moneys from local sources at the North Dakota Main Experiment Station, Branch Experiment Stations, and the Cooperative Extension Service may be expended in excess of that specifically appropriated through biennial appropriations bills of the Legislative Assembly only in the event that an authorization has been received from the Committee on Budget of the Legislative Council. During the interim, the

committee approved the expenditure of additional funds as follows:

1. Increase salaries and wages by \$2,734 at the Langdon Branch Station.
2. Authorize the Cooperative Extension Service to proceed with an expanded food nutrition program. The level of expenditure for the program during the 1969-70 fiscal year is estimated at \$166,527.
3. Authorize the North Central Branch Station at Minot to expend additional moneys in the amount of \$15,500 to expand the heating plant at the station.

At its meeting on October 21, 1970, the committee by motion decided to invite representatives of the Cooperative Extension Service at North Dakota State University to its December meeting for an in-depth review of the budget request of the Extension Service. Such review will consider alternate methods of providing extension services to the counties in the State. In addition to personnel from North Dakota State University, representatives of the Board of Higher Education and county officials are invited to make presentations at the meeting.

The committee, by motion, recommends that the Board of Higher Education oppose annexation proceedings brought by the city of Dickinson in regard to property owned by the North Dakota State University Branch Experiment Station, located near the city of Dickinson. If annexation is accomplished, the committee asked the board to consider relocating the station.

### **Reciprocal Agreements**

The committee reviewed information and heard testimony in regard to proposed Minnesota - North Dakota higher education reciprocity agreements recommended by the Board of Higher Education. Section 15-10.1-04 of the North Dakota Century Code requires approval of the Budget Committee before such agreements can be entered into. The committee deferred action on this matter until its next meeting.

### **Ellendale Branch — UND**

The committee also heard testimony in regard to the effects of the fire at the Ellendale Branch - UND. It was recommended that the Legislative Council appoint an interim committee to conduct an in-depth study regarding the future of the institution.

### **Other Committee Activities**

For informational purposes, the committee heard testimony from the Department of Public Instruction, the North Dakota School Boards Association, and the North Dakota Education Association, regarding the Foundation Payment Program; Dr. Harwood, Dean of the University of North Dakota Medical School, regarding Medical Center activities and future plans; the management of the Mill and Elevator Association, regarding the financial status of the Association and its plan for plant modernization; and the University officials,

regarding the Aviation Administration Program offered by the University of North Dakota.

### **Supplemental Report**

This report presents the activities and recommendations of the Budget Committee and its Study Groups during the interim. Since one of the major responsibilities of the committee is to review the Executive Budget, which by law does not need to be presented to the committee until after December 1, a supplement to this report on the final phase of the activities of the committee will be submitted for distribution at a later date.

**STATE OF NORTH DAKOTA — AIRCRAFT STUDY**  
**INVENTORY OF STATE-OWNED OR LEASED AIRCRAFT**  
**AS OF JUNE 30, 1969**

State Agency, Department or Institution	Description of Aircraft	Date Acquired (New or Used)	Initial Cost	TOTAL HOURS LOGGED		
				On Aircraft	On Engines Since Major Overhaul	During the Fiscal Year Ended 6-30-69
Aeronautics Commission.....	1966 Mooney Super 21, single engine, 4 seats	6-10-66 (N)	\$ 18,489	649	649	201
Game and Fish Department.....	1962 Cessna 172, single engine, 4 seats	10-11-67 (U)	9,000	1,110	65	354
	1963 Cessna 182, single engine, 4 seats	9-66 (U)	13,500	2,034	888	474
Highway Department.....	1967 Cessna U206, single engine, 5 seats	7-17-67 (N)	35,408	1,244	44	482
	1968 Cessna 401, twin engine, 7 seats	5-68 (N)	140,438 <sup>1</sup>	410	410	250
Highway Patrol.....	1966 Cessna 172, single engine, 4 seats	6-66 (N)	12,500	2,325	942	667
University of North Dakota.....	1939 Douglas DC-3, twin engine, 26 seats	11-68 (U)	900	14,000	15L, 1100R	215
	1968 Mooney Exec. 21, single engine, 4 seats	11-15-68 (N)	<sup>2</sup>	306	306	284
	1968 Cessna 150 Trainer, single engine, 2 seats	9-12-68 (N)	<sup>3</sup>	520	520	520
	1968 Cessna 150 Trainer, single engine, 2 seats	9-12-68 (N)	<sup>3</sup>	622	622	622
	1969 Cessna 150 Trainer, single engine, 2 seats	5-01-69 (N)	<sup>4</sup>	45	45	45
	1969 Cessna 150 Trainer, single engine, 2 seats	5-01-69 (N)	<sup>4</sup>	259	259	259

<sup>1</sup>Total outright purchase price. Beechcraft was sold on bid basis.

<sup>2</sup>Leased from UND Alumni Association for \$4,684.66 per year. Option price is \$20,500, less lease payments made.

<sup>3</sup>Leased from UND Alumni Association for \$2,279.94 per year per plane. Option price is \$3,339.00 per plane, less lease payments made.

<sup>4</sup>Donated to UND Alumni Association for use by University. No lease payments required.

**STATE OF NORTH DAKOTA — AIRCRAFT STUDY**  
**COMPARATIVE ANALYSIS OF POSSIBLE REDUCTION IN AIRCRAFT OPERATING COSTS**  
**WHICH CAN BE REALIZED THROUGH INCREASED UTILIZATION**

		COMPARATIVE OPERATING COST DATA INCLUDING PILOT'S SALARY								
		PER HOUR			PER MILE			PER PASSENGER-SEAT-MILE		
State Agency, Department or Institution	Aircraft	Actual in Fiscal 6-30-69	Estimated at Utilization Level of		Actual in Fiscal	Estimated at Utilization Level of		Actual in Fiscal	Estimated at Utilization Level of	
			500 hr.	1,000 hr.		500 hr.	1,000 hr.		500 hr.	1,000 hr.
Aeronautics Commission.....	Mooney.....	\$ 28.30	\$ 19.32	\$ 16.30	\$ .191	\$ .130	\$ .110	\$ .0637	\$ .0433	\$ .0367
Game and Fish Department..	Cessna 172.....	16.35	15.25	13.90	.165	.154	.140	.0550	.0513	.0467
	Cessna 182.....	17.38	17.18	15.37	.133	.132	.118	.0443	.0440	.0393
Highway Department.....	Cessna U206...	29.96	29.61	24.91	.202	.199	.168	.0505	.0498	.0420
	Cessna 401.....	100.95	70.17	54.78	.534	.371	.290	.0890	.0618	.0483
Highway Patrol.....	Cessna 172.....	13.98	14.86	13.10	.135	.144	.127	.0450	.0480	.0423
University of North Dakota..	Douglas DC-3	108.16	99.68	96.48	.650	.599	.579	.0250	.0230	.0223
	Mooney.....	27.52	22.02	18.41	.180	.144	.120	.0600	.0480	.0400

# DATA PROCESSING

Senate Bill No. 34, passed by the Forty-first Legislative Assembly, directed the Legislative Council to review the State's data processing efforts in the institutions under the control of the State Board of Higher Education. Senate Concurrent Resolution No. 47 directed the Legislative Council to study the feasibility of microfilming state records and documents through a centralized system. These studies were assigned to the Committee on Data Processing, consisting of Representatives Earl S. Strinden, Chairman, Lynn W. Aas, A. G. Bunker, Duane A. Kuehn, and Hayden Thompson; and Senators John D. Coughlin, Robert L. Stroup, and Frank Wenstrom.

The report of the Committee on Data Processing was submitted to the full Legislative Council at the biennial meeting of the Council at Camp Grafton. The report and recommended legislation of the committee were adopted for submission to the Forty-second Legislative Assembly by the Legislative Council on November 17, 1970.

## HIGHER EDUCATION DATA PROCESSING

The need for the passage of Senate Bill No. 34 was indicated in the report of the Legislative Research Committee following its study of data processing during the 1967-69 biennium. That committee did not include an in-depth analysis of the data processing needs of higher education in its study; however, it did receive reports and hear testimony supporting the need for a study as proposed in Senate Bill No. 34, which included an appropriation of \$30,000. During the 1967-69 biennium, the state colleges requested data processing services from both of the State's universities; however, since neither university had the data processing capability to provide such services, the furnishing of such services was postponed. This lack of data processing services was of concern to the 1967-1969 Data Processing Committee; however, its greatest concern arose when no long-range plan was available for the establishment of an integrated data processing system.

After this interim's committee had determined its approach and defined the scope of the study of higher education data processing, it proceeded to interview professional consultants who had expressed a desire to assist the committee in its study. Since the review required a substantial degree of technical ability on the part of the consultants, a number of qualified firms were carefully evalu-

ated during interviews held in Bismarck. The national accounting firm of Peat, Marwick, Mitchell & Co. of Minneapolis, Minnesota, and Dr. Gerard P. Weeg, Director of the Iowa Regional Computer Center, Iowa City, Iowa, were selected to conduct the study and present their findings and recommendations to the committee. Dr. Weeg was assigned the areas of instruction and research uses of computing because of his expertise in supervising a regional "on-line" computer system. The firm of Peat, Marwick, Mitchell & Co. was assigned the responsibility of studying the student information, financial, administrative, and support data processing systems at the institutions of higher education. The consultants coordinated their research, thereby making it possible for the firm of Peat, Marwick, Mitchell & Co. to submit a final report proposing a data processing system based upon the findings of both consultants.

Each college and university under the control of the State Board of Higher Education appointed a data processing representative within its institution to assist the committee and its consultants. At the commencement of the study, the data processing representatives prepared detailed reports of the status of data processing at their institutions, participated in various other capacities, and attended committee meetings. The committee encouraged participation from the data processing representatives and gave much consideration to their recommendations.

The consultants began their review in September of 1969 with their final reports completed and available for distribution in May of 1970. On July 21, 1970, the committee, by motion, accepted and adopted the Peat, Marwick, Mitchell & Co. and Dr. G. P. Weeg reports on higher education data processing. The major findings supporting the recommendations made by the firm of Peat, Marwick, Mitchell & Co. are presented in the following excerpts from its report:

### Equipment

General purpose computers were found at three of the state schools: University of North Dakota, North Dakota State University, and the State School of Science. The efficient utilization of existing computer hardware, both economical and technical, is marginal. This marginal utilization is mainly due to poorly balanced or overloaded configurations. The computer at NDSU is an IBM

360/50. This computer's capability has been greatly degraded due to an improper balance of peripheral devices. The University of North Dakota has an IBM 360/30 computer, and although this computer is being utilized efficiently, it is entirely too small in capacity to facilitate the needs for data processing at UND. At the State School of Science a new IBM 360/25 is being installed primarily for the purpose of training computer operators. The present cost of computer equipment at the state colleges and universities is approximately \$30,898 per month. A portion of this cost is being paid by National Science Foundation funds.

### **Personnel**

The level of competence of the personnel at the schools which have data processing capabilities is adequate under present operating concepts and within the existing computer environments. These computer environments perform primarily in a single programming mode. The amount of personnel available on both the managerial and professional levels is insufficient for present and projected requirements. It will be necessary to build the data processing personnel staffs to a much higher level to facilitate proper systems development and control. The implementation of more sophisticated processing concepts, such as multiple job stream multiprogramming and remote job entry, could tax the existing staffs considerably and would necessitate the addition of technical and managerial personnel. The present cost of personnel utilized primarily for data processing at the state schools is approximately \$21,500 per month.

### **Applications**

The University of North Dakota has made some significant strides in the development of administrative systems. In addition, it is processing a fair number of academic research and administrative applications.

North Dakota State University is processing primarily package programs obtained for use by the academic community. Work is progressing on conversion of NDSU administrative systems from an IBM 407 (punched card) installation to the Model 50.

The State School of Science has been providing computer assistance services to the business office through the use of the IBM 1620 computer. Present plans are to convert these systems to the newly acquired IBM 360/25 and, in addition, to

develop a new payroll program for the new computer. Minot State College presently has two applications processed at a local service bureau.

### **General Findings**

The cost justification procedures being utilized by the colleges and universities in regard to data processing services are generally poor. A procedure for application cost justification should be developed in depth before any user system is accepted for future development considerations.

Secondly, long-range planning methods and procedures must be coordinated and strengthened. Planning methods and procedures are an absolute necessity in assuring that all requirements of an environment are given proper consideration when developing long-range goals and objectives.

### **System Requirements**

The investigation, evaluation, and analysis of the college and university requirements identified during the factfinding phase has demonstrated a need for the development of a management information system. The management information system would be available as a last step, with the individual operating systems being completed significantly sooner to facilitate the MIS data base.

### **Management Information System**

The ultimate goal of the proposed concept of centralization should be the creation of a management information system for the state colleges and universities of North Dakota.

This management information system would support the management process. This support would be realized through measurements of planned activity against actual performance, recognizing or sensing of trends in the operating environment, and use of exception reporting to make management aware of potential problems.

It will be through this management information system that significant information can be assembled to provide an adequate base for unit costing, resource utilization, realistic long-range planning, and institutional research.

### **Operating Systems**

The development of operating systems to facilitate an adequate data base for a management information system is the initial objective of the general system approach.

These operating systems have been divided into three groups: the student data group, the financial data group, and the support data group.

The student data group contains all data pertaining to student record maintenance and student administration. The financial data group contains all data concerning the processing of financial data and maintenance of general accounting files. The support data group contains all data not related directly to the student or financial groups, but instrumental in the operation of the institutions. . . .

### Research and Instruction

Considerable attention was given to the requirements of the academic community in the preparation of system requirements. The requirements, as set forth by Dr. Weeg, have a significant bearing on the resultant environments. From Dr. Weeg's report, entitled "Academic Computing in the State Colleges and Universities of North Dakota", the following general comments and recommendations are made:

1. The primary need of the universities today is for batch processing. Conversational systems, however, will be the next step in the development on those campuses, probably within three years after adequate batch capability is available.
2. The only need at the colleges is for batch processing.
3. The research demands of the colleges will remain low.
4. The number of faculty members on most of the campuses who are familiar with computers and prepared to make rapid advances once computing becomes available, is low. Faculty retraining will be a serious problem. It is recommended that the Board of Higher Education establish five summer faculty fellowships for each state college, to be used by faculty to obtain training. Such fellowships are unnecessary at the universities since a university faculty member can be expected to keep himself abreast of developments.
5. Each of the state colleges must have a local computer leader and expert, who can stimulate the college to full use of computing.

6. Each campus must have credit courses in computer programming, at least in the basic compiler languages.
7. Computer Science ought to exist at the B.S. and M.S. level at at least one university.
8. The long-range effects and needs for computing because of Computer Assisted Instruction have not been mentioned. A university can be great without such investigations, and in view of the enormous expense of CAI, it is not recommended that such be pursued.
9. Hybrid, laboratory computers must necessarily grow at both universities. Whether or not central computers can be of any help in such areas is not yet known. Clearly, acquisition of laboratory computers must be carefully monitored, probably at the State Board of Higher Education level.
10. There are presently needs for plotting equipment, and it is recommended that such equipment be made available centrally. Similarly, since data is gathered in laboratory situations on paper tape, central paper tape reading facilities must be made available.

Based upon study findings and recommendations, the consultants recommend the establishment of an Office of Higher Education Computer Services to be located in Grand Forks. The consultants' approach was developed through the analysis of projected application volumes, hardware/software capabilities and characteristics, personnel considerations, and economic feasibility. The summary from the Peat, Marwick, Mitchell & Co. report describing the proposed system and potential benefits state the following:

### Central Computer

A central data processing facility should be established. This central facility would be connected at the colleges and universities via data communication circuits and would perform the processing requirements on a remote data entry basis. All data entry and report printing will be accomplished on card reader/line printer devices located at the colleges and universities. In addition, competent personnel should be located at the colleges and universities to assist each user in the design, development, implementation, and execution of their required applications.

The central facility should be equipped with a large central processor with capabilities similar to that of a large IBM 360/50. Small remote processing computers the size of a medium IBM 360/25 would be located at UND, NDSU, and SSS, and remote card entry/line printer devices such as the IBM 2780 would be located at the state colleges. The initial personnel level should be approximately 58 people, and the personnel need to be located at both the central facility and remote facilities, depending on the manpower requirements.

### **Administration**

The development of an organization, reporting to the Commissioner of Higher Education, is essential to enable sound budgetary and cost control and to enable the development of expanded applications and systems. Personnel from existing data processing installations would provide the nucleus for the initial professional staff with additions being made where and when a particular phase of the implementation plan requires it.

### **Economics**

If the universities choose to develop their own computer systems with one of the universities accepting the responsibility of providing data processing assistance to the state colleges, the costs for the year 1973-74 are estimated to be \$300,000 greater than the estimated \$1,575,156 necessary for that same year to operate a system consisting of one large computer to serve all of the state colleges and universities. The cost savings would result primarily from the reduction of hardware and personnel duplication which would be experienced under a two-computer approach.

### **Benefits**

The benefits of a central data processing organization for the state colleges and universities in North Dakota can be summarized in the following statements:

1. Better utilization of economic resources.
2. Standardization of common administrative systems.
3. Expanded availability of computer services.
4. Recognition of a unified data processing plan.
5. Direct governmental control over the processing budgets and direction.

The development of sophisticated data processing techniques and capabilities, which are so vital in the academic growth of colleges and universities today, can be realized economically, provided a futuristic concept and coordinated implementation plan is adopted in the relatively near future. The consultants recommended that the installation of equipment should begin as early as May of 1970. With implementation beginning on that date, the consultants projected a fully operable system by July of 1973.

### **Acceptance of Central Computer Concept**

The committee, the Board of Higher Education, and the data processing representatives of the colleges and universities accepted the concept of a central computer unit. The representatives of the various institutions were encouraged to comment about the advisability of the proposed system. Not all of the institutions were in agreement with the plan proposed by the consultants to achieve the central unit. Representatives of North Dakota State University on many occasions expressed disagreement with the consultants' recommendations. All such comments and statements were considered by the consultants prior to completion of the final drafts of their reports to the Legislative Council.

### **Plan for Implementation**

Since adequate funding was not available to begin implementation in May of 1970, the date which was suggested by the consultants, and since the office of the Commissioner of Higher Education and the data processing representatives of the institutions desired more time for implementation than that provided in the consultants' plan, the committee encouraged the Board of Higher Education to develop and propose alternatives which would revise the plan for implementation, but yet be consistent with the concept of a central computer unit. Pursuant to this legislative committee's action, a Special Data Processing Committee was appointed by the Board of Higher Education to develop alternative implementation schedules. Those appointed to serve on this Special Data Processing Committee represented both technical and administrative personnel from the state colleges and universities.

The special committee presented two proposals, Plan A and Plan B, to the Legislative Council's Committee on Data Processing on Monday, October 26, 1970. Plan A is consistent with the system recommended by the consultants, except for

date changes determined necessary by the Special Data Processing Committee. The summary of annual costs for Plan A lists \$1,708,040 as estimated costs for 1971-1972, and \$1,861,092 for 1972-1973. The cost for the two-year period of time is approximately \$750,000 greater than that estimated by the consultants for the same period of time. This difference arises because the Special Data Processing Committee includes the operation of parallel and duplicate systems for much of the implementation period.

Since adequate funds may not be available to implement Plan A, and since the Board of Higher Education and the institutions under its control wish to avoid unnecessary problems which could arise if the system is implemented at too rapid a pace, the Commissioner of Higher Education asked the committee to consider Plan B for recommendation to the Legislative Assembly. Plan B, as proposed by the Board of Higher Education's Data Processing Committee, was amended by the firm of Peat, Marwick, Mitchell & Co., with the approval of that committee and includes the following recommendations pertaining to the 1971-1973 biennium:

1. A small central staff established at Grand Forks to initiate the central organization concept.
2. Installation of a new central facility computer in Grand Forks under central staff jurisdiction. This computer is to be utilized during this interim biennium as the primary processing computer for the University of North Dakota. North Dakota State University and the North Dakota State School of Science would retain their independent computer installations during the interim period.
3. Remote processing capabilities to the four state colleges from the central facility in Grand Forks as soon as possible.
4. All new system and programming projects to be under the direction of the central facility management.
5. During the two-year interim biennium, the central facility staff, assisted by outside consultants as required, to begin the systems design of the management information system.
6. During the subsequent 1973-1975 biennium, the two universities and the State School

of Science are to be connected to the central processing installation.

Plan B requires an appropriation from the general fund of the State Treasury of \$798,533 for the biennium ending June 30, 1973. Such funding is in addition to moneys available from college and university operating budgets for already existing data processing activities. The proposed timetable for the implementation of Plan B is as follows:

	1971 - 1972						
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.
1. Central staff begins .....	X						
2. Central facility computer installed .....			X				
3. College 1 application analyst begins .....			X				
4. College 1 terminal installed (oper/keypunch starts, comm. adapter added to central computer) .....					X		
5. College 2 application analyst begins .....			X				
6. College 2 terminal installed (oper/key-punch starts) .....						X	
7. College 3 application analyst begins .....					X		
8. College 3 terminal installed (oper/key-punch starts, second Comm. adapter added to central computer) .....							X
9. College 4 application analyst begins .....						X	
10. College 4 terminal installed (oper/key-punch starts) .....							X

The total cost of data processing at the institutions of higher education under Plan B, according to information received by the committee, could approach \$2,200,000 during the next biennium in comparison to the \$3.6 million as proposed in Plan A.

The committee selected Plan B as the alternative to recommend for implementation. The committee recommends the system proposed by the consultants as a long-range goal with Plan B being the minimum first step toward a complete central computer system. During the next biennium, the data processing system will be smaller than that proposed by the consultants; however, this plan appears necessary because of apparent funding problems which would be encountered in proposing a larger system and because this approach in the opinion of the Board of Higher Education is necessary to obtain support from the institutions for the use of central equipment in lieu of a computer installation at each institution.

Since the National Science Foundation supports projects similar to the proposed data processing system, the committee recommends that the Board of Higher Education submit an application to the National Science Foundation requesting funds to support Plan B. The Committee Chairman and representatives of the Board of Higher Education visited the National Science Foundation offices in Washington, D. C., in September of 1970 and received information that National Science Foundation funds might become available to assist in the training of persons for academic uses of the computer.

The committee recommends legislation to establish an office of Higher Education Computer Services under the control of the State Board of Higher Education with its manager having the following powers and duties:

1. To provide computer services to all institutions under the control of the board. Computer services shall include access to electronic computers, terminals, communication equipment, systems design, programming, and other electronic data processing services.
2. To design, plan, justify, implement, and supervise all electronic data processing systems within and between the institutions under the control of the board.
3. To plan and develop all programs and procedures necessary for the effective use of staff, computer services, and support equipment at the institutions under the control of the board.
4. To establish billing systems for use at each institution to charge users of electronic data processing services the cost of providing such services.

5. To develop an information system to improve the administration and management of the institutions under the control of the board.

The bill also provides that the data processing manager be responsible to the Commissioner of Higher Education to carry out the provisions of the Act. The office is to regulate, supervise, and provide electronic data processing services to all of the institutions under the control of the board and to employ such professional, technical, and clerical personnel as may be necessary to carry out the duties of the office. To assist the office of Higher Education Computer Services, the Board of Higher Education is to appoint an Advisory Board consisting of representatives from the institutions using the computer services. The office of Higher Education Computer Services, upon approval of the Board of Higher Education, will have control of all electronic data processing equipment at the institutions under the control of the Board of Higher Education, and no electronic data processing equipment can be purchased, leased, or otherwise used or disposed of at the institutions without the approval of the Board of Higher Education.

In addition, the bill authorizes the office of Higher Education Computer Services to enter into contracts to provide electronic data processing to state and federal agencies, educational nonprofit agencies and institutions, and nongovernmental organizations sponsoring research through grants and contracts. The bill also provides for the operations of the office by an appropriation in the amount of \$798,533 from the general fund of the State Treasury for the biennium ending June 30, 1973.

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 the providing of needed data processing services to all of the institutions under the control of the Board of Higher Education in a manner consistent with an economical, efficient, and coordinated data processing plan which will avoid unnecessary duplication and expenditure of funds. In addition, the plan, as recommended by the committee, is a guideline for future expansion. For further information regarding the committee's recommendations, please refer to "A Report to the North Dakota State Legislature on the Development of an Integrated Data Processing Plan for the North Dakota State Colleges and Universities" prepared by Peat, Marwick, Mitchell & Co., May 1970, and "Academic Computing in the State Colleges and Universities of North Dakota", submitted by Dr. G. P. Weeg,

Iowa City, Iowa. Copies of the two reports are available and on file in the office of the Legislative Council.

## **MICROFILM STUDY**

### **Introduction**

The need for an evaluation of microfilming in State Government is indicated by the fact that the Secretary of State has recommended more use of microfilming in his biennial reports dating back to 1956. As the committee reviewed present microfilm usage in the State and studied the feasibility of creating a central microfilm system, it became apparent that closely related to the problems of microfilming are the problems of records management. Therefore, the committee found it necessary to devote time to study the present statutes and procedures related to records management to determine how improvements could be made in order that a central unit would complement the present administration of records in State Government. The committee sent questionnaires to all departments, offices, and agencies of State Government in order to make an inventory of present equipment and usage, as well as to determine the need for a central microfilm service.

### **History of Records Management in North Dakota**

The Thirty-sixth Legislative Assembly passed a bill in 1959 which provided for a study of records management in State Government. The study was conducted by a special study committee which contracted with Records Engineering, Inc., of Washington, D. C., for professional assistance. The consulting firm devoted the bulk of its effort to the taking of a complete inventory of all state records, the preparation of retention schedules for those records, and the examination of records and practices of all state departments and agencies.

The recommendations of Records Engineering, Inc., included one to convert a portion of the basement of the State Capitol into a centralized storage area, rather than assigning individual vault space to each department, as had been the practice. The consultants noted that the method then in use was extremely wasteful from a space standpoint, since some vaults contained little material while others were quite crowded. As a result of the inventory of records in each department, the consultants concluded that many cubic feet of space would be saved if unnecessary records were destroyed. In addition, it was recommended that retention schedules be incorporated to prevent the build-up of unnecessary files in the future.

The 1961 Legislative Assembly enacted a "Records Management Act" as the result of the special study. The Secretary of State was designated as the State Records Administrator, and was given the responsibility for establishing standards, procedures, and techniques for the effective management of records. Unnecessary records can be destroyed after the Secretary of State has consulted with the official or department head concerned and has determined that the records have no further administrative, legal, fiscal, research, or historical value.

### **Microfilm Equipment and Usage in State Government**

The committee sent questionnaires to all departments, offices, and agencies of State Government to make an inventory of present equipment and to determine whether or not a central microfilm unit would be utilized if established. After reviewing the needs of all agencies and institutions throughout the State, the committee decided to concentrate on those offices located in the State Capitol, the Highway Department Building, and the State Office Building, as it was determined that the greatest need for centralized service is found in the departments located in the Capital complex. Further, the economics of transporting documents to the central location from distant points could very well eliminate any cost savings which would otherwise be realized from the centralization of such services.

Of the 43 agencies located in the Capital complex, only nine currently use microfilm services. Of these nine, seven own some equipment and two lease their equipment. The agencies which now use microfilm services spend approximately \$34,000 annually for such services, but it should be noted that this figure does not include salaries in several agencies which use personnel only part time on microfilm work and the rest of their time on other duties. The agencies in the Capital complex estimated that a total of 55,000 cubic feet of space is now used for the storage of old files and documents which could be microfilmed or, in some cases, destroyed.

The equipment belonging to the various agencies is used on the average of only approximately 40 percent of the time. Although some departments make extensive use of their equipment, others use their cameras only about 25 percent of the time. The quality of this equipment ranges from good to poor.

### **Strengthening Records Management**

The committee has prepared and recommends approval of a bill draft which would, among other things, strengthen the authority of the Secretary of State in his functions as State Records Administrator. Some of the changes are merely procedural improvements, such as a provision giving the Secretary of State the authority to deposit records having historical value in the custody of the State Historical Society. As a practical matter, this has been done for some time, but there has never been specific legislation on the subject. Of more substance is a provision which requires that, prior to approving any department's request for additional filing cabinets, the Department of Accounts and Purchases shall notify the Secretary of State, who shall determine if the department making the request is in substantial compliance with the provisions of the records management statutes. A similar requirement provides that the Director of Institutions shall notify the Secretary of State whenever any state office, agency, or department requests additional office space. The Secretary of State shall determine whether the department is in substantial compliance with the records management statutes before giving his recommendations in that regard.

The committee also recommends certain changes in the statutes related to the disposal of state records. An archivist or other person designated by the State Historical Society would join with the Secretary of State in making the decision whether a particular type or class of record has any historical or research value. This change is recommended by the committee to ensure that a qualified historian is consulted before the decision is made to destroy records. The committee recommends the repeal of the statute related to the destruction of public records which now appears in the public documents section of the Code and the incorporation of certain provisions of that statute in the records management law. The bill draft recommended by the committee provides that after the Secretary of State and the Archivist have determined that a particular record has no further value, the state department, agency, or office may destroy such records, provided that any record which might be evidence in any civil or criminal action or proceeding shall not be destroyed for at least six years. This proposal will permit the destruction of such records after six years if it is determined they have no further administrative, legal, fiscal, research or historical value, while the present statute provides that no records shall be destroyed until the statute of limitations shall bar an action or proceeding. Although the general statute of limitations is six years, the practical result of the present law is that these records can

never be destroyed, as the statute of limitations does not run under certain circumstances such as fraud.

### **Central Microfilm Unit**

The committee recommends the establishment of a central microfilm unit, to be administered by the Secretary of State. The staff of the central unit would microfilm any record of any state office or department in any of the three branches of government after the Secretary of State has determined that the cost of such microfilming is reasonable in relation to the record's historical significance or the frequency and type of use of such record. Each department would pay for the actual costs of the microfilming, and the money would be deposited in a special fund in the state treasury. After an initial appropriation, the microfilm unit would be financed out of the special fund.

The bill draft would subject all microfilming equipment, with the exception of microfilm readers and reader-printers, in the State Capitol, the Highway Department Building, and the State Office Building, to transfer and control by the Secretary of State, who would have the authority to transfer such equipment to the central unit if he determines the needs of the central unit require such transfer and there are no special circumstances which would justify an exception. The Secretary of State would have the authority to authorize a department to make other arrangements for microfilm services if the central unit could not perform the services required or if the special needs of the department justify an exception.

The bill draft also provides that a microfilm print would have the same status in a court of law as the original record. The Secretary of State would provide for duplicate storage of microfilm records to ensure safekeeping.

At the present time, each department has the responsibility for microfilming its own records. In order to ensure that the most efficient use possible is made of the central unit, the bill draft provides that no state department or office located in the city of Bismarck shall enter into any contract or agreement for the purchase or lease of any microfilm equipment or services without the express approval of the Secretary of State.

Administrative provisions in the bill draft include authority for the Secretary of State to promulgate rules and regulations and procedures

and practices for the central microfilm unit. The secrecy provisions of law which apply to the particular departments to ensure confidential treatment of certain records would apply to the personnel of the central microfilm unit.

The committee reviewed the microfilming procedures currently in use in South Dakota before making any decisions on the estimated costs of a central unit for this State. The bill draft pro-

vides for an initial biennial appropriation of \$107,200 of which \$77,200 is to be financed from the income of the unit, and \$30,000 is to provide operating capital and is to be appropriated from the general fund. The committee was of the opinion that the amount appropriated would be largely offset by the economies which would be realized from the standpoint of savings in space, equipment, and personnel if the State were to adopt a central microfilm unit.

# EDUCATION

House Concurrent Resolution No. 51 of the Forty-first Legislative Assembly directed the Legislative Council to conduct a study of all elementary and secondary public school laws for the purpose of removing unused and archaic sections, reconciling conflicts and ambiguities, eliminating surplus language, and arranging the subject matter in a logical and proper sequence. House Concurrent Resolution No. 54 of the Forty-first Legislative Assembly directed the Legislative Council, with the assistance of the Board of Higher Education, to conduct a study of the overlapping of courses, to evaluate and update previous studies regarding space utilization, to examine the use of instructional services to avoid the unjustified duplication of instruction, and to investigate teaching loads and hours and standards for the evaluation of instructors' qualifications.

These studies were assigned to the Committee on Education, consisting of Representatives Vernon E. Wagner, Chairman, Howard F. Bier, Ernest N. Johnson, H. Kent Jones, Kenneth Knudson, Gordon Larson, Joe B. Leibhan, Arthur A. Link, Robert W. Peterson, Earl Stoltenow, Mrs. J. Lloyd Stone, and Paul Swedlund; and Senators Philip Berube, George Longmire, Robert M. Nasset, and Frank J. Ruemmele. Over the course of the biennium, the Committee on Education held seven full meetings and hearings, all of which were held in Bismarck.

At its biennial meeting at Camp Grafton near Devils Lake, North Dakota, the Legislative Council adopted the report of the Committee on Education, its recommendations, and proposed bills in their entirety.

## REVISION OF ELEMENTARY AND SECONDARY EDUCATION LAWS

At the outset, it became apparent that it would be necessary to use extreme care in the performance of this study in order that the scope of the committee's work be confined to the revision and rearrangement of existing laws, rather than the creation of new, substantive, legal concepts. Realizing this, the committee sought to limit itself to matters of the former nature only. In instances where the conflict or ambiguity to be resolved was of the type that the original intent of the lawmakers could be ascertained, this was a relatively simple achievement. Occasionally, however, the committee was faced with the reconciliation of conflicts that were diametrically opposed to each

other, and it was not possible to tell which of the alternatives could be said to have been the true intent of the Legislative Assembly at the time the law was created. In these instances, few though they were, the committee was forced to make a choice of one alternative over another which would substantively affect that particular area of law. The committee has noted any such substantive changes in the revision notes below.

## Recommendations — Elementary and Secondary Education

Preliminary revisions were prepared for the committee by the staff of the Legislative Council with the assistance of the Attorney General's office and the Department of Public Instruction and the committee acknowledges a debt of gratitude to the latter two executive agencies for their staff assistance in the conduct of this study. In each case, staff members of all three agencies unanimously approved each proposed draft before it was submitted to the committee. Each draft was considered and modified by the committee in the course of several very detailed reviews.

The committee has prepared and recommends the adoption of a bill which would clarify, rearrange, and improve the contents of chapters 15-20, 15-34, 15-40, and 15-53, dealing with vocational education and vocational rehabilitation, compulsory attendance and transportation, state school aid, and reorganization of school districts, respectively. In addition, many individual sections dealing with a variety of subjects were also revised by the committee. The following revision notes set forth the origin of the newly created sections in the bill, and any changes in the current law that the committee recommends:

## Elementary and Secondary Education Revision Notes

- |            |   |
|------------|---|
| 12-10-06   | This section has been amended to exempt sales, leases, and contracts between school boards and school board members from its operation.         |
| 15-19-08   | Originally section 15-40-03. No change made.  |
| 15-20.1-01 | Originally section 15-20-12. Only change is to distinguish the Director of Vocational Education from the Director of Vocational Rehabilitation. |

- 15-20.1-02 Originally section 15-20-03. Rewritten for clarity.
- 15-20.1-03 Originally section 15-20-04. Permission to contract for services with other public or private institutions, either within or without the State, has been included. The section has also been revised for clarity, and the listing of permissible vocational education subjects has been deleted, with general vocational education curricula authorization given, rather than specific authorization.
- 15-20.1-04 Originally section 15-20-01. The section contains material from sections 15-20-11 and 15-20-15. Completely rewritten for clarity.
- 15-20.1-05 This is a new section, derived from sections 15-20-02, 15-20-16, and 15-40-04. Material from these sections has been completely revised for simplicity and clarity.
- 15-20.1-06 Originally section 15-20-08. The requirement of the State Board acting through the office of the Superintendent of Public Instruction has been deleted. Changes in language were made to make the section consistent with the authority to contract found in section 15-20.1-03. The section has been revised for clarity.
- 15-20.1-07 Originally section 15-20-10.1 Specific list of subjects has been deleted, eliminating redundant material.
- 15-20.1-08 Voting procedure clarified.
- 15-20.1-09 Originally section 15-20-10.2. Material has been added from section 15-20-10.4.
- 15-20.1-10 Originally section 15-20-10.3. Revised for clarity and for grammatical reasons.
- 15-20.1-11 Originally section 15-20-10.4. Portions deleted are incorporated in section 15-20.1-09.
- 15-20.1-12 Originally section 15-20-13. The section has been revised to indicate that it pertains only to vocational rehabilitation.
- 15-20.1-13 Originally section 15-20-14. The section has been revised to show that it pertains only to vocational rehabilitation.
- 15-20.1-14 Originally section 15-20-18. The section has been revised to show that it pertains only to vocational rehabilitation.
- 15-20.1-15 Originally section 15-20-19. Minor changes were made for form and style.
- 15-20.1-16 Originally section 15-20-17. The section has been revised to show that it pertains only to vocational rehabilitation.
- 15-20.1-17 Originally section 15-20-20. The section has been revised to show that it pertains only to vocational rehabilitation.
- 15-20.1-18 Originally section 15-20-21. No change made.
- 15-20.1-19 Originally section 15-20-22. Minor revision has been made for the sake of clarity.
- 15-20.1-20 Originally section 15-20-23. No change made.
- 15-20.1-21 Originally section 15-20-10. The provisions of section 15-20-24 are also incorporated.
- 15-22-09 The section has been amended to provide a general delegation of such powers and duties as are prescribed by law. This delegation was made necessary because of the repeal of sections 15-22-21 and 15-22-22 and the incorporation of their provisions in chapter 15-53.1. Also, obsolete language referring to city superintendents of schools has been deleted.
- 15-28-01 The section has been completely revised for clarity and to show that it is not necessary to hold two elections in reorganized districts to increase board membership. Subsection 5 of section 15-53.1-17 has been revised and the authorization for a three-member school board in reorganized districts deleted.
- 15-28-02 The section has been revised for clarity.
- 15-29-08(1) Deleted material has been placed in new section 15-47-02.1 or in section 15-

- 47-33 or left out where redundant. The six pupil per ten-consecutive-day provision has been eliminated, as it was in conflict with the current law.
- 15-29-08(2) The section has been simplified and clarified.
- 15-29-08(3) The section has been simplified and clarified. The deleted language has been incorporated into the appropriate sections of chapter 15-40.2.
- 15-29-08 (14) The section has been simplified and clarified. The deleted language has been incorporated into the appropriate sections of chapter 15-40.2.
- 15-34.1-01 Originally sections 15-34-01 and 15-34-20. The sections are combined for simplicity.
- 15-34.1-02 Originally section 15-34-02. Revised for clarity and consistency.
- 15-34.1-03 Originally sections 15-34-03 and 15-34-21. Former subsections 5 and 6 of section 15-34-03, permitting an exception to compulsory attendance when school facilities are not furnished within stipulated distances (2-6 miles) from the residence of the child, have been deleted.
- 15-34.1-04 Originally sections 15-34-10 and 15-34-22. Revised for clarity.
- 15-34.1-05 Originally sections 15-34-11 and 15-34-22. A portion of section 15-34-22 has been incorporated in section 15-34.1-04. The section has been rewritten in order to combine like material and for the sake of clarity.
- 15-34.2-01 Originally section 15-34-05. The deleted portion has been incorporated in section 15-34.2-02. Authority is provided for transporting students into other districts and other States by the new language, derived in part from section 15-34-09 (now section 15-34.2-06).
- 15-34.2-02 Originally section 15-34-05.1. Material pertaining to furnishing of transportation to nonresidents, formerly found in section 15-34-05 (now section 15-34.2-01), has been incorporated in this section.
- 15-34.2-03 Originally section 15-34-04. The mileage schedule has been revised. Language relating to the six-pupil per ten-consecutive-day provision has been deleted. The section has been revised for clarity.
- 15-34.2-04 Originally section 15-34-06. A provision has been added to limit the payment of claims after demand to one year.
- 15-34.2-05 Originally section 15-34-08. Revised for consistency.
- 15-34.2-06 Originally section 15-34-09. Those portions permitting high school districts to provide transportation have been incorporated in section 15-34.2-01. The levy authorization formerly found in section 15-34-09.1 has been incorporated in this section.
- 15-34.2-07 Originally section 15-34-12. Minor revision for the sake of clarity. The requirement for posting bid notices in public places has been deleted.
- 15-34.2-08 Originally section 15-34-14. Internal references have been changed, and two internal references have been inserted to sections 39-21-27 and 39-21-27.1.
- 15-34.2-09 Originally section 15-34-15. Minor revision for consistency.
- 15-34.2-10 Originally section 15-34-16. Minor revision for grammatical purposes.
- 15-34.2-11 Originally section 15-34-17. Minor revision for consistency.
- 15-34.2-12 Originally section 15-34-18. Material has been deleted to reflect the change in section 39-21-27.1, with an internal reference to this section inserted. The provision limiting interest on installment plan purchases to four percent has been deleted.
- 15-34.2-13 Originally section 15-34-18.1. Minor revision for grammatical purposes.
- 15-34.2-14 Originally section 15-34-19. Minor revision for grammatical purposes.
- 15-34.2-15 Originally section 15-34-27. The requirement that the reciprocal agree-

ment contain a provision for the payment of transportation costs before a school district may transport students from a bordering State, has been deleted.

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| <p>15-34.2-16 Originally section 15-34-28. Minor revision for the sake of clarity.</p> <p>15-34.2-17 Originally section 15-34-07. No change has been made.</p> <p>15-38-04.1 Derived from section 15-38-04. The section has been revised so the days which are school holidays are set out rather than the days which are legal holidays upon which the schools are to remain open. The section has been amended to permit school districts to close a school if used as a polling place during a statewide election, or for community celebrations on Veterans' Day.</p> <p>15-40.1-01 Originally section 15-40-13. Amended to permit county equalization fund payments to be made for students who have attended a high school for four years but have not graduated.</p> <p>15-40.1-02 Originally section 15-40-01.</p> <p>15-40.1-03 Originally section 15-40-02. Minor revision for the sake of clarity.</p> <p>15-40.1-04 Originally section 15-40-18.</p> <p>15-40.1-05 Originally section 15-40-19. Internal reference changed.</p> <p>15-40.1-06 Originally section 15-40-12. Internal references changed.</p> <p>15-40.1-07 Originally section 15-40-14. Minor revision for the sake of clarity. The year 1964-65 is used as the base period for eligibility for payments for schools with less than minimum enrollments, instead of 1954-55. The provision of the section allowing attendance in a neighboring State has been deleted as it is duplicatory with the language in section 15-40.2-09.</p> <p>15-40.1-08 Originally section 15-40-24.</p> <p>15-40.1-09 Originally section 15-40-16. A provision has been inserted in the section</p> | <p>which would require out-of-State school districts to file verified statements with the County Superintendent of Schools for payments received for educating North Dakota students.</p> <p>15-40.1-10 Originally section 15-40-29. Completely revised for clarity and simplicity.</p> <p>15-40.1-11 Originally section 15-40-31. The provisions of section 15-40-23 in regard to legislative appropriations have been incorporated. Revised for the sake of clarity.</p> <p>15-40.1-12 Originally section 15-40-25. Completely revised for clarity. Also revised to permit multicounty districts to receive a share of excess county equalization fund apportionments, and to exclude those students attending schools in another State as a basis for apportionment.</p> <p>15-40.1-13 Originally section 15-40-22.</p> <p>15-40.1-14 Originally section 15-40-22.1. Minor revision for the sake of consistency.</p> <p>15-40.1-15 Originally section 15-34-23.</p> <p>15-40.1-16 Originally section 15-34-24.</p> <p>15-40.1-17 Originally section 15-34-25. Superfluous language has been deleted, and the title revised for clarity.</p> <p>15-40.1-18 Originally section 15-34-26. Completely revised for clarity. Surplus language deleted.</p> <p>15-40.1-19 Originally section 15-40-21.</p> <p>15-40.1-20 Originally section 15-40-32. Minor revision reflecting the elimination of the State Equalization Fund.</p> <p>15-40.2-01 Derived from section 15-29-08(3).</p> <p>15-40.2-02 Derived from section 15-29-08(3).</p> <p>15-40.2-03 Derived from sections 15-29-08(14), 15-40-17, 15-40-26, and 15-41-19. Completely revised for clarity.</p> <p>15-40.2-04 Derived from sections 15-40-17 and 15-40-19.</p> |
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- 15-40.2-05 Derived from sections 15-29-08(14) and 15-40-17. Completely revised for consistency and clarity. "Elementary" and "high school" pupils are defined.
- 15-40.2-06 Derived from sections 15-29-08(14) and 15-40-17.1(1).
- 15-40.2-07 Derived from section 15-40-17.1(2).
- 15-40.2-08 Derived from section 15-29-08(3). Completely revised for the sake of clarity.
- 15-40.2-09 Derived from sections 15-40-14, 15-40-26, 15-41-18, and 15-27-21. A provision has been added to show that districts are not required to pay transportation if tuition is paid.
- 15-40.2-10 Originally section 15-40-15.
- 15-40.2-11 Derived from section 15-29-08(3).
- 15-40.2-12 Derived from section 15-40-17.
- 15-41-06 Internal reference changed.
- 15-47-02.1 Originally section 15-29-08(1). Reference to the six-pupil per ten-consecutive-day provision has been deleted.
- 15-47-21 The amendment to this section substitutes the county committee for the Board of Arbitration in equalizing assets and liabilities in annexation and in voluntary dissolution proceedings. A further amendment is made to show that the tax levy will not apply in reorganization proceedings except where specifically provided.
- 15-47-27 The section is amended to change the May 1 date to May 15 in order to erase the conflict in the section caused by permitting teachers 30 days past April 15 in a school year (or May 15) by which time they must either accept or reject an offer of employment. The Director of Institutions and the charitable and penal institutions under his control are added to the section.
- 15-47-33 The section is amended to incorporate language which was deleted from section 15-29-08(1).
- 15-49-02 The section has been revised to remove the population limitation and to permit contracts to be entered into between the school board and its board members if unanimously approved by the board after a unanimous finding that the services or property are not otherwise obtainable at equal cost. As an exception to the section, board members are permitted to contract for minor supplies or incidentals, provided the amount does not exceed that set forth in section 15-47-15 (presently \$2,000).
- 15-53.1-01 Originally section 15-53-02. Minor changes made for grammatical purposes.
- 15-53.1-02 This is a new section designed to show that reorganization does not supersede annexation or dissolution procedures.
- 15-53.1-03 Originally section 15-27-01. Minor revision has been made for the sake of consistency.
- 15-53.1-04 Originally section 15-27-02.
- 15-53.1-05 Originally section 15-27-04. Internal references have been changed. The term "territory contiguous" is defined. The method of determining the number of electors required has been clarified.
- 15-53.1-06 Originally section 15-27-05. Superfluous language has been deleted. The section has been revised to provide that petitions for annexation are to be presented to the state committee for approval or disapproval only if they have received the approval of one or more county committees.
- 15-53.1-07 Originally section 15-27-07. The county committee has been substituted for the Board of Arbitration in the equalizing of debts and assets in annexation proceedings.
- 15-53.1-08 Originally section 15-53-01. Archaic language has been deleted.
- 15-53.1-09 Originally section 15-53-01.1. Language has been revised for consistency.
- 15-53.1-10 Originally section 15-53-03. Superfluous language has been deleted.

- 15-53.1-11 Originally section 15-53-05. Superfluous language has been deleted. The present method by which committee expenses and compensation are paid by the Department of Public Instruction has been adopted. The State's schedule for expenses has been adopted for members of the county committee. A provision is included for filling vacancies, and the matter of the selection of members is clarified.
- 15-53.1-12 Originally section 15-53-06. Language has been added to provide for the selection of a Chairman. The County Superintendent, as Secretary, is specifically denied the right to vote. Language is clarified.
- 15-53.1-13 Originally section 15-53-06.1. Superfluous language has been deleted.
- 15-53.1-14 Originally section 15-53-07. Language has been clarified and improved grammatically.
- 15-53.1-15 Originally section 15-53-08. Language has been clarified. An internal reference has been changed.
- 15-53.1-16 Originally section 15-53-09. This section has been extensively revised for the sake of clarity.
- 15-53.1-17 Originally section 15-53-10. The authority for a three-member school board has been deleted.
- 15-53.1-18 Originally section 15-53-11. The existence of "special" committees is recognized. Also, plans for reorganization are to be presented to the state committee for approval or disapproval only if they have received the approval of one or more county committees.
- 15-53.1-19 Originally section 15-53-12. Language has been improved grammatically, and the authority to submit reorganization plans has been expanded to include districts other than joint districts within the county.
- 15-53.1-20 Originally section 15-53-13. Revised for the sake of clarity.
- 15-53.1-21 Originally section 15-53-13.1. Minor revision for the sake of clarity.
- 15-53.1-22 Originally section 15-53-14. Grammatical changes have been made and the section has been revised for clarity. The requirement of public posting is dispensed with.
- 15-53.1-23 Originally section 15-53-14.1. Internal references have been changed. The references to chapter 15-53 are made to include those school districts which have been previously reorganized under that chapter.
- 15-53.1-24 Originally section 15-53-15. The requirement that students be transported to a central point has been deleted. Language has been clarified, and internal references changed.
- 15-53.1-25 Originally section 15-53-16. Internal references have been changed. The section has been revised to preclude the submission of a reorganization plan to the electors more than once within a three-month period, and section 16-01-15 has also been amended accordingly.
- 15-53.1-26 Originally section 15-53-18. Internal references have been changed.
- 15-53.1-27 Originally section 15-53-19. Archaic language has been deleted. Consistent with the deletion of the six-pupil per ten-consecutive-day provision, a similar provision found in this section relating to closing of elementary schools has been deleted.
- 15-53.1-28 Originally section 15-53-20. Revised for grammatical purposes and for the sake of clarity.
- 15-53.1-29 Originally section 15-53-21. The requirement that the County Superintendent of Schools must individually approve the reorganization plan has been deleted.
- 15-53.1-30 Originally section 15-53-22. No change made.
- 15-53.1-31 Originally section 15-53-24. Minor revision for consistency.
- 15-53.1-32 Originally section 15-53-25. Internal references changed. Archaic language deleted.

- 15-53.1-33 Originally section 15-53-26. Revised for clarity and simplicity. The section has been revised to provide that county committee decisions shall be reviewed by the state committee. The recommendation for a petition being reviewed has been deleted. A new subsection has been added to allow the county committee to make an adjustment of debts and assets and to levy a tax for equalization.
- 15-53.1-34 Originally section 15-53-27. Extensively revised to permit school boards to initiate action for the sale of a schoolhouse, to permit receipts from the sale to be placed in either the building fund or general fund of the district, and to allow the sale to be made for less than the fair market value of the building upon the unanimous approval of the board.
- 15-53.1-35 Originally section 15-53-27.1. Minor changes have been made for clarity.
- 15-53.1-36 Originally section 15-53-28. Revised to provide that the cost of publishing reorganization notices shall be allotted among the districts affected by the plan on the basis of area should the plan fail to be adopted.
- 15-53.1-37 Originally sections 15-53-29 and 15-53-31. Internal references changed. The definition of "agricultural lands" has been included in the section.
- 15-53.1-38 Originally section 15-53-30. Internal references changed. Discretionary language replaced with mandatory language in regard to voting.
- 15-53.1-39 Originally section 15-53-32. Minor grammatical changes have been made. Internal references have been changed.
- 15-53.1-40 Originally section 15-53-33. Internal references have been changed.
- 15-53.1-41 Originally section 15-22-21. The section has been revised so that the two-year period of time set out for districts which have not operated a school is shortened to the 31st day of December of the year following the calendar year in which the districts ceased to operate a school. Internal references have been changed. Superfluous language has been deleted.
- 15-53.1-42 Originally section 15-22-22. Internal references have been changed. The section has been revised for clarity and superfluous language has been deleted. The provisions of section 15-53.1-06 have been adopted for adjusting assets and liabilities of districts. A proviso is inserted for the suspension of an order for dissolution in the event the order for attachment is rendered ineffective.
- 16-01-15 The section has been amended due to the conflict which was evident in the time required between reorganization plan elections as found in section 15-53.1-25 before amendment (originally section 15-53-16). All references to voting as to reorganization questions has been deleted from the section. Section 15-53.1-25 now controls in the case of reorganization elections.
- 57-15-14(3) Internal reference changed. Authority is included for the school board, by resolution, to submit to the people the question of authorizing or discontinuing the tax levy.
- 57-15-24 The section has been amended to allow an adjustment of the 21-mill levy in the event the particular county is assessing at more than the statewide average. The amendment brings the section into conjunction with existing law.
- 57-16-04 Internal reference changed.
- 57-55-03 The reference to the per capita school tax has been deleted due to the repeal of the personal property tax.
- 57-55-04 Language has been grammatically changed and the reference to the per capita school tax has been deleted.

#### **Additional Recommendations — Elementary and Secondary Education**

In addition to those matters coming to the attention of the committee which are reflected in the revisionary bill, several other areas where legislation would be desirable came into focus. Since these matters tended to fall into substantive areas of the law, the committee decided that the bills accompanying these recommendations should be

submitted apart from the revisionary bill. In this way, the bills would stand on their own merits and in no way affect the chances of passage of the revisionary bill.

The first bill in this category deals with the subject of release time for religious instruction. The present statutory authority for release time is found in section 15-34-07 of the North Dakota Century Code. Due to its controversiality, this section was incorporated into the main revision bill, without any change whatsoever, as proposed section 15-34.2-17.

Section 15-34-07 has become the subject of increasing attention over the years. Initially, there was some question as to whether this section constitutes a release time statute. In this regard, on November 29, 1955, and March 13, 1962, the office of the Attorney General issued formal opinions to the effect that the section is in fact a release time statute. Subsequently, House Bill No. 602 was introduced into the Legislative Assembly in 1963 in an effort to clarify the situation. Curiously, this bill, which would have amended section 15-34-07 to prohibit release time for religious instruction, was amended by the Standing Committee on Education to provide the opposite result — to permit release time. The bill passed the House but failed in the Senate.

The committee, being aware of the above series of events and conscious of the controversiality of the concept of release time for religious instruction, is of the belief that clarification of this section is necessary. Consequently, the committee has prepared and recommends the adoption of a bill which would simplify and clarify this section by granting release time for public school students for a period of not to exceed one hour per week, provided a request from the student's parents or guardian to this effect is made. The committee is of the opinion that the amendment will resolve the difficulties which have surrounded this section of the law for a number of years.

The next several bills recommended by the committee relate to voting procedures and compensation of school board members. One would permit members of the school board to claim mileage for travel performed while on official board business. At the present time, members may receive mileage only for travel expenses incurred in going to and returning from school board meetings. The other would declare a majority of members present necessary to transact business rather than a majority of members present who actually vote.

Another bill recommended by the committee would have the effect of giving voters additional

information in an election for an increased levy, both in the published notice of the election and on the ballot itself. At the present time, if the district in question is already operating on an increased mill levy and is seeking permission to further increase the levy, the voter is unable to determine the current mill levy percentage or amount of tax in dollars from either the published notice or the ballot. The bill recommended by the committee would require disclosure of the current mill levy and the amount of tax dollars received from current levies.

The final bill prepared by the committee in this category and recommended for adoption deals with the Medical Center Advisory Council. Section 15-52-03 was amended by the 1965 Legislative Assembly to provide that two rather than three members of the Medical Center Advisory Council are to be named by the Governor. This same section, however, provides elsewhere that three members are to be so appointed. The committee bill would carry through what was obviously the original intent of the 1965 Legislative Assembly by proposing an amendment to section 15-52-03 changing the number of Medical Center Advisory Council members to be appointed by the Governor from three to two.

## HIGHER EDUCATION

### Academic Libraries

During the course of the study encompassed by House Concurrent Resolution No. 54, the committee heard a report on the condition and adequacy of academic libraries under the control of the Board of Higher Education, the report being presented by the College and University section of the North Dakota Library Association. Basically, the survey presented by this group indicated that none of the libraries studied meets the needs of the parent institution as to the size of the collection, and that there are some serious staff shortages in this field. As an example, under standards set by the Association of College and Research Libraries (ACRL), the North Dakota State University Library, with a total number of 200,000 volumes, is 131,400 short of attaining the required standard of 331,400 volumes. The University of North Dakota Libraries consisting of collections at Grand Forks and the Ellendale and Williston Branches, with a total number of 378,593 volumes, are reported to be deficient by 51,707 volumes from ACRL standards of 430,300 volumes. The following listing shows the percentage of the recommended number of volumes that each institution has at the present time:

University of North Dakota (all campuses) .....	87.9%
North Dakota State University .....	60.4%
North Dakota State School of Science .....	19.8%
Minot State College .....	71.7%
Dickinson State College .....	52.3%
Valley City State College .....	82.4%
Mayville State College .....	89.0%
North Dakota School of Forestry .....	28.9%

The Study Committee also surveyed the number of professional, nonprofessional, and clerical staff persons currently employed at each academic library and the shortages in this area. It was reported, for example, that the University of North Dakota, with 10 professional staff members, should add 16 additional persons to achieve a total of 26. Furthermore, that the nonprofessional and clerical staff at UND should be expanded from its present total of 15 persons to 17, an increase of 2. Like recommendations for North Dakota State University were that the professional staff be increased from 7 to 22 persons and the nonprofessional and clerical staff be decreased from 16.5 to 14. Basically, this portion of the study indicated that the professional staff serving both state and private institutions of higher education within North Dakota should be increased from the 37.5 persons currently employed to a total of 105 persons, and nonprofessional and clerical staffs should be increased from 56.5 currently employed to 80 persons. Calculated on the basis of the \$7,000 average annual salary for professional employees and \$3,600 for nonprofessional and clerical employees, the report concluded that staff increases as recommended would increase salary expenditures by a total of \$472,500 and \$93,600 for each respective class.

It was noted by the survey group that many varied services are presently being offered by academic libraries, among them indexing, microfilming, and research activities, but some services are necessarily curtailed because of a shortage of funds. It was estimated by the Library Association Study Group that on the basis of a standard minimum formula of \$100 per student, the state appropriation at the 1969 session of \$2,281,200 for academic libraries fell short of the recommended amount by about \$1 million. Finally, another recommendation made by the Study Group was that additional federal funds be secured for the use of academic libraries within the State.

#### **Overlapping of Courses and Use of Instructional Services to Avoid Unjustified Duplication of Education — Graduate Program Areas**

Early in the biennium the committee decided that the problem of overlapping courses and un-

justified duplication of education was of more concern at the graduate school level, and consequently, decided to concentrate on this area. The committee heard testimony from administrators and faculty members of the state universities and colleges regarding the content and scope of graduate program offerings, and data was submitted by the Board of Higher Education in an attempt to classify programs and determine what harmful duplication, if any, currently exists. Testimony indicated that the cost of graduate studies is now approximately three times that of undergraduate work and is expected to increase considerably within the next few years. It was also reported that graduate enrollments are declining in private institutions of higher education and increasing in public colleges and universities. In comparison with the rest of the Nation, it appears that the Plains States have lower enrollments for advanced degrees than other States. One consequence of this lower enrollment is shown when it is realized that less than four percent of the State's elementary teachers hold advanced degrees. It was the general consensus of college and university administrators and faculty members that the percentage of teachers holding advanced degrees will materially increase in the near future, due to the insistence by local school boards that advanced studies be undertaken or completed in the respective teachers' field.

The prevailing practice of using graduate assistants for classroom teaching purposes was explored at length by the committee. After hearing testimony to the effect that such utilization was an important factor in reducing the cost of instruction but that the quality of instruction and communication between the professor and the students sometimes suffered, the committee requested that the Board of Higher Education conduct a cost study in this area. The study was performed by examining duplicate graduate programs in English on a cost basis at the two universities. While the results of the study might not be the same for all areas of instruction, they indicated that the elimination of graduate studies in English at either the University of North Dakota or North Dakota State University would cause a loss to each institution, respectively, of \$5,596 and \$42,847. The loss would come about as a result of each institution being unable to utilize graduate assistants for teaching purposes in the undergraduate English program, thereby requiring additional faculty members to be employed at higher salaries for this purpose.

In connection with the duplication in graduate course work, the committee explored the manner in which new courses are created. It was reported by representatives of the Board of Higher Educa-

tion that only after favorable consideration by the appropriate department and academic council of the institution, and finally, by the board, could a new course be started. The committee was advised that after its inception a new course is subjected to continuing scrutiny as to its effectiveness and worth, and if conditions require, it may be revised or dropped from the institution's curriculum.

### **Teaching Loads and Hours**

Another area of inquiry contemplated by House Concurrent Resolution No. 54 and investigated by the committee was the number of classroom or "contact" teaching hours assigned to faculty at the state institutions of higher education. Again, representatives of the Board of Higher Education and college and university personnel presented materials to the committee on this subject. Generally, it was reported that on a full-time equivalent basis, faculty loads vary from approximately 30 contact hours per week in the Technical and Trade Divisions of the State School of Science to 8 contact hours per week in the University of North Dakota School of Law. Some of this variance, it was noted, may be attributed to inherent differences between the various disciplines. For example, laboratory courses will add proportionately more to an instructor's teaching load on a contact hour basis since the number of credit hours is usually markedly less than the number of hours actually spent in the classroom. Likewise, the nature of the subject matter being taught and the academic level at which such teaching is being done contributes greatly to the wide range in contact hours assigned to faculty members.

Additionally, it was found that accrediting associations have a great effect on the number of contact hours that may be assigned to faculty members. There are two major kinds of accreditation agencies in higher education, one of which includes the regional associations which cover different sections of the Nation. These regional associations usually accredit or refuse to accredit the entire program of a college or university. North Dakota is served by the North Central Association which, while not having specific requirements with respect to faculty loads, will consider unreasonable faculty loads as a basis for recommending the denial of accreditation.

Professional accrediting associations comprise the second type of accrediting agency. The American Bar Association and the American Medical Association are two examples of this type. Basi-

cally, these agencies are interested in assuring minimum quality standards for their professions, and in doing so require that faculty members have the time available to perform research and study new developments in their areas of instruction. In contrast to a regional accrediting type of association, the professional groups will stipulate a maximum number of contact hours that may be assigned to faculty members, and will refuse to accredit a program if this maximum is exceeded. As examples, in the field of business administration, faculty members are limited to 12 contact hours and in law, the limitation is 8 contact hours.

It was generally observed by the committee that regional and professional accrediting associations exert a control over faculty loads and hours to such a degree as to make any departure from these standards unwise if the question of accreditation is involved. It was also found that what might be proper in terms of teaching loads and hours at one institution or department might not be appropriate at another. And while reports of teaching loads and hours should not be used as a tool to measure the efficiency of one institution as against another because of the many differences between the two that may be encountered, such reports are very helpful when used over a period of years as a managerial tool within a single institution.

### **Evaluate and Update Previous Studies Regarding Instructional Programs and Space Utilization**

The final category of inquiry under House Concurrent Resolution No. 54 was that of reviewing the space utilization study, which was updated by the Board of Higher Education to include data to October 1968. Such data, it was pointed out, is useful in determining the need for a new structure at any particular institution. Basically, the study reported that 21 percent of all college and university buildings within the State are in need of extensive renovation or should be replaced. The committee heard testimony accompanying the study which indicates that the present trend is for the renovation of existing buildings rather than the construction of new facilities. Renovation costs run about \$3.40 to \$10.00 per square foot, it was reported, with approximately 20 years being added to the useful life of a building thereby. In contrast to this, it was noted that new construction costs may run from \$16.00 per square foot, this figure being the cost when Twamley Hall was constructed on the University of North Dakota campus, to \$30.00 per square foot for new construction today.

### Other Areas of Study

In addition to the foregoing studies, several other areas were reviewed by the committee with respect to higher education. The amount of activity fees charged by the several institutions of higher education was discussed by the committee, and with the assistance of the Board of Higher Education, an inquiry was made into this area. Testimony was gathered to the effect that moneys earmarked for student activities are not used as operating funds at the individual institutions. The committee was generally of the opinion that a breakdown of "activity" fees into "activity" fees and "service" fees at the time of registration fee collection might help to alleviate some misunderstanding among students who are of the opinion the entire "activity" fee is collected for and allocated to athletic and other student organizational purposes.

During the course of the biennium, the Psychology Department at the University of North Dakota was publicly criticized by a student enrolled in the program, and due to the severity of the charge, the committee decided to investigate the complaint. Basically, the student's contention was that there are certain shortcomings in the undergraduate psychology curriculum at the University in that a four-year bachelor's degree would not enable a graduate to obtain employment of a professional nature, and that the undergraduate program is being sacrificed in favor of the graduate program. Additionally, a suggestion was made that a degree in industrial psychology should be offered, as it would increase the employability of psychology graduates. These criticisms were answered by the Vice President of Academic Affairs at the University of North Dakota. It is his position that students majoring in psychology who have obtained only a baccalaureate degree cannot expect to obtain employment as a professional psychologist. An advanced degree is necessary, he emphasized, to do the delicate counseling which arises in the course of employment as a professional psychologist. He was also of the opinion that a degree in industrial psychology would not be a feasible or popular course offering because of North Dakota's unfavorable location in relation to industry. Finally, he denied that the undergraduate psychology program has been sacrificed in favor of the graduate psychology program by stating that the undergraduate program has shown a growth in the amount of course offerings of 61 percent since 1960, while the graduate program has had only a 10 percent growth over the same period. While considerable discussion was gener-

ated on this area of study, the committee made no findings or recommendations.

### Recommendations — Higher Education

The committee has prepared and recommends the adoption of a concurrent resolution commending the Board of Higher Education and the administrative personnel of the colleges and universities for their efforts in reducing the overlapping of courses and duplication of instruction, and for performing studies in regard to instructional programs and space utilization at the institutions, and urging the continuance and enlargement of these efforts. In so doing, the committee first realizes there has been much progress made in erasing harmful duplication in course offerings, but feels that there is more that remains to be done. The committee recognizes the value of the survey relating to institutional space utilization, and is of the opinion this survey should be updated on a periodic basis. Finally, the committee believes that previous studies in the areas of course offerings and teaching loads and hours should be updated, to the extent that such studies exist, or new studies performed where appropriate.

The final meeting of the committee was held on July 9 and 10, 1970. The committee was, of course, aware of the series of events that had transpired on the Nation's campuses in the wake of the incident at Kent State in Ohio and Jackson State in Mississippi where confrontations between students and National Guardsmen and law enforcement officials had resulted in tragic deaths. The committee was also aware that many of the Nation's institutions of higher education were subsequently besieged by faculty and student groups who advocated that the institutions be closed for the remainder of the spring term, and unlike many of these universities and colleges, those in North Dakota continued to function during this time. With this knowledge, and with the full realization that only in an academic climate where there is complete freedom of thought and lawful expression can an institution of higher education serve its purpose, the committee, by motion, went on record as supporting and urging the continuance of action by the Board of Higher Education to guarantee that the State's higher educational institutions would continue to maintain normal classroom activities despite the threat of student and faculty strikes and disruptions precipitated by political activity. The committee commends the Board of Higher Education, the Presidents, and the Administrations of the institutions for their past efforts in this regard and asks a continuance of this position for the future.

# SPECIAL COMMITTEE ON EDUCATIONAL FINANCE

The Special Committee on Educational Finance was created by the Chairman of the Legislative Council midway during the 1969-71 biennium, and charged with the responsibility of examining the structure of the State's educational finance system. Appointed to the committee were Senators Donald C. Holand, Chairman, L. D. Christensen, and Robert M. Nasset; and Representatives Howard F. Bier, Donald Giffey, Ernest N. Johnson, and Arthur A. Link. During the last half of the biennium, the committee held four public hearings, which were held in Bismarck.

The report of the Special Committee on Educational Finance was presented to the Legislative Council at its fall meeting held at Camp Grafton. The committee's recommendations and accompanying legislative proposals were adopted in their entirety by the Legislative Council.

## STUDY OF PROBLEMS FACED BY STATE SCHOOL DISTRICTS

Before beginning a study of the State Foundation Aid Program for North Dakota school districts, the committee decided to define to as great a degree as possible what problems are being faced by the several school districts of the State. In order to gain this information, the committee contracted with the University of North Dakota for the collection and compilation of data on this subject. This particular portion of the study was performed by Dr. Gordon Richardson of the University of North Dakota. As a result of the survey, a great deal of useful information was obtained in regard to the makeup and individual characteristics of the State's school districts.

The survey indicated that there were 435 public school districts in operation during the academic year of 1969-70. This figure is a decrease of 111 from the total of 546 districts reported for the academic year of 1966-67. The reduction in the number of school districts is a trend which has been continuing for some years. Most of the change which was evidenced over the four-year period is due to the decrease in the number of one-room rural school districts and high school districts. The number of graded elementary and nonoperating districts, on the other hand, has remained fairly constant.

An examination of the current per-pupil costs of education revealed that there have been con-

siderable increases in this area during the past four years. Exclusive of capital outlay and debt service items, the average cost per pupil in average daily membership has risen from \$738.25 in 1966-67 to \$758.80 for 1968-69 for high school pupils, and from \$465.45 in 1966-67 to \$520.96 in 1968-69 for elementary school pupils.

Another area affecting school districts included in the survey is that of accreditation. It was found that there are presently 55 nonaccredited districts within the State, 152 districts with 3-A accreditation, 39 districts with 2-A accreditation, 13 districts with 1-A accreditation, and 43 districts that are accredited by the North Central Association. Generally speaking, those districts with a high school enrollment of less than approximately 70 pupils tend to be nonaccredited districts, those with an enrollment of less than approximately 280 tend to be districts with 3-A accreditation and the districts with an enrollment in excess of approximately 280, tend to be districts accredited as 2-A and above. It was also found that the majority of the public high schools in the State enroll less than 100 students in grades 9 through 12.

Also encompassed by the survey was an examination of course offerings in the high schools. Section 15-41-06 of the North Dakota Century Code currently requires a minimum number of 16 courses to be offered from the 9th to the 12th grade in order to receive any type of accreditation. An examination of the number of courses offered by the different high school districts reveals that the number of pupils enrolled has a direct relationship with the number of courses offered. The average number of courses offered in one school year in districts enrolling less than 125 students is approximately 15 courses, while districts enrolling more than 1,000 students offer on the average approximately 51 courses. The statewide average is about 25 course offerings.

One of the major factors bearing on the efficient use of educational funds, and also treated by the survey is the relationship of the number of students within a particular school district to the number of teachers. In States more densely populated than North Dakota, this ratio can be expected to be about 20 to 25 pupils per teacher. It was found that the statewide average in North Dakota is approximately 15 pupils per teacher. While this ratio is unquestionably commendable from the standpoint of providing individualized instruction, the additional cost involved is considerable. One

of the factors responsible, of course, is that of the pattern of density in North Dakota school districts. This density varies from .03 resident students per square mile to 833 resident students per square mile. It was found that the statewide average is approximately 5.5 resident pupils per square mile. Also directly related to pupil-teacher ratios and population density is the matter of transportation. It was found that approximately 60,000 students are transported annually by public school districts in North Dakota at an average cost of about \$118 per pupil transported. The cost of transportation amounts to about 6.3 percent of the total educational expenditures within the State, as compared with 3.8 percent nationally. It was found not unusual for a rural district to allocate 10 to 15 percent of its entire budget for transportation programs.

Perhaps the most meaningful portion of the study was that segment directed toward an examination of the millage amounts levied by North Dakota school districts, since this factor is the most common indicator of school district effort and to some degree will reveal the financial condition of the individual district. Of the 435 districts surveyed, it was noted that 7 failed to levy any local taxes during the 1969-70 school year. In each case these were either nonoperating or one-room rural districts. For the same period, Fargo, Grand Forks, and Valley City levied 117.57, 112.25, and 105.31 mills, respectively, in support of their educational programs, and were the only 3 districts to levy more than 100 mills of local taxes. There were 59 school districts with a local mill levy in excess of 79 mills. And, with the addition of the 21-mill county levy, these districts have a total county and local mill levy for educational purposes of 100 mills or more. The average mill levy in the State was found to be 58.3 mills. As was expected, the nonoperating and one-room rural district categories have a substantially lower millage rate than do other districts in the State as a whole.

The current general fund millage levy limits or maximums for North Dakota public school districts are as follows:

1. Not to exceed 34 mills, if 4 years of standard high school work is offered.
2. Not to exceed 24 mills, if 3 years of standard high school work is offered.
3. Not to exceed 21 mills, if 2 years of standard high school work is offered.
4. Not to exceed 22 mills in districts maintaining an elementary school with 2 or more teachers, with the levies established for high

schools to apply in the event high school work is offered within the district.

5. Not to exceed 19 mills in all other districts (rural one-room schoolhouse districts).

Additionally, an increased levy in amounts from 25 to 75 percent of the general fund mill levy maximum may be authorized for a period not to exceed 5 years, provided approval is received upon a vote of the people. Also, districts with a population of 4,000 or more can, with the concurrence of the electorate, operate on the basis of an unlimited general fund mill levy.

It was found there are 7 school districts within North Dakota that are presently operating with unlimited levy authority. The results of the survey also showed that approximately 74 percent, or 322 of the 435 North Dakota school districts, are levying up to a general fund limitation of one type or another at the present time. The survey further indicated that those school districts that have attempted to go beyond the general fund mill levy limitations in one of the permissive ways indicated have met with mixed success, as it was reported that out of a group of 75 school districts that had asked for the authority for an excess or unlimited levy, only 44 were successful.

Another area examined by the survey was that of taxable valuation, and it was found that the average valuation of school districts in North Dakota is \$7,556 per resident pupil. The variance between districts was found to range from a taxable valuation per resident pupil of \$532 to \$53,704. The consequence of this difference is that some school districts are wealthy enough in terms of taxable valuation so that only 2.27 mills need be levied in order to raise \$100 per student, while a district on the other end of the spectrum would need to levy 248.46 mills to raise the same amount. On an average over the State, a levy of 23.33 mills would raise \$100 per student. While it is difficult to establish any pattern as to school district wealth, the most populous high school districts appear to have the lower per-student valuations. As an example, those high school districts that have more than 500 students but less than 1,000 average less than \$4,700 per student in taxable valuation, and the 15 largest districts average only \$4,112.

One of the purposes for which a survey such as was conducted for the committee may be used is to gain the data necessary to identify what constitutes a "typical" school district within a particular jurisdiction. If such an identification can be made, the task of ascertaining what the proper

financial structure and level of support for all school districts should be, is greatly simplified. While considerable investigation was devoted to this subject, the committee found such disparity among districts that it was not possible to isolate the characteristics which would form a "typical" district in North Dakota. On the other hand, certain trends did become evident which appear to point out the reasons for some of the problems which are currently faced by the public schools.

It was noted earlier that the general rule-of-thumb in other States is to expect a ratio of from 20 to 25 pupils per teacher, and that the pupil-teacher ratio in North Dakota districts averages about 15 to 1. It was also mentioned that while this ratio provides a greater proportion of individual instruction, it is also quite costly. In breaking down this average further, it is seen that high school districts with an enrollment of less than 125 have a pupil-teacher ratio of about 12 to 1. The ratio gradually increases in proportion to the

enrollment of the school districts, and in those districts enrolling more than 1,000 students, the average is about 23 to 1. This latter average is more in line with the ratios in other States and could be expected to increase the efficiency and reduce the per-pupil cost in these larger districts. Other factors seem to militate in favor of lower costs and greater efficiency in larger districts, such as a greater population density which will result in smaller per-pupil costs for transportation expense. Surprisingly, however, an examination of the local cost per resident pupil in North Dakota schools does not bear out this expectation. As may be seen from the following table, the average local cost gradually decreases from that found in high school districts with under 125 enrolled pupils, and reaches its lowest level in high school districts enrolling from 501 to 1,000 students. At this point the trend reverses, as the cost increases substantially in high school districts enrolling more than 1,000 pupils.

**Table 1**  
**THE LOCAL COST PER RESIDENT PUPIL IN NORTH DAKOTA PUBLIC SCHOOLS,**  
**1969 - 1970 SCHOOL YEAR**

School Enrollment	Cost Per Resident Pupil Low	Pupil High	Average	Number of Districts
H. S. Under 125 .....	\$229.70	\$ 795.81	\$439.83	42
H. S. 126 - 225 .....	204.21	638.65	415.40	61
H. S. 226 - 300 .....	106.13	569.84	380.53	42
H. S. 301 - 350 .....	73.45	589.10	359.76	19
H. S. 351 - 500 .....	140.64	635.41	344.82	29
H. S. 501 - 1,000 .....	115.55	472.62	316.89	50
H. S. More than 1,000 .....	226.16	590.69	350.23	15
Graded Elementary .....	76.18	727.83	397.45	63
One-Room Rural .....	177.67	1,602.51	401.64	54
Nonoperating .....	291.27	3,169.77	416.66	60
Statewide .....	73.45	3,169.77	389.55	435

While the committee was unable to pinpoint the reason for this anomaly, it appears that the answer might lie in the number of courses that are offered by the high schools within a respective district. It has been mentioned that the number of courses offered in North Dakota high schools during the 1969-70 year varies from as few as approximately 11 courses in districts enrolling less

than 125 students to a maximum of 74 courses in districts enrolling more than 1,000. It may be noted from the following table that the average number of courses offered increases in proportion to the enrollment of the school district, with those districts enrolling more than 1,000 pupils offering as a minimum more courses per pupil than the statewide average.

**Table 2**  
**THE NUMBER OF COURSE OFFERINGS OF NORTH DAKOTA PUBLIC**  
**HIGH SCHOOLS, 1969-1970 SCHOOL YEAR**

School District Enrollment	Number of Courses		Average	Number of Districts
	Low	High		
Less than 125 .....	10.75	21.25	15.48	42
126 - 225 .....	12.75	25.75	20.05	61
226 - 300 .....	19.25	29.75	23.88	42
301 - 350 .....	20.75	34.25	25.96	19
351 - 500 .....	21.75	35.75	28.08	29
501 - 1,000 .....	23.75	46.25	33.73	50
More than 1,000 .....	29.00	74.00	51.33	15
Statewide .....	10.75	74.00	25.74	258

When a comparison is made of the cost per pupil with the number of courses offered, it can be seen that the cost increases substantially when

offerings are over the 50-course level. This is borne out by Table 3.

**Table 3**  
**THE COST PER PUPIL IN NORTH DAKOTA PUBLIC HIGH SCHOOLS**  
**BY THE NUMBER OF COURSES OFFERED, 1969-70 SCHOOL YEAR**

Number of Courses	Low	High	Average	Number of
				Districts
1.00 - 14.99 .....	205.41	619.26	396.72	27
15.00 - 24.99 .....	73.45	795.81	399.32	117
25.00 - 34.99 .....	115.55	635.41	356.87	86
35.00 - 49.99 .....	226.16	425.06	329.19	21
50.00 + .....	244.48	590.69	384.61	7
Statewide .....	73.45	795.81	378.79	258

While the committee is not in a position on the basis of the survey to advocate a reduction of course offerings by the larger districts that are experiencing financial difficulties, it appears that some of the financial problems faced by these districts can be linked to their large program offerings. In regard to the utility of the survey itself, the committee is of the opinion that the data compiled will be of inestimable use in evaluating any proposal for a restructuring of North Dakota's educational finance program.

### PAROCHIAL SCHOOL EDUCATION

In addition to the public school education studies carried on by the committee, a survey of parochial school education within North Dakota was presented by the North Dakota Catholic Conference. Testimony received in conjunction with the presentation revealed that there are presently 10,927 elementary and secondary school students enrolled in North Dakota Catholic schools. A comparison with the academic year 1965-66, at

which time there were 18,108 students enrolled, shows a decline in enrollments of 7,181 over the four-year period. On a percentage basis, this represents a decrease of 40 percent. It was also pointed out that when the number of students currently attending Catholic schools within the State is multiplied by the approximate per-pupil Foundation Aid payment, it may be noted that about \$5,270,000 in educational efforts is contributed by the Catholic schools which would otherwise have to be borne by the State.

Testimony was also presented in regard to the financial and operational difficulties presently being encountered by the Catholic parochial schools. It was reported that rising costs and declining enrollments are forcing the closure of many of the schools. And, it was predicted that increasing burdens will be placed on public education because of these closures. It was the position of the Catholic Conference that state aid to nonpublic schools is necessary if such schools are to continue operation and to contribute to the public educational sphere. The proposal made to the committee is that 30 per-

cent of the present per-pupil Foundation payment should be granted to nonpublic schools for their enrolled students, provided that the total not exceed the amount of money expended for lay faculty in such schools. This amount, which would approximate \$787,510 on a 1970-71 base, would amount to roughly 75 percent of the amount currently spent for lay faculty salaries. The Catholic Conference expressed its complete opposition to the use of any public fund to pay for any religious instruction.

No recommendations were made by the committee in this area. The committee is aware of the constitutional limitations on the granting of aid to sectarian schools by section 152 of the North Dakota Constitution. It is also aware that there has been considerable litigation in this field recently, and that the Supreme Court of the United States has just accepted jurisdiction of a case involving the Pennsylvania parochial aid statute, which may shed considerable light on the legal problems in this area. Representatives of the Catholic Conference emphasized that the subject of aid to parochial schools is a highly controversial subject and the committee concurs in this observation. Further, since public response will to a good degree dictate to what extent, if any, parochial school aid might be made available, the committee is of the belief that it would be helpful to the position of the parochial schools to make the public aware of their plight to as great a degree as possible.

### **STUDY OF STATE EDUCATIONAL FINANCE STRUCTURE**

As an adjunct to the survey performed by Dr. Gordon Richardson relating to the problems faced by North Dakota school districts, the committee heard presentations concerning two educational finance models constructed by the State School Finance Study Committee, commissioned for that purpose by the North Dakota Association of School Administrators, the North Dakota School Boards' Association, and the North Dakota Education Association. The second model seemed to have considerable merit, and therefore, received the most attention from the committee.

Model II, as it was termed, embodies the philosophy that the county 21-mill levy should be considered as though it were a state contribution to school district educational costs. In principle, the Model would require that each district would have deducted from the amount payable to it from the county equalization fund, a sum equal to the amount of money that would be raised by a levy of 34 mills if a high school district, or 22 mills if

an elementary district. In effect, each district would then be compelled in accordance with its need for revenue to levy locally either 34 or 22 mills against its taxable valuation in order to replace the amount deducted. The State would continue to set the educational per-pupil cost to be paid to each qualifying school district. The existing structure relating to excess and unlimited levies would be left unaltered, and would operate exactly as it does now. Finally, the Foundation Aid payment would also be paid in the same manner as it presently is, except that the payback to school districts for the loss of tax money because of the personal property tax repeal would be added to the state appropriation for the equalization program, and thus, the per-pupil payment would be increased by that amount.

The effect of the Model would be to equalize the contribution to education made by the taxpayers in each school district as measured by the amount of taxable valuation per pupil in the district. At the present time, approximately 322 of the 435 North Dakota school districts are levying an amount equal to or greater than a general fund mill levy limitation of either 34, 24, 22, 21, or 19 mills, depending on the type of district. The remainder of the districts, comprising about 26 percent of the total, are contributing considerably less to the cost of education than the 74 percent that are levying to the limit. In some instances, no local levy is made, meaning that the contribution in that particular district is made only to the extent of the 21-mill county levy. Under our current Foundation Aid Program structure, these school districts are receiving proportionally the same amount of State Foundation Aid as those districts contributing local funds to the extent of a mill levy limitation or excess levies above the normal maximum.

In consultation with the Department of Public Instruction, the committee has calculated the per-pupil education cost which would be paid under the Foundation Aid Program if Model II were enacted into law. The total state taxable valuation for 1970 is calculated at \$612,214,290, which can be apportioned into a total nonhigh school district valuation of \$63,731,546 and a total high school district valuation of \$548,482,744. In order to determine the total available funds for the Foundation Aid Program for the first year of the 1971-1973 biennium, one need merely multiply the above nonhigh school and high school valuations by 22 and 34 mills, respectively, to determine what the levies will produce on a state basis, and add the amount arising from the 21-mill county levy (20.5 mills in effect) times the total state taxable valuation, one-half the 1969-1971 appropriation

from the general fund (since the computation is on an annual basis), one-half of an estimated general fund appropriation increase for the 1971-1973 biennium, assumed for purposes of computation (since the computation is on an annual basis), and the personal property replacement revenue. The computation is as follows:

\$548,482,744 × 34 mills .....	\$18,648,413
63,731,546 × 22 mills .....	1,402,094
612,214,290 × 20.5 mills .....	12,550,392
One-half of 1969-71 general fund appropriation .....	25,100,000
One-half of increase in appropriation assumed for purposes of computation	2,000,000 (1971-73)
Personal property replacement revenue .....	14,700,000
TOTAL FUNDS .....	<u>\$74,400,899</u>
Less:	
Transportation aid .....	3,450,000
Total amount available per pupil Foundation Aid .....	<u>\$70,950,899</u>

There are currently about 157,000 weighted pupil units on a statewide basis, and in order to determine what the per-pupil payment would be, it is necessary to find a sum in dollars which, when multiplied by the number of weighted pupil units, will approximately equal the amount of available Foundation Aid funds. This amount was found to be about \$450 per weighted pupil, since  $450 \times 157,000 = \$70,650,000$ , which is only \$300,899 less than the total amount available of \$70,950,899. Consequently, it would be possible to establish a per-pupil Foundation Aid payment of approximately \$450 per year for the biennium, adjusted as provided in sections 15-40-14 and 15-40-24.

On the basis of the testimony gathered from representatives of school boards, school administrators, and the State Department of Public Instruction, the committee has prepared and recommends the adoption of a bill which embodies the concept espoused in Model II. As explained above, the bill would require that there be deducted from the amount of the Foundation Aid payable to a district an amount equal to the sum of the district's latest taxable valuation times 34 mills if a high school district, or 22 mills if an elementary district.

The amount of local district mill levy permitted is established by the bill at 34 mills for high school districts and 22 mills for elementary school dis-

tricts, to correspond with the deduction from the Foundation Aid payment. Thus, the distinction between high school districts offering either 4, 3, or 2 years of standard high school work, and elementary districts with more teachers and 1-room rural elementary districts, with their maximum mill levy limitations of 34, 24, 21, 22, and 19 mills, respectively, has been eliminated.

Based on the \$450 figure computed as described above, a per-pupil Foundation Aid payment of \$440 for the first year of the biennium and \$460 for the second year of the biennium is recommended in the bill. Following the philosophy found in the current law, schools which do not meet the minimum curriculum or teacher qualifications by the second year of the biennium would have the per-pupil payment reduced, in this case to \$400. The adjustment now provided in sections 15-40-14 and 15-40-24 by which the per-pupil amounts are weighted according to the type of school the payment is being made for, would be preserved. Thus, as an example, the payment for high school students in average daily membership for the first year of the biennium would be \$580.80, and for elementary students in average daily membership in schools enrolling 100 pupils or more, \$396 would be paid.

Finally, the bill would channel the personal property payback moneys earmarked for school districts through the Foundation Aid Program rather than by means of the formula provided in section 57-58-01 of the North Dakota Century Code as is presently provided. An appropriation provision in the amount of \$29,400,000 for the biennium is included for this purpose.

The committee has also prepared and recommends the adoption of a bill which would permit high school districts to levy an additional five-mill general fund levy by resolution of the school board when conditions are such that when anticipated income is added to current cash balances, the district is unable to meet its current obligations. During the course of the study, the committee became aware that some school districts in the State are facing financial difficulties of crises proportions. It was felt that some action must be taken to alleviate this condition as soon as possible. The bill would apply only to high school districts, as this is the area where the committee found that the greatest problems exist. It is firmly believed by the committee that the additional levy permitted by the bill will be of inestimable value for those districts that need immediate and short-term help in the form of increased financial resources until they are able to vote on increased levies, reduce

their program to meet their income, begin reorganization proceedings, or such other action as might be necessary to put their financial house in order.

In conclusion, the committee wishes to emphasize that it firmly believes a change in the structure of North Dakota's educational finance program as recommended will be of tremendous importance to the school districts in the State. The Foundation Aid Program, originally enacted in 1959, has served well during the period of its operation. However, certain inequities have arisen as a natural result of the program which the committee believes need correction. At the present time, there is no means to equalize taxpayer contribution among districts on the local level. As has been mentioned, some taxable properties within the State contribute to the cost of education within their district only to the extent of the mandatory 21-mill county levy, while other properties in different districts contribute to local levies exceeding as much as 100 mills in addition to the 21-mill county levy. If one considers the educational process a responsibility to be dealt

with on the state level as well as on the local level — and it is difficult to do otherwise — then it is plain that all property within the State, regardless of its location, should be shouldering its reasonable share of this responsibility. Finally, even if it were possible to disregard the logic and persuasion for an equalization of taxpayer contribution, there is a much more compelling reason for adoption of the committee's concept, and that reason is the inequity found in educational opportunity across the State. By not levying any local taxes as some districts are now able to do, the educational programs and facilities offered are in some instances so minimal as to cause educable children to be given clearly a deficient level of instruction. No system that can permit such a result for the sole basis of tax savings of a few dollars per taxpayer should be allowed to continue without correction.

The committee is of the opinion that the time has come to correct some of these evident inequities that have existed over the years, and firmly believes that the recommended bills will be a major step toward this objective.

## ELLENDALE BRANCH-UND

The Special Committee on Ellendale Branch-UND was created by the Chairman of the Legislative Council midway through the 1969-1971 biennium to conduct a review of the current status of the institution. Appointed to the committee were Representatives Oscar Solberg, Chairman, Carl J. Freeman, Donald A. Froelich, S. F. Hoffner, and Robert W. Peterson; and Senators Frank Wenstrom, Ernest G. Pyle, Carrol Torgerson, and Clark Van Horn. A citizens' committee, composed of three residents of the city of Ellendale, and a 10-member consulting committee were also appointed to assist the committee in its deliberations. During the last half of the biennium, the committee had two public hearings, one in Bismarck and one on the Ellendale Branch-UND campus. Additionally, an informal meeting was held on the Ellendale Branch-UND campus with the Chairman and representatives of the United Tribes of North Dakota in attendance.

The report of the committee was presented to the Legislative Council on November 16, 1970, and was adopted in its entirety by the Council.

The higher educational institution known as Ellendale Branch-UND is located on approximately 40 acres of land on the eastern edge of the city of Ellendale in Dickey County. The school is constitutionally established by section 216 of the North Dakota Constitution which provides for "An industrial school and school for manual training or such other educational or charitable institution as the Legislative Assembly may provide at the town of Ellendale . . ." Thus, the authority for the school dates back to 1889. In 1925, the school was permitted to award the bachelor of science degree in industrial arts, and in 1946, permission to grant the bachelor of science degree in education was given. In 1961, the institution's name was changed from the State Normal and Industrial College to Ellendale State Teachers College. The State Board of Higher Education in 1965 changed the institution to a branch of the University of North Dakota and cut the educational program back to a two-year nonbachelor's degree program, thus changing the thrust of the school to that of a transfer-type of institution.

The creation of the committee was brought about by a meeting of the Budget Committee of the Legislative Council and the State Board of Higher Education, which was held following the destruction by fire of the two main instructional and office buildings on the Ellendale Branch-UND

campus on January 9, 1970. Carnegie Hall, containing 27,392 gross square feet, housed the biology, chemistry, and physics laboratories, music practice areas, 5 general classrooms, a 283-seat auditorium, 5 administrative offices, 10 faculty offices, and the bookstore. The Home Economics Building contained 10,800 gross square feet. A snack bar, 5 administrative offices, 2 faculty offices, a conference room, and 5 general classrooms were housed in this building.

The main instructional facilities remaining on the campus are the two Industrial Arts Buildings and the Fieldhouse. The old Industrial Arts Building constructed in 1910, provides space for 3 business education laboratories, 1 art laboratory, 1 industrial arts laboratory, 1 general classroom, 4 faculty offices, and maintenance shops. The building contains 20,400 gross square feet. The newer industrial arts facility constructed in 1961, contains 9,900 gross square feet and houses 3 industrial arts laboratories and 4 faculty offices. The Fieldhouse, built in 1958, has one general classroom and three faculty offices, besides the physical education areas. A listing of the buildings remaining after the fire, their square footages, and other information is shown in Table I.

The loss by fire of what amounted to approximately 80 percent of the available classroom space at Ellendale Branch-UND caused the Board of Higher Education, after a review of factors affecting the institution and the general trends apparent in postsecondary education in North Dakota, to seriously consider whether a long-range financial commitment such as would be incurred in constructing new buildings at the institution would be in the best interests of the State. It is this concern which caused the Board of Higher Education to appear before the Budget Committee of the Legislative Council to ask for advice and recommendations, ultimately resulting in the creation of the Special Committee on Ellendale Branch-UND. This motion, passed by the Budget Committee on February 18, 1970, was to the effect that no insurance funds be expended by the Board of Higher Education for the construction of new facilities at Ellendale Branch-UND, and that no funds be requested from the legislature for the construction of a new facility or facilities at Ellendale, but instead, that a study be made by the Board of Higher Education and/or the Legislative Council prior to the convening of the Forty-second Legislative Assembly to determine if another type of educational or charitable institution or program

**Table I**  
**SUMMARY OF BUILDING CHARACTERISTICS AT ELLENDALE BRANCH — UND**

Building Name	Gross Sq. Ft.	Assign. Sq. Ft.	Date Constr.	Condi- tion	Total Invest.	Replace- ment Cost	Building Use Prior to Jan. 9, 1970
Armory .....	6,934	5,931	1905	Replace	\$ 37,500	\$109,014	Physical Education, Recreation
Fieldhouse .....	23,630	22,140	1958	Good	262,000	429,877	Physical Education, Recreation
Industrial Arts .....	20,400	15,587	1910	Fair	<sup>1</sup>	295,826	Bus. Ed. Labs, Art, Classrooms
Flemington .....	9,900	9,169	1961	Good	277,950	205,222	Industrial Art Labs.
Crabtree .....	6,071	5,415	1956	Excellent	33,350	64,980	Men's Dormitory
Hicks .....	6,071	5,427	1955	Excellent	35,500	64,980	Men's Dormitory
Cafeteria .....	3,240	2,975	1966	Excellent	76,250	73,411	Cafeteria
Dakota .....	18,441	16,228	1907	Fair	149,500	374,859	Girls' Dormitory
Student Union .....	2,640	2,033	1917	Good	14,660	35,321	Student Union
Library (Graham) .....	8,260	6,093	1930	Good	85,450	158,820	Library, Study
Faculty Residence .....	1,300	1,209	1951	Good	11,130	14,567	Faculty Residence
Heating Plant .....	3,242	2,974	1962	Excellent	120,000	193,919	Heating Plant
Dean's Residence .....	4,887	3,446	1925	Good	27,180	51,158	Residence
Men's Honor House .....	1,956	1,463	1930	Fair	26,130	47,721	Faculty Residence
Duplex Housing .....	12,180	10,718	1945	Poor	27,500	134,107	Married Student Housing
Maintenance Shop .....	1,051	952	1930	Fair	1,375	8,753	Maintenance Shop
Garage .....	1,170	1,102	1956	Good	525	.....	Garage
New Men's Dorm .....	20,894	18,387	1969	Excellent	.....	322,549	Men's Dormitory
Trailers .....	.....	.....	.....	.....	24,500	.....	.....
Grandstand, Press Box ..	.....	.....	.....	.....	7,125	4,000	.....

<sup>1</sup>Included in Flemington

could be instituted at Ellendale to meet the requirements of section 216 of the North Dakota Constitution. A subsequent motion recommended that the Chairman of the Legislative Council appoint a special committee to perform the study. In response to the motions, the Board of Higher Education placed the proceeds from the fire insurance moneys on deposit, awaiting the outcome of the study and direction from the Forty-second Legislative Assembly. The board reported the amount and disposition of funds as of September 30, 1970, as follows:

**Table II**  
**Disposition of Insurance Funds**

Amount available from insurance for replacement:		
Home Economics		
Building .....	\$ 75,297.00	
Carnegie Hall .....	195,922.00	
		\$271,219.00
Amount available from insurance for equipment and furnishings:		
Insurance Collections..	\$193,795.81	
Expended for Replacement .....	50,404.46	
		\$143,391.35
Amount available from repair to remaining facilities:		
Insurance Collections..	\$ 5,451.09	
Expended for Repair ..	4,528.99	
		\$ 922.10
Balance available for replacement of facilities, contents and repair of remaining facilities: .....		<u>\$415,532.45</u>
Currently, \$400,000 has been invested by the Bank of North Dakota:		
Interest Received to		
September 30, 1970	\$ 12,000.00	
Investment Costs .....	4,834.17	
Net Return from Investment .....		<u>\$ 7,165.83</u>

During the course of the study, the committee toured the Ellendale Branch-UND premises, and viewed the physical facilities firsthand. Additionally, considerable testimony was collected by the committee in a number of subject areas affecting the institution, and information was compiled by the Board of Higher Education and submitted to the committee in order to assist it in its deliberations.

One survey performed by the Board of Higher Education which was of considerable interest to the committee was of trends for the future in regard to birth rates, elementary and high school

enrollments, and enrollment at Ellendale Branch-UND. The survey indicated that in the six-county area, composed of Dickey, Emmons, LaMoure, Logan, McIntosh, and Sargent Counties, birth rates have fallen from a high of 1,399 resident births per year in 1949 to 551 resident births per year in 1968. As could be expected from this pattern, public school first-grade enrollments for the six-county area also have fallen. From a high of 1,232 pupils annually in 1955, the enrollment figure has declined to 848 pupils for the year 1969. Estimates indicate that this level will fall even further, to approximately 550 first-grade pupils per year by 1974. The number of high school graduates within this six-county area is also expected to decrease for the future, although the rate of change is not projected to be as dramatic. The results of the survey indicated that high school enrollments will peak in 1971 at the figure of approximately 900 pupils yearly. A gradual decline is expected thereafter, with the number of graduates dropping to approximately 500 per year by 1986.

Against this background of declining birth rates and diminished public school enrollments, it is logical that an examination of Ellendale Branch-UND enrollments would also show a declining trend. Actual enrollments reported by the Board of Higher Education for the academic years 1960 through 1970 are as follows:

**Table III**  
**Ellendale Branch-UND Enrollments**

1960-61 .....	173
1961-62 .....	182
1962-63 .....	195
1963-64 .....	196
1964-65 .....	250
1965-66 .....	311
1966-67 .....	438
1967-68 .....	494
1968-69 .....	482
1969-70 .....	217
1970-71 .....	159

Some of the enrollment decrease since 1968-69, the committee was informed, is due to the reduction in the school's program from a four-year degree granting institution to a two-year transfer type of school. This change was begun in 1965, and whatever the reason, the downward trend shown in Table III is expected to continue, as it is predicted that the student population will fall to approximately 65 students by 1984 unless changes in the area or program occur.

In addition to reviewing current and past studies performed by the Board of Higher Educa-

tion relating to Ellendale Branch-UND, the committee gathered testimony from the 10-member consulting committee to try to determine whether there are any alternative uses to which the facilities of the institution could be diverted within the constitutional limitations posed by section 216. Most of the investigation in this area met with negative results. For instance, testimony received from the Director of Institutions indicated that the Ellendale Branch-UND physical plant would be unusable by that department since it is now unable to meet present institutional needs because of a shortage of staff. Also, there is some doubt whether the extensive renovation which would be necessary would make the project economically feasible. The same general reaction was received in response to committee exploration of the feasibility of utilizing the campus facilities for a mental illness treatment center, a halfway house for alcoholics, or for mental retardation services. In the area of industrial utilization, it was reported by the Business and Industrial Development Department that no use could be foreseen for the physical structures unless they were renovated at great cost, and even then only about 20 percent of the total building space would be suitable for industrial purposes. The possibility of utilizing the Ellendale facilities for a four-State penal or charitable institution was also examined. Since the Committee on Model Laws — Intergovernmental Cooperation of the Legislative Council is conducting a study to determine whether cooperation in this area between the four States of South Dakota, Montana, Wyoming, and North Dakota would be feasible, it was decided to await the results of that study to see whether a need for penal or charitable facilities would materialize.

Another area of alternative use for the Ellendale Branch-UND physical plant that was investigated had to do with the possibility of utilization for a purpose which would benefit the Indian community in North Dakota. An exploratory meeting for this purpose was held between Indian representatives and the committee consultants on the Ellendale campus. Generally speaking, the Indian representatives were quite interested in the development of a type of program which would be similar to that offered by the United Tribes Development Corporation in Bismarck. A recent communication from the United Tribes of North Dakota indicates that more time is needed to explore other possible program offerings designed to provide junior college work for Indian students. Additionally, the United Tribes have advised they are most interested in the establishment of programs for the training of community health representatives at Ellendale Branch-UND, since the campus is relatively close to the Indian Public Health Service area office at Aberdeen, South Da-

kota. In brief, the Indian community has expressed an interest in providing educational programs at the institution in areas relative to its needs; however, more time is needed to allow Indian representatives to investigate the possibility of federal funding and to survey program needs and desires. Accordingly, it was the desire of these Indian authorities that the committee proceed to study other possible alternative uses for the campus facilities.

### Recommendations

During the course of the study, the committee was greatly impressed by the tremendous enthusiasm and zeal shown by the Ellendale community for the continuance of Ellendale Branch-UND as an educational institution. From the year 1893, when Ellendale citizens donated 40 acres of land to be used as a site for the campus, through years of contributions by the Ellendale Foundation for various building and grant programs totaling \$116,000, to the present day when moneys have been pledged in the amount of \$130,000 for a Student Center, the support of the community for the institution has been unequivocal and substantial.

Because of this support and because the committee was unable to find any alternative use for the facilities which would be beneficial to state interests, the committee has made no recommendation for an alternative use of the physical plant, the belief being that Ellendale Branch-UND should continue as an educational institution for the immediate future. The committee is of the opinion that the present physical structures, valued at an amount in excess of \$3,000,000 are adequate for the present level of enrollment and will provide for some future growth. Consequently, the committee recommends that the State Board of Higher Education place the Ellendale Branch-UND fire insurance moneys and interest in a special fund, such moneys to be accumulated and applied toward the construction of classroom facilities at Ellendale Branch-UND when and if student enrollment at the institution requires such additional facilities.

The committee also recommends that Ellendale Branch-UND remain a branch of the University of North Dakota, offering a two-year transfer type of program. The committee is convinced that future development of the institution depends upon continued administrative and managerial assistance from its parent institution. The committee further recommends that the State Board of Higher Education and the State Board of Voca-

tional Education jointly explore and implement as soon as possible vocational and technical training courses at the institution which are feasible from the standpoint of student interest, program costs, and program availability at other North Dakota institutions of higher education. Finally, the committee recommends that the Board of Higher Education provide a substantial tuition differential

whereby the student tuition fee at the institution will be less than that charged at the state colleges.

The recommendations made by the committee have been placed in the form of a resolution directed to the Board of Higher Education. The committee urges the adoption of this resolution, believing it to be in the best interests of the State of North Dakota.

# FINANCE AND TAXATION

The Committee on Finance and Taxation was assigned three study resolutions. House Concurrent Resolution No. 30 directed the Legislative Council, with the aid and cooperation of the State Tax Department, to make a comprehensive study of the North Dakota tax structure, and particularly, personal and corporate income tax rates, including in lieu taxes, and to make a complete review and study of the property tax assessment procedure used in North Dakota. House Concurrent Resolution No. 34 directed the Legislative Council to study the exemptions from taxation provided by the laws of this State. Senate Concurrent Resolution No. 61 directed the Legislative Council to conduct a comprehensive study of the North Dakota tax system, with emphasis upon the impact of the present tax structure on various classes and segments of the North Dakota population.

Members of the Committee on Finance and Taxation are Representatives Richard J. Backes, Chairman, Eugene R. Dahl, E. N. Dornacker, William Gackle, LeRoy M. Larson, and Francis E. Weber; and Senators Edwin C. Becker, Francis J. Butler, J. Garvin Jacobson, A. W. Luick, George Rait, Carrol Torgerson, Grant Trenbeath, and I. J. Wilhite.

The report of the Committee on Finance and Taxation was submitted to the full Legislative Council at the biennial meeting of the Council at Camp Grafton. The report and recommended legislation of the committee were adopted for submission to the Forty-second Legislative Assembly by the Council on November 17, 1970.

## STUDY OF THE NORTH DAKOTA TAX STRUCTURE

### Classification of Property

Prior to the repeal of personal property taxes, the distinction between real and personal property was not of particular importance because under either classification the property was subject to assessment and taxation. Experience has now indicated that there are numerous inequities and an absence of uniformity in the assessment of certain classes of property, particularly certain fixtures and industrial equipment. Testimony received by the committee indicated that some items of property, such as bowling alleys, are assessed in some cases as real property and in other cases as personal property.

For the purposes of taxation, present statutes define "real property" to include, basically, land, buildings, structures, and improvements. Personal property is defined to include, among other things, all "goods, chattels, moneys, credits, and effects". The personal property tax repeal measure specifically provided that the repeal did not exempt from assessment and taxation fixtures, buildings, and improvements upon land which are now assessed as real estate. The legislative intent as indicated by that statement and as interpreted by an Attorney General's opinion appears to support the view that the property which was assessed and taxed as real property in 1968 shall remain on the tax rolls as real property. The unfortunate fact is that in 1968 many similar items of property were assessed differently in the various taxing districts of this State.

Section 176 of the Constitution of North Dakota requires that taxes shall be uniform upon the same class of property. In order to effectuate that principle, the committee reviewed the statutes of other States for the purpose of finding an equitable manner in which to classify property for purposes of taxation.

New Jersey follows a "material injury" theory in differentiating real from personal property. Basically, this rule provides that personal property shall not include goods and chattels so affixed to real property as to become a part of the real property and not to be severable or removable without material injury thereto.

Similar to the "material injury" theory is the "movability" test. This was the rule followed in North Dakota in assessing appliances in farmhouses prior to the repeal of the personal property tax. If such appliances were built-in and their removal would cause material injury to the farmhouse, they were assessed as part of the farmhouse and exempt from taxation under the "farm structure" exemption. If, however, the appliances were movable without material injury to the premises, they were considered personal property and subject to taxation.

The State of Pennsylvania follows a rule in assessing industrial equipment which distinguishes between real and personal property on the basis of whether or not the property in question pertains to the manufacturing process or to the building in which it is located.

Following extensive review and discussion of classification problems, the committee recommends a bill which would redefine real property to include, basically, only the land itself and buildings. Included with the assessment of the land would be improvements to the land, such as ditching, surfacing, and leveling. The definition of buildings would include systems for the heating, air conditioning, ventilating, sanitation, lighting, and plumbing of such buildings, but would not include items which pertain to the use of such buildings, such as machinery or equipment used for trade or manufacture, which are not constructed as an integral part of and are not essential for the support of the buildings, and which are removable without materially limiting or restricting the use of such buildings.

The committee recognizes that the bill which it recommends would remove most items of property from the tax rolls which fall into that questionable area between real and personal property, such as industrial machinery and equipment. However, the view was expressed that this had been the intention of the last legislature in repealing personal property taxes, and that anything short of removing all items of property which come under the two clear classifications would result in continuing inequities in taxation. The committee is also aware that some political subdivisions rely heavily upon certain large industries the machinery and equipment of which supply a large portion of the tax base. The solution to these problems, it was concluded, lies in alternative methods of taxing certain industries, such as sugar beet plants and oil refineries, rather than continuing to assess such property as real estate.

### **One Hundred Percent Assessment of Property**

North Dakota law requires that all property be assessed at its true and full value. As a practical matter, property is assessed at a much lower figure, and the average in North Dakota is something less than 25 percent of market value.

The repeal of the personal property tax has reduced the assessed valuations of the political subdivisions by an average of approximately 20 percent. As the bonding limitations of the political subdivisions are based upon assessed valuations, the repeal of the personal property tax has had the effect of also reducing the amounts which the political subdivisions can borrow. This has created a critical situation for some cities and school districts. Although the ceilings on indebtedness are established in the State Constitution,

such limits are based upon assessed valuations, which are determined by statute. Testimony before the committee indicated that the Constitutional Convention may consider revising the provisions related to indebtedness of the political subdivisions, but this change could not go into effect for at least two years.

In addition to the arguments which were expressed that to assess property at market value would increase the debt limitations of the political subdivisions, it was also pointed out that such a system would make it easier for taxpayers to understand their taxes. Also, assessing property at 100 percent of value would expose many inequities in present taxation in that the assessed valuations would be approximately four times their present amounts.

The committee recommends a bill to require the assessment of property at market value. In addition, the bill provides for the reduction of all statutory mill levies to one-fourth their former amounts. The committee is aware of the fact that to simply reduce the ceilings on bonded indebtedness to one-fourth of the former amounts would not solve the problem of the loss in assessed valuation caused by the repeal of the personal property tax. Therefore, the committee recommends that the statutes which provide limitations on bonded indebtedness be amended to approximately one-third of the former statutory limitations. Thus, those limitations which were formerly five percent of assessed valuation have been reduced to two percent, and those limitations which were formerly three percent have been reduced to one percent.

### **Marginal Oil Wells**

Since oil was first discovered in North Dakota in 1951, the level of production in the State continually increased until the year 1966, after which production has declined. The decline is explained partly by the greater difficulty in finding new fields and partly by the decline of many producing wells. As reserves decline, it is inherent that many wells which were formerly highly productive will be reduced to a marginal state. In North Dakota, many of the wells that were initially producing in the 1950's and early 1960's have reached or are approaching the marginal stage. The shutting down of a well represents an economic loss, in terms of revenue, not only to the State in reduced taxes but also to the economy as a whole, as each dollar generated by the oil industry represents "new wealth" to the State. Further, any recoverable oil that is left in the

ground results in the complete waste of a natural resource.

The oil and gas gross production tax was first enacted in North Dakota in 1953. The tax is five percent of the gross value at the well, including the royalty interest.

In order to determine the economic impact to the State of stripper or marginal oil wells, the committee contracted with Mr. Robert Wales, Research Associate, Bureau of Business and Economic Research at the University of North Dakota, for a study of the matter. In determining whether an oil well is a marginal well, Mr. Wales reviewed costs of maintaining the well and the price received for the crude oil. When the cost of maintaining a well equals or exceeds the revenue produced from that well, the well is classified a stripper or marginal oil well. Because of the cost variables between wells, Mr. Wales finally classified all wells which produce an average of less than 10 barrels of oil per day as marginal, and all wells which produce an average of 10 or more barrels but less than 20 barrels per day as near marginal wells.

Of the 1,743 producing wells in North Dakota in the last half of 1968, 826 were pumping less than 20 barrels of oil per day, and thus, were in the marginal or near marginal class. Such wells produced 11.9 percent of the oil produced in North Dakota. Therefore, 47.3 percent of the producing oil wells in this State are producing less than 12 percent of total production. Approximately 59 percent of the oil wells in Burke and Bottineau Counties are in this range.

In the State as a whole, the estimated value of marginal oil wells is \$900,000, and the estimated value of near marginal wells is \$2.9 million for the last half of 1968. The low production wells are the most affected by changes in price and taxes, as well as the other costs of production. In terms of the gross production tax, some 3.3 percent of the total is derived from marginal oil wells, and 10.8 percent is derived from near marginal wells.

A large share of North Dakota's production is from pools or fields that are operated as units. A unitized pool is one in which the operations of separate producers are combined into a cooperative effort, and the field is managed on behalf of the combined interests. Unitization permits greater flexibility in the location of producing wells and can make more efficient use of reservoir energy. Unitization has special implications for marginal wells. If a marginal well producing in a unit is shut down, the reserves of the pool are still technically recoverable by other wells oper-

ating in that unit. Thus, the closing of a marginal well in a unit would not necessarily mean the loss of remaining reserves, as would be the case with a well not operated as part of a unit. The majority of marginal oil wells in North Dakota are operated in unitized fields. Some 58 percent of all production from marginal wells is from wells in unitized fields, and 55 percent of the production from near marginal wells is from such wells in unitized fields.

The committee recommends a bill which would exempt from the gross production tax the oil which is produced by marginal and near marginal oil wells, unless such wells are located in a unitized pool. The gross production tax is apportioned between the State and the counties according to the following formula:

1. One percent of the gross value at the well is credited to the state general fund.
2. The first \$200,000 of annual revenue after the deduction of 1 percent shall be allocated 75 percent to the county and 25 percent to the State; the second \$200,000 shall be allocated 50 percent to the county and 50 percent to the State; all other revenue above that amount is to be allocated 25 percent to the county and 75 percent to the State.

The fiscal note which was prepared to accompany this bill indicates that the loss in revenue would be \$50,802.79 to the counties and \$72,190.17 to the State.

### **State Income Tax**

Included within the directives of House Concurrent Resolution No. 30, which called for a comprehensive study of the entire tax structure, was the charge that the Committee on Finance and Taxation study the income taxes of this State. Senate Concurrent Resolution No. 61 also called for a comprehensive study of the entire tax system, and the committee contracted with the Bureau of Business and Economic Research at the University of North Dakota to conduct the major portion of that study, which is reviewed in another portion of this report. Because the committee believes that it would be premature to review the income tax until the results of the tax impact study were available, this portion of the study was not covered in depth. However, some items related to the income tax were acted upon.

Before North Dakota had income tax withholding for any taxpayers, income tax refunds were an insignificant item. However, since non-resident withholding became mandatory, and resi-

dent withholding became optional, income tax refunds have become a major factor. In 1970, some \$923,000 was refunded. Because there is no provision in the statutes for an income tax refund reserve, all amounts received are deposited in the general fund and credited as income tax receipts. This results in a distorted picture of actual receipts. The committee recommends a bill to create an income tax refund reserve as a special fund in the State Treasury. The State Tax Commissioner would have the authority to deposit in the fund such amounts from income tax collections as he believes are necessary to pay refunds to persons who are entitled to them.

The committee also recommends a bill to create a special income tax study commission which would be separate and apart from any standing legislative tax study committee, for the purpose of making a comprehensive study of the income tax laws and to present to the 1973 Legislative Assembly recommendations for the improvement of such laws. The committee determined that a complete review of the state income tax is needed, particularly in view of the changes made by the Federal Government in the federal income tax through the Tax Reform Act of 1969. The bill draft creating an independent commission calls for the exploration of alternative methods of computing income tax liability, including methods of taking a certain percentage of federal income tax liability as the starting point for the computation of state income tax liability. The view was expressed by Representative Dornacker that such a commission is needed in order to secure citizen participation and support for necessary changes in the state income tax laws. The bill draft calls for an appropriation of \$50,000 to fund the special study commission.

### **Agricultural Statistics**

The Commissioner of Agriculture of North Dakota has been the State Statistician for the purpose of tabulating certain agricultural statistics since before the turn of the century. The statistics were gathered by local assessors at the time they assessed personal property. The assessors would return the statistics to the county auditors, who in turn would furnish them to the Commissioner of Agriculture. Testimony indicated that the cost of the present program to the State was approximately \$5,500 for preparing the forms and collecting the statistics, and \$3,300 to print the final tabulation in book form. The cost to the counties and townships for the time of the auditors and assessors is not, of course, included in these figures.

The repeal of the personal property tax has eliminated the need for annual visits by assessors.

A proposal was presented to the committee to have the agricultural statistics which were formerly gathered by assessors collected by the Commissioner of Agriculture by direct mail. The Federal Crop and Livestock Reporting Service indicated that office would cooperate with the Commissioner of Agriculture and would assist his office in the gathering of these statistics. Among the arguments in favor of this proposal was the point that there would be a substantial savings to the local units of government, and that the statistics which would be gathered should be more accurate than before in that the collection of such statistics would no longer be connected with the collection of taxes. Other testimony indicated that very little use was made of the statistics once they were collected. It was also argued that the response to a survey conducted by mail would be small.

The committee recommends a bill draft which would repeal those sections of the North Dakota Century Code related to the gathering of agricultural statistics. The committee determined that the use made of these statistics did not justify the appropriation which would be necessary. The cost estimate of the direct mail proposal is \$26,000 per year. As the appropriation which would be necessary with the passage of the proposal would cover three years, to include statistics for 1970, 1971, and 1972, the initial appropriation would be \$78,000. In order to ensure that the counties and townships are not required to hire assessors just to gather these statistics early in 1971, the bill draft includes an emergency clause.

## **TAX EXEMPTION STUDY**

### **Introduction**

House Concurrent Resolution No. 34 directed the Committee on Finance and Taxation to study the exemptions from taxation provided by the laws of this State and to determine whether, because of the change of circumstances through the passage of time, or because of the need for increased revenue for State and local Governments, such exemptions should be discontinued. The committee reviewed some 37 sales and use tax exemptions and some 31 property tax exemptions. Any review of property tax exemptions is limited in scope by section 176 of the Constitution of North Dakota, which provides self-executing exemptions for property of the United States and of the State, counties, and municipal corporations, and property used exclusively for schools, religious, cemetery, charitable, or other public purposes. In addition to the statutory tax exemptions, the committee was requested by the State Board of Equalization

to review certain provisions of the Municipal Industrial Development Act of 1955 and the statutes related to tax exemptions for new industries.

### **Sales Tax Exemptions**

The committee recommends a bill to repeal subsection 3 of section 57-39.2-04 of the North Dakota Century Code which provides a sales tax exemption on sales of agricultural products when sold in exchange for similar agricultural products produced by the purchaser and which are for the purchaser and his family. Testimony indicated that this exemption is now obsolete, and has not been used for many years. The fiscal impact of this provision is nil. However, the committee is of the view that it would be preferable to remove this outdated exemption.

The committee also recommends a bill to remove the exemption on the sales of newspapers. It was noted that magazines are now subject to the sales tax, and it is believed that the same policy issues are involved and that magazines and newspapers should be treated uniformly. In order to prevent newspaper delivery boys from having to obtain sales and use tax permits, the recommended bill includes a provision that if the newspapers are sold for distribution to a paperboy for resale, the basis for the tax shall be the selling price to the paperboy or other person, and the tax in such cases shall be collected by the supplier of the newspapers. The fiscal note on this bill indicates that the removal of the exemption would result in an increase in revenue of \$222,134 per year.

A third recommendation related to the sales tax would remove the exemption on food purchased from college and university cafeterias and dining rooms, including fraternity and sorority houses. The fiscal note on this proposal indicates that the removal of the exemption would result in a maximum of \$170,000 per year in additional revenue. The Tax Department advises that this is the outside figure, as some colleges and universities are now paying the sales tax on sales in cafeterias which are open to the general public. The principle behind the removal of this exemption is to provide uniform treatment between those students who eat in cafeterias and dining rooms and those students who eat off campus.

The committee also recommends a bill to remove the exemption from sales and use taxes for banks, trust companies, and building and loan associations. Until 1969, federal law required that national banks could be taxed only as specifically permitted by Congress. North Dakota adopted an

option based on the net income of banks. In order to treat all banks uniformly, state-chartered banks were also subjected only to the net income taxes, and, in order to treat other financial institutions equally, building and loan associations were granted similar treatment. In 1969, Congress eased the restrictions on the States insofar as the taxation of financial institutions was concerned. The committee considered repealing all of the special tax laws relating to financial institutions and subjecting them to the same tax laws as other corporations. However, the loss in revenue would be substantial, primarily because under present law the net income for tax purposes of these institutions includes income from tax exempt securities. Therefore, the committee determined that the removal of the exemption from sales and use taxes was the preferred course of action. The fiscal note on this proposal indicates that additional revenue to the State would be realized in the amount of \$164,000 from banks and \$44,600 from building and loan associations if the exemption were removed.

### **Property Tax Exemptions**

The committee recommends a bill to amend subsection 16 of section 57-02-08 of the North Dakota Century Code, to provide that property owned by nonprofit corporations organized to promote athletic and educational needs and uses at any state educational institution shall be exempt from taxation only if used for athletic or educational purposes. Unlike the exemptions on property owned by religious and charitable organizations which must use their property for religious or charitable purposes, this exemption has permitted these promotional organizations to hold tax exempt real estate even though not used for athletic or educational purposes. The examples were given of such organizations owning apartment buildings which are in competition with taxable property. In order to grant equality of treatment, the committee recommends a change in this exemption to provide that such property must be used for athletic or educational purposes so as to qualify for the exemption.

Another recommendation is that section 15-11-26 of the North Dakota Century Code be amended to remove the exemption from real property taxes on the Alumni Building at the University of North Dakota.

A third recommendation is that section 26-27-13 of the North Dakota Century Code be amended to remove the exemption on property owned by nonprofit medical service corporations. Testimony

indicated that there is only one building in North Dakota which qualifies under this exemption, and that, although the amount of revenue from the removal of the exemption would not be substantial there were no sufficient reasons of public policy to justify continuing the exemption.

The committee also recommends an amendment to subsection 10 of section 57-02-01 of the North Dakota Century Code regarding the definition of a farm for tax exemption purposes. Testimony indicated that there is a problem in some areas when persons who are not farmers build houses out of the city limits and claim the property is not taxable under the farm structure exemption. The bill would increase the statutory presumption of the size of a farm from 5 to 10 acres, and would require that not less than 50 percent of the total gross annual income from all sources of the owner, lessee, or occupant and the total gross annual income from all sources of the spouse of such person and any other dependent living with him must be derived from the farmland.

### **Industrial Development Exemptions**

The 1969 Legislative Assembly enacted a five-year property tax and income tax exemption law for new industries. This law is administered by the State Board of Equalization. The board reported to the committee that several problems had been experienced in the first year of administering the tax exemptions. One problem related to the negotiations for ad valorem exemption between a project operator and the municipality. The present statute contains no requirement that known competitors be notified of the application at the time the application is before the local governmental body. The board's experience, upon investigating the applications, has been that local competitors have not been notified of the pending negotiations for exemption and have not had the opportunity to voice their approval or disapproval. The committee recommends a bill which would require applicants for tax exemptions for new industries to publish two notices of such application in the official newspaper of the municipality prior to the time the governing body of the municipality is to consider the application.

Two other problems related by the State Board of Equalization deal with changes in circumstances after the board has approved a tax exemption. One problem is whether the increased valuation of property should be subject to taxation if the board has approved an exemption for a specified valuation. The other problem relates to whether an income tax exemption should continue if the project operator moves the business to a

new location. The committee recommends a bill which provides that if the value of exempted property exceeds the original valuation by more than 10 percent, the project operator must reapply in order to receive an exemption on the added value of such property. If he does not reapply, or if his reapplication is disapproved, the increased valuation will be subject to ad valorem taxation. In addition, the bill provides that if a project operator moves the business to a new location within the State, he must reapply to retain the property tax exemption or he may elect to make application as a new business. However, such a move would have no effect on the income tax exemption if it is shown by the project operator to the satisfaction of the State Board of Equalization that the nature of the business has not been changed by the move and that the effect of the business upon competitors has not been changed by such move.

Another question raised by the State Board of Equalization was whether the board had the authority to reconsider an application upon the presentation of additional facts and circumstances not presented when the board took its initial action. The present statutes say nothing about such reapplications, and testimony revealed that some competitors of applicants have had to make several trips to Bismarck to testify on some prospective new industries. The committee recommends a bill which would give the State Board of Equalization discretion to accept reapplications upon the presentation of additional facts if the project operators first negotiate with the municipality and publish notice of such application.

The Municipal Industrial Development Act of 1955 provides that the leasehold granted by a municipality is classified as personal property and is exempted from the personal property tax for a period of five years. Because the personal property tax has now been repealed, such leaseholds would continue to be exempt from taxation beyond the five-year period. Therefore, the committee recommends a bill which provides that the leasehold would be classified as personal property for a period of five years. After the five-year period has expired, the property would be classified as real property and would then be subject to taxation.

The five-year property tax and income tax exemptions provided by the 1969 statute have been interpreted to apply to new industries only, to the exclusion of existing industries which enter into expansion programs. The committee is of the opinion that existing industries should receive the same tax benefits as new industries when the existing industries expand their operations. There-

fore, the committee recommends a bill which would include expansions of existing industries within the provisions of the tax exemption statutes. The bill defines expansions to mean the enlargement of a physical facility or the acquisition or construction of real property not previously used by the operator for the purpose of increasing the volume of business or for the purpose of producing new products or services.

### **STUDY OF THE NORTH DAKOTA TAX SYSTEM**

Senate Concurrent Resolution No. 61 directed the Committee on Finance and Taxation to conduct a comprehensive study of the North Dakota tax system, with emphasis upon the impact of the present tax structure on various classes and segments of the North Dakota population. Because of the complexity of the assignment, and because of the statistical expertise which would be required, the committee contracted with Dr. Charles J. Libera, Director of the Bureau of Business and Economic Research at the University of North Dakota, to conduct the study.

At the outset, the committee intended to include three major objectives in this study:

1. The development of a model to study the impact on state revenue of changes in the tax structure.
2. An analysis of the impact on various classes of taxpayers of the different kinds of taxes.
3. A review of the means of predicting tax revenue.

The Bureau of Business and Economic Research at the University of North Dakota reviewed the formula which has been used in past bienniums which had been developed by the Department of Agricultural Economics at North Dakota State University and concluded that the formula could not be substantially improved. Based upon this recommendation, the committee discontinued the revenue forecasting portion of the study and concentrated on the tax impact portions of the study.

The study concentrated on the three major taxes in this State: the income tax, the general sales tax, and the property tax. An extensive random sample of some 3,200 residents representing every major income and occupation group in the State was taken. Most of the data used in the study was derived from the state and federal income tax returns.

The principal value of the statistical data which resulted from this study will be realized as answers to particular questions are sought. Thus, if a proposal is made to change certain aspects of the state income tax, such as the adjustments to income provided by state law, the effect upon state income tax revenue can be determined. As an example, if the legislature should be interested in removing the adjustment for domestic dividends, the data indicates that \$216,000 in additional revenue would be realized from the state income tax. In addition, the impact of such a change on a particular occupational class can be determined. Again, using the example of the removal of the domestic dividend adjustment, it can be determined that farmers would pay an additional \$17,000 in state income taxes.

Upon the completion of the study, the Bureau of Business and Economic Research will furnish a computerized model to the State Tax Department. This computer model will be available for use in measuring the tax impact of proposed changes in the tax structure on the various income and occupational classifications of taxpayers in this State. The model will be of particular value in analyzing changes in the State's income tax and, to a lesser extent, changes in the sales and property taxes.

Since 1967, the State of North Dakota has used the federal definition of taxable income as the starting point for the computation of the state income tax for individuals. The effect of this procedure has been that the State has accepted changes in federal law which have had an impact upon state income tax revenue. The 1969 Legislative Assembly "federalized" the state income tax law up to December 31, 1968. The Federal Tax Reform Act of 1969 contains provisions which change relevant tax laws from 1970 through 1973 which have important ramifications on the state income tax base and the revenue yields which would be realized if the state law were to be amended to include these changes.

There are essentially four provisions of the new Federal Act which would have an important impact upon State income tax revenue. These changes are:

1. Personal exemptions have been increased from \$600 to \$750 over the 1970-1973 period.
2. The percentage standard deduction has been increased from 10 percent to 15 percent.
3. The minimum standard deduction has been changed from \$200 for each tax filer, plus \$100 for each dependent, to a new low in-

come allowance of \$1,000, the purpose of which is to remove poverty-level taxpayers from the taxpaying category.

4. New rate schedules have been introduced for single taxpayers.

The report prepared by Dr. Libera points out the fact that if the North Dakota state income tax base were federalized to incorporate all of the provisions of the Tax Reform Act of 1969, by 1973, North Dakota state income tax revenue would amount to only 81.3 percent of the revenue raised by the same tax in 1968.

The committee was advised that the state income tax forms for 1970 are very complex in that

the federal income tax returns for that year will reflect the changes brought by the Tax Reform Act of 1969, while the state income tax returns have been adjusted to incorporate only those provisions in the federal law up to December 31, 1968.

The potential loss of revenue to the State if the state income tax law were to be amended to incorporate the changes made by the 1969 Tax Reform Act raises grave doubts about the advisability of continuing to follow the "federalized" income tax base. The statistical information was brought to the attention of the committee too late in the interim for an extensive review of alternative methods of computing state income tax, and therefore, the committee was unable to make any recommendations in this regard.

# GOVERNMENT ADMINISTRATION

Senate Bill No. 97 of the Forty-first Legislative Assembly directed the Legislative Council to conduct an administrative and management study of departments involved with public welfare in North Dakota and such other departments, institutions, or agencies as may be selected for study by the Legislative Council. In addition, the Council was directed to review the programs within the departments selected for study to determine whether such programs are necessary and also report on programs which should be improved or consolidated to eliminate unnecessary duplication or provide more efficient governmental services. An amount of \$85,000 was appropriated from the state general fund to the Legislative Council to conduct the study.

In addition to the study called for by Senate Bill No. 97, the committee was assigned the study called for by House Concurrent Resolution No. 4, directing the Legislative Council to determine the desirability and feasibility of consolidating the State Department of Health, the Public Welfare Board, and other functionally related agencies. House Concurrent Resolution No. 47, which directed the Legislative Council to study the various activities of the State in the areas of health and consumer protection to determine the feasibility of consolidating and coordinating the administration of these activities, was also assigned to the committee; however, this study was later referred to the Committee on State and Federal — Institutions. Members of the Committee on Government Administration were Senators Donald C. Holand, Chairman, C. Warner Litten, John D. Coughlin, Emil E. Kautzmann, Evan E. Lips, Herbert L. Meschke, Oscar J. Sorlie, Theron L. Strinden, and Clark Van Horn; and Representatives Gordon S. Aamoth, Aloha Eagles, Brynhild Haugland, Henry Lundene, Leslie C. Powers, Vernon E. Wagner, and Gerhart Wilkie.

The report and accompanying legislation necessary to implement the recommendations contained within the report of the Committee on Government Administration were accepted by the full Legislative Council at Camp Grafton on November 17, 1970, for submission to the Forty-second Legislative Assembly.

## STUDY OF PUBLIC WELFARE

The committee held its organizational meeting on April 29, 1969. At this meeting, the committee outlined tentative study plans for the resolutions

assigned to it. The study of public welfare was selected as the study requiring the greatest amount of effort and time, and as a consequence, the committee began immediately to define in greater detail the scope of its review.

To ensure that all potential areas of study were considered before beginning committee work, representatives of all levels of the State's welfare program, the State Health Department, the State Medical Association, the State Pharmaceutical Association, the Hospital Administrators' Association, and the North Dakota Dental Association were invited to make suggestions to the committee about subject matters to be included in the study of welfare. Committee members also conferred with county welfare officials in their legislative districts to discuss welfare problems on the local level.

The committee gained much information from this method of defining the areas and setting forth the priorities of points to be studied during the interim. The majority of suggestions filed with the committee related to problems of administration, including communication, duplication of programs, decisionmaking authority and lack of uniform procedures and programs between counties. On the basis of its preliminary findings, the committee selected the administrative and procedural aspects of public welfare in North Dakota for the first phase of its study with the review of the quality and effectiveness of categorical aid programs being a second phase to be conducted upon completion of Phase I. The overall requirements of the review of the administrative and procedural practices included the following:

1. Performed an analysis of workload and work content of professional and clerical personnel.
2. Evaluated the organizational and staffing levels and relationships between central and local units of the Public Welfare Board of North Dakota and other welfare-related activities and institutions with the objective of better staff utilization, elimination of redundancies, and approved levels of service.

## Consultants Employed

On July 1, 1969, the committee selected Touche Ross & Co., Minneapolis, Minnesota, to conduct a

detailed review and operational audit of the administrative and procedural practices pertaining to the North Dakota welfare, health and social service programs on the state, regional, and county levels. The agreement with the firm stipulated that the cost of the study would not exceed \$50,000. Mr. Ward Tracy, partner in the firm of Touche Ross & Co., was in charge of the study. He was assisted by Mr. Fred Cue, Mr. Carl Long, Mr. Gary Siverts, Mr. Ken Myers, and other management specialists from the firm. Federal matching funds were obtained through the Public Welfare Department to pay a portion of the costs.

The review team began its fieldwork in August of 1969 and filed a tentative report with the committee on February 13, 1970. The tasks performed by the review team during that period of time included the following:

#### **Interviews Conducted**

1. All state level professional personnel
2. Almost all state level clerical personnel
3. Directors and others in the following agencies:
  - Vocational Rehabilitation
  - State Industrial School
  - Mental Health
  - Health, Health Planning, Hospital and Nursing Home Licensing
  - Indian Affairs
  - Employment Security, Unemployment Compensation, Employment Service Commission on Alcoholism
  - Economic Opportunity
  - Merit System Council
  - State Planning
  - Crippled Children's School
  - Special Education
4. President of the County Welfare Board Association
5. Chairman of the Public Welfare Board
6. 100 county welfare personnel
7. 20 Area Social Service Centers personnel
8. Several HEW Washington and Kansas City people

#### **Meetings Attended**

1. Public Welfare Board
2. Burleigh and Benson County Welfare Boards

3. Welfare Directors Association
4. County Welfare Board Association
5. Nursing home and welfare personnel

#### **Visitations Made**

1. 15 Counties — Burleigh, Kidder, Cass, Rolette, Stutsman, Sargent, Hettinger, Pembina, McHenry, Benson, Oliver, Bowman/Slope/Adams, and McKenzie
2. 4 Area Social Service Centers — Bismarck, Fargo, Jamestown, and Grand Forks
3. Kansas City Regional HEW Office

#### **Major Projects Completed**

1. Conducted a timestudy in all counties for 5 weeks
2. Conducted a timestudy in all Area Social Service Centers for 4 weeks
3. Developed and reviewed job description questionnaires filled out by all state level professional people
4. Conducted 5 percent sample of applications for assistance
5. Conducted 1 percent sample of medical authorizations for 3 months
6. Completely documented Title XIX processing system in the counties and at the state level
7. Documented county procedures
8. Supervised numerous analysis projects performed by Public Welfare Board personnel

#### **Other**

1. Accompanied caseworkers on 10 recipient interviews
2. Obtained publications and information from various national associations and several States
3. Reviewed grant matching practices
4. Met with Blue Cross and Blue Shield personnel

The Touche Ross & Co., report entitled "Welfare Organization for the 70's — A Review of Administrative and Procedural Practices of North

Dakota Welfare", is available at the Legislative Council office. The report findings can be classified in terms of those findings relating to the state welfare organization and those pertaining to local and regional welfare organizations. In the following paragraphs, the findings of the review team are presented and then, based upon those findings, the recommendations of the committee are presented which will be submitted to the legislature in resolution form.

### **State Welfare Organization**

The purpose of the review of the state welfare organization was to determine:

1. Is the present organization properly organized for efficiency and effectiveness?
2. Are there unnecessary jobs being performed?
3. Are there necessary jobs that are **not** being performed?
4. What is the role of the Public Welfare Board?

The major findings as a result of the review are as follows:

1. The Public Welfare Board is not in a position to function adequately in an administrative role; rather, it can function better in an advisory capacity.
2. The most important factor for good welfare administration is the capability of welfare personnel, particularly the state welfare director; selection of the director is therefore critical.
3. The national trend in state government today is to give the Governor more authority to appoint department heads so as to better fix responsibility and allow for better coordination within the executive branch.
4. In the existing welfare organization about 25 people report directly to either the Executive Director or Assistant Executive Director.

Based on the above findings, the committee recommends by resolution that the following changes in the state welfare organization be implemented:

1. That current state welfare organization staff functions be grouped under four different directors, and all of the field or line oper-

ations be under a Director of Field Operations.

2. That the State Industrial School be placed under the Welfare Department, reporting to the Director of Field Operations on a level that makes it equivalent to a regional welfare office.
3. That all state level welfare activities concerning economic assistance be under the position of Director of Economic Assistance.
4. That all financial, statistical, auditing, disbursing, and office services activities be under one position, the Director of Planning and Finance.
5. That all social service functions now performed at the state level be under one position, the Director of Social Services.
6. That the present personnel and staff development functions continue to be the responsibility of a Director of Personnel and Staff Development.

### **Personnel**

The total personnel function consists of individual but related items such as salary levels and salary determination, methods of evaluating performance, the operation of the Merit System, and staff training and development activities. The degree of success or failure of a program is greatly dependent upon these items because of their direct impact on the quality and motivation of the people who make up the organization.

Based on the review, the most important findings are as follows:

1. North Dakota has low separation and vacancy rates compared to the national averages. Vacancies in county level positions account for almost all vacancies.
2. Salaries for welfare workers compare favorably with salaries for comparable positions in other States. At the caseworker level, salaries are above the national averages; the higher level positions tend to drop below national averages, although longevity payments tend to compensate for this deficiency to some extent.
3. There are serious salary discrepancies among counties and between county and state-related agency employees with similar backgrounds.

4. The Public Welfare Board has little administrative control over County Welfare Board personnel practices in order to effect compliance with Merit System regulations.
5. There is insufficient emphasis on staff development activities.
6. There is no effective performance evaluation system in the welfare organization.

The committee by resolution recommends that the Public Welfare Board take action regarding the following recommendations relating to improving the personnel management system in the department:

1. Exercise more control over personnel practices at the local level to correct compensation inequities.
2. Study the Merit System with a view toward making salary levels more competitive with the private sector labor market.
3. Increase staff development activities at the regional or area level and establish a training steering committee for planning purposes.
4. Develop a management-by-objectives system to improve performance evaluation efforts and to increase individual motivation to accomplish specific goals.

#### **Administration of Title XIX Medical Assistance Program**

The Title XIX Medical Assistance Program (Medicaid) consists of direct payment to medical providers for services rendered to recipients who meet certain income and property requirements, and to those who are currently receiving assistance under the Aid to the Aged, Blind, and Disabled (AABD) or Aid to Families with Dependent Children (AFDC) Programs.

Like most States, the demand for medical services under this program was not fully anticipated in North Dakota. The unexpected demand, plus the inflation of medical costs as demand exceeded supply, has recently focused much attention nationwide on the administration of the Title XIX program at both the state and federal levels. This attention has been greatly concerned with developing better ways of processing invoices, reporting program activity, conducting medical surveillance, developing cost reimbursement procedures, and finally, health planning.

The review of these Medicaid administrative activities resulted in the following findings:

1. The procedure of requesting authorizations prior to service, or "preauthorization," is followed in only a small percentage of the authorizations issued. Also, the authorization procedure entails a significant amount of clerical time in the local welfare offices.
2. The surveillance function is performed, if at all, by medically untrained personnel at county welfare offices as part of the local procedure for control and issuing of authorizations. Very little surveillance activity is presently being performed at the state level due to a lack of computer-generated information and insufficient staff.
3. The current method of hospital cost reporting, auditing and settlement procedures used by the Public Welfare Board is not in conformity with regulations.
4. A cost statement is prepared by each nursing home and submitted to the Public Welfare Board annually. Review of the statements is limited due to lack of manpower and accounting skills. Audits of the statements are not performed. Also, the statements prepared by the nursing homes show wide variations in costs resulting from little instruction as to proper definition of expenses or allocations, variations in occupancy, wide variations in service, or from some combination thereof.
5. Current facilities planning is based on a future projection of population changes and existing needs. It does not recognize more fundamental changes in demand for medical services, population shifts from rural to urban, and use of custodial care facilities.

The committee by resolution recommends that in the administration of the Title XIX Medical Assistance Program the following recommendations be implemented:

1. Establish a program management team consisting of a physician, two analysts, a part-time dental consultant, and a part-time pharmaceutical consultant, and direct such team to review recipient medical services received for improper utilization, to make appropriate field investigations, to work with provider advisory groups, and to develop policies and procedures to improve effectiveness and quality of medical care for welfare recipients.

2. Develop the use of identification cards in lieu of medical authorizations after the recommended program management team is in operation to greatly reduce clerical effort in the local welfare offices.
3. Comply with federal regulations concerning hospital cost reimbursement.
4. Consider private agency to assist in performing hospital audits.
5. In the short run, consider the "Principles of Reimbursement for Provider Cost" in regard to nursing home reimbursement, using cost reports similar to those now in use for extended care facilities under Title XVIII.
6. Audit nursing home cost statements to verify the accuracy and fairness of the information presented, including patient statistics, costs of donated services, and allocation of costs between custodial and nursing care.

#### **Virginia Program Management System**

Prior to recommending the program management system, the Chairman and Vice Chairman of the committee, along with Council staff and representatives of the Public Welfare Board, visited the office of the Director of the Virginia State Health Department to review that State's program management system under Medicaid. The visitation was made on March 18, 1970, and included an in-depth review of all phases of the Virginia program management system. The director of the department emphasized that the involvement of providers of medical services is important to the success of a Medicaid program. Mr. Ken Myers of Touche Ross & Co., consultant to the North Dakota study of public welfare, as well as a Medicaid consultant to the State of Virginia, pointed out that the information-gathering process and compilation of reports in the State of Virginia involves very little intervention on the part of people. Most of the reporting is done by computer and programmed on the exception basis, thus requiring a minimum amount of data for the analyst's review and follow-up. When a welfare recipient applies for medical assistance in Virginia, a computer answers the following before writing the check:

1. Is the provider enrolled?
2. Is the recipient eligible?
3. Is the invoice complete?
4. Has the provider billed other third parties?
5. Is the treatment procedure compatible with age, sex, etc., of the recipient?

6. Are the charges comparable to usual and customary charges?
7. Are there duplicate claims of patient?

The State of Virginia has a medical doctor employed on a full-time basis to administer the program management system. Representatives of the department reported that on occasions they visit providers of service and patients when the program management system gives indication that an overutilization of medical services might be occurring. If the problem is one of considerable magnitude and cannot be solved on the department level, a peer group may be contacted. The representatives of the committee were encouraged by the success of the program management system in the State of Virginia. The observations and information gathered by this visitation supported the committee's recommendation that the North Dakota Public Welfare Board establish a program management system.

#### **Accounting and Budgeting and Social Service Information**

The management of financial resources is an extremely important responsibility of the Public Welfare Board. The accounting and budgeting system is the mechanism or management tool whereby this responsibility is carried out. Today's concept of the management of financial resources goes well beyond the traditional functions of ensuring that the disbursing of funds is done consistently and correctly and that a proper accounting of how the funds were spent is made to the legislature and the public.

While a generally satisfactory job is being done in performing the objectives of traditional accounting, little information is available which would enable administrators to do a better job of managing their limited resources, in particular, those related to social services. The present system cannot provide answers to the questions that administrators and managers should constantly be asking in order to manage the financial resources. These questions are:

1. How effective is the program?
2. How efficiently is the program being carried out?
3. What programs are most effective for the amount of resources consumed?

Local welfare performs two principal functions in the providing of aid to those in need: **economic**

assistance in cash and kind, and social services in the form of counseling, guidance, and referrals. The providing of social services consists of service worker time to analyze and plan the needs of the recipient, and then meeting with the recipient to carry out the service plan. The goal of social services in performing these activities, simply stated, is to help the recipient or potential recipient reach the highest level of self-sufficiency which he is capable of attaining. With the implementation of the declaration system in North Dakota, more attention will be focused on the efficient delivery of social services and the effective use of the service worker.

The key for achieving a successful welfare function has been stated to be the effective and efficient delivery of social services. Yet in their review of the North Dakota welfare operation, despite the generally good motivation and ability of service worker personnel, the consultants found considerable evidence of a lack of important information to enable welfare administrators to make decisions to bring about the more effective and efficient delivery of social services.

The important elements of information for a truly successful social services delivery program must be based on the following concepts:

1. Classification of cases to identify in a structured manner the specific needs for services.
2. The reporting of service worker time by case and type of service delivered.
3. The ranking of cases by an index of competency to establish priority and worker assignment, with the index representing a quantifiable indicator of the level of need for service worker skills and time.

The committee by resolution recommends that the following recommendations regarding a social service management reporting program be implemented:

1. Include in management reporting social service program information concerning specific activity, attainment of goals, actual costs, and amounts over and under budget.
2. Improve the management and budgeting reporting function by developing and implementing a specific system for social services information.

The committee recommends by resolution that the following improvements be made in the Public Welfare Board's accounting and budgetary practices and procedures:

1. Adopt an accrual basis of accounting to the extent practical and appropriate.
2. Handle child welfare disbursements in the same manner as administrative disbursements.
3. Document basic accounting procedures and prepare a procedural manual. Establish a formal general ledger as part of a more structured approach to the accounting function.

#### **Public Welfare Board Approves Most Administrative Changes Recommended by Touche Ross & Co.**

The Director of the Public Welfare Board reported to the committee that the recommendations contained within the Touche Ross report relating to administration of the State Office were good, and that the Public Welfare Board and the Executive Director appreciate many of the recommendations, some of which the board has wanted to implement for quite some time. According to reports from the Director of the Public Welfare Board, many of the administrative changes called for in the Touche Ross report, including the reorganization of administration personnel in the Public Welfare office, are in the process of implementation or are already implemented. By resolution, the committee recommends that the Public Welfare Board on a quarterly basis during the 1971-1973 biennium submit written reports to the Legislative Council reporting action taken pursuant to recommendations of the Legislative Council contained within this report.

#### **Local and Regional Welfare Organization**

The review team presented to the committee the following findings regarding local and regional welfare organization. In addition to the findings, the review team's recommendations to achieve a more effective welfare program on the local and regional level are presented.

The direct administration of the welfare function in North Dakota is the responsibility of county government, with the State having coordination and supervision responsibilities since 1935. Within the last decade, Area Social Service Centers have been formed which either supplement local efforts in providing direct services, or work with local welfare personnel on a consultative basis.

The major findings concerning local and regional welfare administration are as follows:

1. While the federally prescribed assistance programs, including the food programs, are administered relatively uniformly throughout the counties, significant variations in general assistance and social services exist.
2. While social services are not uniformly extended, the county timestudy results show that the smaller counties spend proportionately less time extending social services.
3. Almost two-thirds of the 50 county welfare offices consist of 3 professional people or less, with 13 counties having 1 or no professional staff. Such administrative units are too small to be truly effective and efficient. The small size also precludes almost any County Welfare Board so-called "control" over administrative costs.
4. Caseloads are generally higher in the smaller county welfare offices.
5. More clerical effort in relation to professional effort is needed in small counties because of the fixed nature of some of the clerical activities, regardless of the size of the county.
6. Compensation of County Welfare Board employees varies significantly. The result is anything but equitable. Qualified employees are therefore harder to find and keep.
7. Because of the laws concerning county residency, over 20 percent of the 11,704 Aid to the Aged, Blind, and Disabled; Aid to Families with Dependent Children; and Medical Assistance cases are the responsibility of 2 counties with resulting duplication of personnel time and paperwork.
8. County Welfare Board activities consist mainly of reviewing new applications for assistance. The real day-to-day interpreter of eligibility rules is the professional staff, and the new declaration system will give the director complete approving authority subject only to board review after the fact.
9. The function commonly attributed to County Welfare Boards, that of "keeping the costs down," is limited, at best, to County Welfare Board personnel costs and general assistance. These costs make up only 11 percent of total county and state welfare costs.
10. The major activity of Area Social Service Centers personnel is the providing of social services directly to the recipient.
11. The scope of social service problems treated varies considerably from center to center.

In order to correct the problems noted above concerning inequities in social services, caseloads, efficiency, and compensation, and to improve welfare administration generally, the following recommendations should be implemented:

1. County welfare offices should be combined into larger administrative units. These units should consist of a minimum of four service worker personnel for efficient clerical and professional staffing and for optimum combination of varying professional skills.
2. The local welfare offices should be located wherever caseloads in the vicinity warrant an office of the recommended minimum size.
3. The local offices should be administered on a regional basis according to the boundaries established by the Governor. The administration of the regions should be the direct responsibility of the State.
4. The present County Welfare Boards should be replaced by eight regional advisory boards consisting of representative members of the region population.

Specific reasons for a state-administered regional welfare program are as follows:

1. Regional and statewide administration is a practical way to consolidate county welfare offices into large units serving several counties.
2. Savings in administrative costs can be realized due to factors such as more uniform distribution of workload; ability to take advantage of the declaration system potential for cost savings and greater federal reimbursement; less need for state personnel to audit and supervise local operations; elimination of duplicate administrative effort due to assistance cases of other counties with savings in staff time; and utilization of service worker aids to replace service workers.
3. More uniform administration of services, employee compensation, and general assistance is possible.
4. Significantly greater job opportunities for staff members in terms of variety of possible experience, geographic location, and promotional opportunity would be available.
5. More flexibility to make changes in the administration of the program uniformly and

on a timely basis would be possible because only 8 administrative units are involved rather than the present 50.

6. The welfare tax burden can be shared more equitably on a statewide basis.
7. The welfare problem has causes beyond local control, perhaps even beyond state control; solution of the problem should be closer to the level at which the root causes can be effectively dealt with.
8. Future simplification of work procedures and systems can result in real cost savings because the large size of administrative units allows for significant impact in terms of dollars.
9. Welfare programs can be better coordinated with other state-administered programs such as health, vocational rehabilitation, mental health, and employment security. The Nixon proposals, if implemented, will place greater emphasis on relationships with other agencies.

If all of the recommendations contained within the Touche Ross report are implemented, the review team estimated that the execution of all of the recommended action steps would result in potential annual net cost reductions in excess of \$500,000 per year. This estimate consists of two elements; one is a net reduction in expenditures of \$413,000, and the other includes opportunities for increased federal matching funds amounting to \$180,000 per year. For further information in regard to the estimated identifiable savings and costs, please refer to the Touche Ross report.

#### **Committee Hears Testimony Regarding Local and Regional Recommendations Contained Within Touche Ross & Co. Report**

On April 1, 1970, about 200 County Welfare Board members and county commissioners were present in the Hearing Room of the State Capitol to hear a presentation by representatives of the firm of Touche Ross & Co. regarding their recommendations for the establishment of a state-administered regional welfare program with 19 district offices. The President of the North Dakota Association of County Welfare Boards reported that County Welfare Board members at regional meetings agreed that the study findings are true; however, the board members do not agree with the resulting recommendations. Another County Welfare Board member emphasized that improvements in County Welfare Board administration can be made without eliminating the boards.

Other county officials pointed out that County Boards are closer to the people than the regional offices would be. Another county commissioner indicated that local governmental control should be increased rather than diminished, and that he could see no reason why counties on a cooperative basis could not work out their own programs. One County Welfare Board member expressed opposition to all regionalization proposals for public welfare in North Dakota. Another County Welfare Board member indicated that if the Touche Ross recommendations are implemented, the Regional Board should be eliminated, too, since it would be totally ineffective. He indicated that he, along with a number of board members, would be unwilling to serve in such a capacity.

On May 6, 1970, County Welfare Board Directors from the various counties in the State testified to the committee regarding the recommendations contained within the Touche Ross report. The President of the North Dakota Association of County Welfare Directors presented his organization's reaction and recommendations to the Touche Ross & Co. study of public welfare. He reported that the county directors would encourage the committee to consider voluntary consolidation of County Welfare Boards rather than accept the state-administered regionalization program recommended by the Touche Ross & Co. report. County Directors also expressed concern about the manner in which the State Welfare Board coordinates the activities of the Area Social Service Centers with the various County Welfare Boards.

#### **Multicounty Welfare Districts**

The Committee Chairman appointed Senator Lips and Representative Vernon E. Wagner to a subcommittee to meet with representatives of the Public Welfare Board and the County Directors Association to determine whether an alternative to the state-administered program as recommended by the consultants could be found which would provide many of the same advantages as the state-administered program, but would allow an element of control to remain on the local level. The two subcommittee members presented to the committee for its consideration a plan for joint administration of county welfare activities. A brief description of the major points included in the plan are as follows:

1. Direct the State Public Welfare Board to establish minimum standards for all County Welfare Board offices. When County Welfare Boards do not meet such standards, proceedings shall begin to require such

county to enter into a joint administrative program with such other counties as may be approved by the Public Welfare Board.

2. Notify all County Welfare Boards of standards promulgated by the Public Welfare Board and the status of each county in regard to such standards.
3. In addition to requiring certain counties to enter into joint administration programs, allow other counties to enter into joint administration programs on a voluntary basis if the plan for such consolidation meets with the approval of the Public Welfare Board.
4. If the county or counties not meeting minimum standards do not prepare a plan to enter into a program of joint administration, the Public Welfare Board should proceed to draft a plan to unite such county with such other county or counties as it may select and then to proceed to implement a program of joint administration.
5. The funding of new welfare units under this proposal would be in accordance with contracts agreed to under chapter 54-40 of the North Dakota Century Code, relating to joint exercise of governmental powers.
6. In the development of welfare districts under this plan, the Public Welfare Board shall give consideration to trade areas, regional areas promulgated by executive order of the Governor, community interest, and other elements of commonality which would not be in conflict with the attainment of desirable and efficient county welfare administration.

#### Legislation Proposed

Pursuant to the report of this subcommittee and the Touche Ross & Co. findings which indicate that greater efficiency can be achieved and services improved through greater cooperation between the counties and Area Social Service Centers, the committee recommends legislation providing for the creation of multicounty welfare districts. One bill provides that County Welfare Boards which do not meet certain standards will be required to enter into multicounty welfare districts in accordance with law. The question of whether a particular County Board must be consolidated into and become part of a multicounty welfare district would be determined by the State Board upon a finding by it that the County Board does not meet standards relating to the following:

1. An adequate level of quality social services.
2. The number of and qualifications of staff.
3. The geographical area and population served by the affected County Boards.
4. Distance of recipients from affected County Boards.
5. The benefits which would be realized from the creation of such district in terms of lower costs, increased availability of services, new services, and improvement of services.

Under the proposed bill, the State Board will advise each county of the standards which it promulgates and each county shall know of its status in terms of the standards. If any county fails to meet the standards as promulgated and applied by the State Board, it will be notified of the fact, and a plan for the creation of multicounty welfare districts shall be prepared whereby the board shall be consolidated with another County Board or Boards. In the event that the affected County Board does not comply with the terms of the plan for the creation of a multicounty welfare district within one year from the date of final order entered by the State Board, the State Board shall thereafter withhold all funds payable to the County Board for administrative costs. If such County Board does not comply with the terms of the plan for the creation of a multicounty welfare district within two years from the date of the final order, the State Board shall proceed to enforce its order by appropriate legal remedies. The bill provides that the Governing Board of a multicounty welfare district shall be in lieu of County Welfare Boards in the counties joining such district, and the board shall consist of 7, 9, or 11 members as determined by the State Board. The membership on the Multicounty Welfare District Board must be in the ratio that each county's population bears to the total population of the multicounty welfare district, except that each county included in such districts shall be represented by at least one member. The terms of such board members would be three years and no board members could serve more than two consecutive three-year terms. The appointment of board members would be in the same manner as provided by law for County Welfare Board members. The method of financing the operation of the multicounty welfare districts shall be in accordance with chapter 54-40 of the North Dakota Century Code, relating to the joint exercise of governmental powers and the plan prepared by the Public Welfare Board.

A companion bill is recommended by the committee which provides for the creation of multicounty welfare districts on a voluntary basis. If,

upon application to the Public Welfare Board to join a multicounty welfare district, the County Welfare Board's plan was found to meet necessary standards similar to those in the previously described bill, the plan for the creation of a multicounty welfare district would be approved.

Under the proposed reorganization of public welfare, an element of local control would be retained, but the State Department would be in a stronger position to discharge the statutory responsibility for the supervision and direction of the entire public welfare program. Individual counties or multicounty units would all be under the supervision or direction of the State Department, or more specifically, the administrator of field operations in each of the eight regions. The function of the local County Welfare Board or multicounty district boards would be to administer the local program under the direction and supervision of the State Department. The State Department has had this statutory responsibility in the past, but has lacked the defined organizational machinery for making this supervision a reality.

The reorganization proposed in the multicounty welfare district bills represents a compromise between the outright state administration as proposed in the Touche Ross report and local county administration as it exists today. The local County Welfare Boards or the local multicounty welfare districts would be expected to provide, under the state supervision and direction, the services possible within their potential, as defined by written plan, and the State through the Area Social Service Centers, providing direct services only when needed and necessary. This plan would require an ongoing system of monitoring and evaluation of services, as well as assistance payments.

In testimony before the committee at its meeting of November 9, 1970, representatives of the County Welfare Board Directors Association and the State Public Welfare Board reported that the administrative organization which would be established upon passage of the multicounty welfare district bills is acceptable and its establishment is encouraged by all three levels of welfare organizations in the State. An organization chart setting forth the lines of authority and responsibility of the State Public Welfare Board, the Area Social Service Centers, the Multicounty Welfare District Boards, and the County Welfare Boards was filed with the committee by a representative of the North Dakota County Welfare Board Directors Association.

#### **Role of Area Social Service Centers**

The committee recommends by resolution that

the State Public Welfare Board, for the purpose of eliminating duplication and confusion, define the functions and duties of the area Social Service Centers, and that the functions and duties of those centers be those of:

1. Providing service only in counties where the specific specialized service is not adequately available through regular employees of the County Welfare Board, such service to be specifically described for each county in the State according to the needs of each county.
2. Providing field assistance to the Public Welfare Board in carrying on its responsibilities in supervising the administration of the state public welfare programs in all counties of the State.
3. Serving as a base for coordinated operations for other related programs of the State which are administered by or under other state departments or agencies.

#### **Other Recommendations**

The committee recommends a bill which would change the name of the Public Welfare Board of North Dakota to the Social Service Board of North Dakota. The committee believes this name would more accurately reflect the activities and responsibilities of the Public Welfare Board.

The committee is recommending a bill which provides that members of the Public Welfare Board will be appointed by the Governor with the consent of the Senate, rather than the current method of appointment whereby the Governor, Attorney General, and Commissioner of Agriculture appoint members to the Public Welfare Board. The proposed bill limits the length of time that each of the seven members of the Public Welfare Board may serve. No member shall serve more than one 6-year term nor shall he be eligible for appointment if he would be older than 70 years of age at the completion of his term. A person may be appointed to fill the unexpired term of a member and then be appointed to a full term if his total years of service will not exceed nine years. The bill also provides that the per diem reimbursement for service on the Public Welfare Board be increased from \$15 to \$25 per day. The bill restates and clarifies the powers and duties of the Public Welfare Board and such regional offices as may be under its supervision.

Another bill would amend the sections of the North Dakota Century Code concerning the meth-

od of appointment, the ages, and the number of terms of County Welfare Board members. At present, boards may consist of five, seven, or nine members. The proposed bill makes it five members. Instead of the County Commission appointing the board with the advice and consent of the Public Welfare Board, it is proposed the board be appointed by a three-man committee composed of the Chairman of the County Commission, the State's Attorney, and the County Judge, acting with the advice and consent of the Public Welfare Board. The recommended legislation calls for just one county commissioner on the board instead of the two now allowed.

At present, there are no limits on the age or number of terms of a board member. It is recommended that no one be appointed if he or she would become over 70 years old before the end of his or her term, and that board members be limited to 2 consecutive 3-year terms, after which they would have to wait 3 years before they could be reappointed.

Another recommended bill strengthens the prohibitions against transferring property to become eligible for welfare aids by taking present prohibitions found in the law dealing with assistance to the aged, blind, and disabled in applying it to county general assistance as well. The bill makes a person ineligible for relief if he or she has so transferred property, and makes it a fraud and a misdemeanor to knowingly participate or assist in such a transfer.

Two other bills delete language concerning medical assistance to the aged and repeal the one-year state residency requirements for welfare aid, the former because these are now federal programs and the latter because the United States Supreme Court has ruled such residency requirements to be unconstitutional.

In order to bring the State's Nursing Home Board of Examiners Licensure Act into compliance with federal regulations, the committee recommends a bill changing the composition of the board so that nursing home administrators would not constitute a majority. Under the proposed bill, the nine-man board would consist of the Executive Director of the State Welfare Board, the State Health Officer, the Commissioner of Higher Education, one physician, one hospital administrator, three nursing home administrators, and one nurse. The bill also provides for emergency licenses rather than temporary permits, again to comply with federal regulations.

The comprehensive Touche Ross & Co. report recommends that the North Dakota Division of

Vocational Rehabilitation, presently under the State Board of Public School Education, and the North Dakota Industrial School, currently under the Director of Institutions, become the responsibility of the State Public Welfare Board. The committee believes that the services provided by both the Industrial School and the Division of Vocational Rehabilitation fall closely into line with general functions of the Public Welfare Board, especially in view of another bill recommended by the committee which upgrades and redefines the duties and responsibilities of the board. The transfer would also allow each of the agencies and institutions involved to serve its particular clients more efficiently and effectively, with maximum cooperation and with less duplication of effort.

Therefore, the committee is recommending bills which would transfer both the State Industrial School and the Division of Vocational Rehabilitation to the State Public Welfare Board.

#### **Nursing Home and Other Health Care Facilities**

One of the problems confronted by the legislature and the Public Welfare Board during the last legislative session was the high cost of nursing home care and the lack of an acceptable reimbursement formula to pay for the cost of care and treatment of welfare recipients in such nursing homes. The committee encourages the Public Welfare Board to conduct audits of nursing homes in the State to determine the financial condition of homes which are providing care for welfare recipients and to identify problem areas in the current reimbursement formula utilized by the Public Welfare Board. The firm of Broeker Hendrickson & Co., Certified Public Accountants, Fargo, North Dakota, conducted audits of four nursing homes in the State, and on the basis of such reviews made the following recommendations and suggestions to the Public Welfare Board:

1. Principles of Reimbursement for nursing homes must be defined in sufficient detail to facilitate uniform and equitable payments to all providers. The present instructions for completing Form PW 674 do not accomplish this objective.
2. Nursing homes are currently being reimbursed for their nursing care patients based on the average in-patient per diem cost, not to exceed \$11.84 per day. This average in-patient per diem cost is determined by deducting from total in-patient expenses certain deductions including cost of custodial

patients. The instructions for completing Form PW 674 state that these custodial costs should be determined "... in accordance with reasonable and acceptable cost finding methods". Three of the four nursing homes in this study house both nursing care and custodial patients. None of the three utilized acceptable cost finding methods in determining the cost of custodial patients. Methods used varied from direct costing and percentage of custodial patient days to total patient days and estimated percentages. We recommend that uniform cost finding procedures be determined and adopted and that they be uniformly applied to all providers.

3. The accrual basis of accounting should be required of all nursing homes. We noted in our study that one home was on the cash basis of accounting, one was on a hybrid cash-accrual basis, one was on the accrual basis, and one had just recently switched from the cash basis to the accrual basis.
4. A uniform chart of accounts should be prepared and all nursing homes be required to implement it. This would provide for consistency of classification which would facilitate the systematic analysis and comparison of costs.
5. Homes should be required to maintain accurate data as to the number of days patients and/or residents are absent from the home due to illness or visiting. Daily census-taking would provide the necessary data.
6. Independent audit verification of cost reports is essential. This must necessarily include verification of statistical data as well as financial data. In fairness to all providers, the allocations of costs between nursing care and custodial must be verified so that all are reimbursed on a consistent basis.
7. Long-range objectives should point towards reimbursement which can assure that:
  - a. Financial incentives, such as realized from effective use of budgetary procedures, are encouraged and result in more efficient operation of a home.
  - b. All patients are charged the same rate for services received, assuring equity to all.
  - c. Financial requirements are properly determined and that reimbursement pay-

ments are tailored to meet these requirements.

- d. Community planning is an integral part of the ability of homes to receive capital funds.

The committee by motion recommends that the Public Welfare Board proceed to take such action as may be necessary to accomplish the objectives and recommendations set forth by Broeker Hendrickson & Co. regarding the reimbursement program for nursing homes. In addition to conducting audits of more nursing homes, the committee recommends that the Public Welfare Board obtain professional accounting assistance for the development of the Principles of Reimbursement and other projects called for in the accounting firm's recommendations when the necessary expertise is not available from the staff of the Public Welfare Board.

#### **Certificate Necessary to Receive Payment for Care and Treatment of Welfare Recipients**

During the study, the committee was advised of the need to control the growth of health care facilities in the State by ensuring that all projects are constructed only upon evidence of a real need for such facilities. The term health care facility refers to nursing homes, homes for the aged and infirmed, and hospitals.

The Comprehensive Health Planning Advisory Council's Committee on Health Care Facilities suggested to the committee that with the escalating health care costs which, to a large degree, are related to physical plant construction and utilization, it believes that it is necessary to give serious thought to whether the State can afford the luxury of continually adding and supporting more health care facilities, particularly hospital and nursing homes, without first determining that a need exists for their construction. The Committee on Health Care Facilities reported that the growth of health care facilities in the State has been at a rate commensurate with the needs of the people, but now the growth may be exceeding that which is necessary for high quality institutional health care and merely unnecessarily increasing medical costs.

The committee recommends a bill providing that before a new health facility can be constructed which will be eligible to receive payments for the care and treatment of welfare recipients, it must be certified by the State Department of Health after consultation with the State Public Welfare Board. Before a facility can be certified to receive

payment for the care and treatment of welfare recipients, it must meet eligibility requirements based upon the following factors:

1. Present patient population and projected future patient population by category of patient care and treatment level.
2. The needs of the patients for whom care and treatment are furnished or intended to be furnished.
3. The programs, services, and facilities offered or available to patients, and the adequacy of such programs and the extent to which they are utilized.
4. The economics, efficiencies, and advantages that may accrue to the State and its citizens through the location or expansion of the facility at that particular locality.
5. The necessity for the new or expanded facilities within the area proposed to be served, the utility of such proposed facilities for future as well as for present patient needs, and the effect upon future cost of patient care and treatment.

#### **Grafton State School and Tuberculosis Sanatorium**

The committee considered whether the Tuberculosis Sanatorium and the Grafton State School should be licensed as health care facilities for the purposes of making patients of such institutions eligible for assistance under Medicaid. Representatives of the Public Welfare Board reported that from 80 to 85 of the mentally retarded patients at the Tuberculosis Sanatorium are potentially eligible for assistance under Medicaid. Based upon average daily costs at the Sanatorium, it is possible that \$1 million in federal funds per biennium could be paid for patient care at that institution. It was also noted that many patients at the Grafton State School receive some medical care, but it is believed that only a few would be eligible for medical assistance. A representative from the State Health Department reported that the facilities at the two institutions are inadequate for licensure as either nursing care or hospital facilities and that extensive renovation and remodeling would be necessary before the facilities could be licensed. Since the renovations and remodeling projects required involve the basic structure of the buildings, the costs of such renovation was considered prohibitive, and since legislation is presently before Congress which could

limit assistance under Title XIX to 90 days, the committee recommends that no further action be taken in regard to assistance under Medicaid for the patients at the Grafton State School and the Tuberculosis Sanatorium.

#### **Plan for Establishment of A Department to Supervise and Coordinate Social Service Agencies and Institutions**

House Concurrent Resolution No. 4 which directed the committee to determine the feasibility of consolidating the various state health and welfare agencies was not given in-depth attention by the Committee on Government Administration during this interim because of the heavy workload arising from the administrative and management study of the Public Welfare Board and other projects undertaken by the committee during the biennium. The Touche Ross & Co. report, however, did set forth a plan for the establishment of a Department of Social Services with broad powers for the administration of the number of social service related agencies of State Government. Included in this plan are the North Dakota Industrial School and the Division of Vocational Rehabilitation. Bills recommending the transfer of the Division of Vocational Rehabilitation and the State Industrial School from the Board of Public School Education and the Office of the Director of Institutions are recommended by the committee. In addition, the committee recommends a resolution calling for the Legislative Council to develop a plan during the 1971-73 biennium for a Department of State Government to supervise and coordinate the activities of the Public Welfare Board, the State Health Department, the Division of Vocational Rehabilitation, and such other related state departments and institutions which the Legislative Council may recommend for inclusion in the plan. The committee is also to set forth the benefits to be achieved by State Government and the citizens of this State upon implementation of the plan.

#### **REVIEW OF SERVICES TO THE MENTALLY RETARDED**

In February 1970, the committee focused its attention on the services for the mentally retarded in North Dakota. Representatives of the Public Welfare Board and committee members indicated that such a study would assist both the board and the legislature in identifying and evaluating public and private mental retardation programs in the State, and in considering requests for additional services.

Suggested study areas included an inventory of mental retardation programs in the State, the number of people needing services, current programs, costs, and the amount of cooperation and coordination between state organizations. The Public Welfare Board indicated, for example, that such a study would help the State decide if, in addition to its programs at the Grafton State School and in the Special Education Division of the Department of Public Instruction, it wants to get into new areas such as foster care under the Public Welfare Board, or sheltered workshops. Committee members indicated that an evaluation of the present quality of mental retardation services would be an important aspect of this study, and that the study would give various state agencies and departments, such as Public Instruction, the Health Department, and the Welfare Board, some direction and priorities to use in considering and implementing present and new mental retardation programs.

Committee members also indicated that such a study is needed to protect the best interests of the people of North Dakota, and that without such a study there is a danger of entering into new mental retardation programs with little or no information.

Several consultants presented study proposals, and in April 1970 Dr. Oliver P. Kolstoe, a Professor of Special Education at the University of Northern Colorado and a former North Dakotan, was chosen to conduct the study. He was assisted by Dr. Bill R. Gearheart, also a Professor of Special Education at Northern Colorado, and Mr. Steven Hoffelt, a native of Williston and a vocational teacher at Devils Lake High School. The report was presented by this survey team at the committee's October 1970 meeting.

The study made 23 recommendations, but Dr. Kolstoe put top priority on the establishment of an individual or agency with the responsibility for evaluating and coordinating the needs of and the services for the mentally retarded. He said a great deal of good is being done in mental retardation in the State, but that no periodic study of services, such as his report, could substitute for a continuous evaluation of service effectiveness. Dr. Kolstoe said North Dakota has much talent and many resources to provide the solutions to its problems in this area, provided someone is designated to do so. The stress was not on more money or more programs, but on a better marshaling and utilization of the programs, talents, and resources already available in the State.

The survey team also emphasized the need of early testing of children, saying that the most

productive period of development is in early childhood. Dr. Kolstoe said because there is no systematic method of screening youngsters, they are put into the first grade when we know they will fail. Only after we have forced the child to endure the trauma of failure do we start some programs to help them, he said. He indicated that if children are tested before school age, programs could be developed to help them to do well in school. In this connection he urged a statewide system of kindergartens and preschools to implement the needed screening for early detection of retardation or slow learning.

The Kolstoe report also strongly recommended that each county establish a Board of Special Education, that each school district provide appropriate special educational services to all children in the district just as it now provides regular educational services, and that the staff of the Special Education Division of the Department of Public Instruction be augmented with personnel properly trained to test the mentally retarded and to translate data obtained from such diagnostic tests into educational programs. The report stressed that monetary investments to train the retarded bring not only humanitarian returns, but also economic benefits, since these people become self-supporting and not the charge of public welfare.

Other recommendations include the combining of Special Education Boards in sparsely populated counties, and that better training programs be instituted at some of the State's colleges and universities for the teaching and administration of programs for the mentally retarded. The report specifically recommended a master's degree program in mental retardation at Minot State College.

Dr. Kolstoe said that his team selected the Public Welfare Board as the agency to coordinate the delivery of services to the mentally retarded since the board already has eight Area Social Service Centers organized in the State to seek services for welfare recipients. He suggested that, in addition to a single individual or agency on the state level to coordinate such programs, there be a mental retardation coordinator in each of the eight Area Social Service Centers.

The committee sought and received suggestions from several state departments and agencies as to how that particular department or agency could best implement the various recommendations of the Kolstoe report.

The Department of Public Instruction's Special Education Division indicated its strong approval of

the Kolstoe report, but said it favored strengthening present special education programs before implementing any new ones. It also urged that top priority be placed on the early identification of children needing special education and on strengthening the post of county special education director. It said the latter could probably best be achieved by making it mandatory, as the Kolstoe report recommends, that all counties have Special Education Boards. At present, counties may choose whether or not to appoint such boards. The Special Education Division said it feels the presence of a board would focus attention on special education in a county, even if the county had not passed the three-mill special education levy. At present, only 17 or 18 counties have the 3-mill levy, but 38 counties have Special Education Boards.

The division also indicated it has for some time been trying to hire a psychometric diagnostician, as the Kolstoe report also recommended, but that it has been unable to fill the position to date.

The committee heard testimony from the Commissioner of Higher Education regarding the Kolstoe report recommendation of a master's degree program in mental retardation at Minot State College. The commissioner indicated the college is well on its way toward such a program by building a strong supportive base through development of both a strong psychology department and a master's degree program in elementary education. He said the college's psychology department is developing very well and that the school is currently requesting funds for a master's degree program in elementary education. The college already has a master's degree program in special education, with majors in speech pathology, audiology, and working with the deaf.

The committee recommends a resolution directing the Public Welfare Board to initiate a pilot project placing a mental retardation coordinator in one of its eight Area Social Service Centers. The resolution asks that \$40,000 in state and federal funds be used to conduct the pilot project. The coordinator, along with the Public Welfare Board, will evaluate the project and report their findings to the legislature.

Also recommended is a bill making it mandatory that counties appoint Special Education Boards. The committee by motion encourages efforts to establish the early identification of the special education needs of children. Committee members also expressed support of the employment of a psychometric diagnostician in the Special Education Division of the Department of Public Instruction.

## OTHER COMMITTEE ACTION

Seventeen days of committee meetings were devoted to the work of the Committee on Government Administration. In addition, a number of days were spent by committee members as individuals or as members of subcommittees attending meetings relating to assignments to carry out the activities relating to the committee's studies.

The committee did not conduct the second phase of the welfare study in the manner as originally planned. The second phase was to have been an evaluation of the effectiveness of welfare programs, including the Aid to Families with Dependent Children Program. Since the proposed Nixon Family Assistance Program calls for a redesign of most of the programs currently in effect, the committee does not believe it advisable to conduct a detailed study to determine the effectiveness and quality of programs affected by that plan as they may be discontinued during the current session of Congress.

At the last committee meeting, the Public Welfare Board proposed a new method for assessing counties for the county share of economic assistance payments. Currently, each county pays to the State an amount equal to a percentage of non-federal economic assistance grants paid in that county. The procedure creates administrative problems since some recipients are living in counties other than that of their legal residence. The proposed method would assess counties for matching funds on the basis of that county's population to the population of the State and to the total non-federal dollars paid for that program on a state-wide basis. The committee expressed interest in the proposal and encouraged the Public Welfare Board to give it further consideration and to consult with individual committee members who may wish to sponsor legislation to implement such a plan.

The Committee on Government Administration reviewed a number of areas relating to social services in State Government; comments, findings, and recommendations relating to the studies of public welfare, mental retardation, nursing homes, and other projects are all included in this report. The legislation necessary to implement the recommendations contained in the report has been prepared. For detailed information regarding work completed for the committee by Touche Ross & Co. and Dr. Oliver P. Kolstoe, please refer to their published reports which are available at the Legislative Council office.

# INDUSTRY AND BUSINESS

## Introduction

Senate Concurrent Resolution No. 44 directed the Legislative Council to study business and industrial development in the State of North Dakota, and the structure, responsibilities, and programs of the Business and Industrial Development Department.

This study was assigned to the Committee on Industry and Business, consisting of Senators Guy Larson, Chairman, John D. Decker, Richard W. Goldberg, Gail H. Hernet, Duane Mutch, Earl H. Redlin, and Clark Van Horn; and Representatives A. G. Bunker, Vice Chairman, Milon Austin, Jack Bernabucci, James L. Connolly, Donald A. Froelich, Don Halcrow, Glenn Henning, Richard A. Hentges, and Simon A. Simonson.

The report of the Committee on Industry and Business was submitted to the full Legislative Council at the biennial meeting of the Council at Camp Grafton. The report of the committee was adopted by the Legislative Council on November 16, 1970.

## INDUSTRIAL DEVELOPMENT STUDY

Previous studies which have been conducted emphasized tax incentives which could be offered to encourage industrial expansion. As the result of such a study during the prior biennium, the 1969 Legislative Assembly enacted a measure which permits municipalities, with the approval of the State Board of Equalization, to grant new industries five-year exemptions from income and property taxes. The committee concluded that emphasis should now be placed upon finding other methods in which the development of industry could be promoted in this State. To this end, leaders in the fields of agriculture, finance, manufacturing, transportation, and mineral resources were invited to confer with the committee.

In order to cover the whole spectrum of problem areas which were presented by the industrial and commercial leaders who appeared, the Chairman divided the committee into five subcommittees. These subcommittees were: Agriculture and Agri-business, General Industrial Promotion, Human Resources Development, Mineral and Natural Resources Development, and Financial Resources. Each of the subcommittees held at least one meeting and reported its findings to the full committee.

Because the economy of North Dakota is so dependent upon agriculture, much of the discussion concerned methods in which industries related to agriculture could be attracted to this State. It was noted that the prosperity of agriculture will have more to do with the economic development of North Dakota than any other single industry. The two major problems facing agriculture in this State are financing and management. But the problems of finance are not unique to agriculture, and the committee determined that most of the basic problems related to industrial expansion are in some manner related to the problems concerning adequate financing.

## Industrial Building Mortgage Program

North Dakota has often been described as a capital-starved State. However, an examination of the assets of the domestic life insurance companies, domestic fire and casualty companies, bank deposits, and deposits in savings and loan associations in North Dakota indicates that these institutions have funds totaling some \$1,845,000,000. Therefore, the problem may be not so much of a lack of capital as one of making use of the capital which we have. One method other States have used in encouraging industrial development is by reducing the risk for investors through mortgage guarantee programs. The committee reviewed these programs in several States and indicated a particular interest in a program which has been successful in the State of Rhode Island.

The Rhode Island Industrial Building Authority was created in 1958 to encourage industrial mortgage loans by insuring the payment of mortgages through the pledging of the faith and credit of the State of Rhode Island. The Authority supervises the management of a mortgage insurance fund which is appropriated by the Legislature in an amount not exceeding \$100,000 per year. A private bank or other financial institution loans the funds for an industrial project, and the Industrial Building Authority guarantees the loans in much the same manner as the Small Business Administration guarantees loans. Rhode Island has experienced only one default on a loan since the program was started, and in that case the Building Authority was able to salvage the business and none of the investment was lost.

Although believing that the Rhode Island program has merit, the committee recognizes that

before the faith and credit of the State of North Dakota could be pledged for such a program, 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. Therefore, in order to establish such a program in this State, it was concluded that the best vehicle would be to use the Bank of North Dakota, and to specifically provide that the credit of the State is not to be pledged, but only the amount in the guarantee fund.

The committee recommends a bill to create an Industrial Building Mortgage Program under the supervision of the Bank of North Dakota. Section 1 of the proposed bill provides that the Bank of North Dakota shall administer the program.

Section 2 establishes the purpose of the bill, including the encouragement of industrial plant expansion by the stimulation of a larger flow of private investment funds from banks, building and loan associations, credit unions, insurance companies, and other financial institutions, including pension, retirement, and profit-sharing funds.

Section 3 defines such terms as "bank", "cost of project", and "industrial project" as used in the bill. Included within the definition of an "industrial project" are buildings, other real estate improvements, and the land upon which such buildings or other real estate improvements are located, provided it is to be used for the manufacturing, processing, or assembling of raw materials or manufactured products, or for the providing of researching or warehousing facilities for the benefit of any such industry.

Section 4 enumerates the powers of the Bank in administering the program, including the power to insure the payment of mortgage loans secured by industrial buildings.

Section 5 provides that, in case of default, the Bank shall have the authority to permit the mortgagor to lease or rent the property for a use other than that specified in section 3 of the bill for a temporary period in order to minimize losses.

Section 6 creates the Industrial Building Mortgage Insurance Fund as a nonlapsing, revolving fund, to which the premiums and income created by the program would be credited and to which the expenses of the Bank would be charged in carrying out the program.

Section 7 provides that the Bank of North Dakota shall have the authority to insure mortgage payments required by a mortgage on an industrial project, subject to the limitations prescribed in the bill. The section sets a ceiling on the aggregate amount of the balance of all mortgages insured under the program of \$10 million. This figure is based upon the proposed initial appropriation of \$1 million for the fund. A ratio of \$1 in guarantee funds for each \$10 in loans which are guaranteed is common in programs of this kind. It should be emphasized that the \$10 million figure would be a statutory ceiling, and that the actual amount guaranteed under the program could be less than that amount, depending upon the amount which the private financial institutions would be willing to lend if there were \$1 million on deposit in the guarantee fund.

Section 8 of the bill allows the Bank to determine the amount of the insurance premiums, with a ceiling on such rate of three percent per year on the principal obligation of the mortgage.

Section 9 provides that the Bank, subject to the approval of the Industrial Commission, may expend out of the fund those amounts which are necessary for administrative costs in carrying out the program.

Section 10 provides that mortgages insured under this program would be legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, building and loan associations, credit unions, and other financial institutions and retirement funds.

Section 11 provides that the Advisory Board of the Bank of North Dakota shall constitute the mortgage insurance fund board and shall approve all loans made under the program.

Section 12 provides that the credit of the Bank of North Dakota and of the State is not pledged, and that only the amount in the fund is pledged.

Section 13 transfers to the mortgage insurance fund the sum of \$1 million from the accumulated, undivided profits of the Bank of North Dakota and appropriates such amount for the purpose of carrying out the provisions of the proposed bill.

#### **Ceilings on Interest Rates on Bonds and Warrants Issued by Political Subdivisions**

In reviewing the problems related to the raising of capital in North Dakota, the committee became

aware of a related problem which has placed pressure upon the political subdivisions of this State. This is the problem created by the statutory interest rate ceilings on bonds and warrants issued by political subdivisions.

The statutory ceilings on such issues range from a low of five percent to a high of seven percent. However, inflation has sent the municipal bond market soaring, which has effectively priced North Dakota issues out of the market. The statutory six percent ceiling on general obligation bonds has resulted in such issues remaining unsold in a market in which such bonds are selling for well over that figure. In order to relieve the pressure which has been caused by this situation, the Bank of North Dakota has purchased a major share of those bonds which have been sold. The effect of this action by the Bank is that the State is subsidizing the political subdivisions. Because there is no advantage for the Bank of North Dakota to purchase tax-exempt securities, and because of limitations in the amount the Bank can acquire, the committee reviewed various alternative methods of improving the situation.

A simple solution may be to raise the statutory limits. However, experience has shown that statutory interest rate ceilings soon become minimum rates as well as maximum rates.

The committee invited representatives of the various political subdivisions and bonding companies for suggestions in searching for an acceptable solution. One suggestion made was that the interest rate ceilings be removed completely, thereby permitting the market to set the rates. However, representatives of the political subdivisions, and particularly the school districts, appeared in opposition to this proposal. The viewpoint was expressed that such a proposal would place local school boards at the mercy of the bond buyers, in that many of the school board members have had little experience in the bond market, and many of the local issues were not of sufficient size to attract truly competitive bidding.

The proposal the committee recommends would provide for an increase in the statutory interest rate ceilings on bonds, warrants, and certificates of indebtedness of political subdivisions and certain state agencies to eight percent, except in those cases in which there is competitive bidding, in which case there would be no interest rate ceilings. In addition, the proposal would require competitive bidding on all bond issues over \$100,000, and would provide that the interest rate on all bond issues would be computed on the basis of average maturities according to standard tables

of bond values. The committee is of the opinion that this proposal would permit the marketplace to determine interest rates, but would, at the same time, protect the smaller political subdivisions by retaining an interest rate ceiling on those issues which are not offered at public sale. Because warrants are not designed for public sale, the eight percent ceiling would apply to those issues under the proposal.

### **Citizenship Requirements for Medical Doctors**

One of the areas the committee studied was that of the development of the human resources of this State. The committee is of the viewpoint that attracting and retaining competent professional people in local communities is very important in providing a stable economy and an attractive environment for economic development. Although the scope of the committee's review in this regard was broad, only one item is recommended for legislative action. North Dakota law now provides that, in addition to the other requirements which relate to professional qualifications, medical doctors are granted only temporary licenses for no longer than six years if they are not United States citizens.

The committee reviewed the statutes of South Dakota in this regard and found that South Dakota permits the licensing of a noncitizen doctor upon his declaring his intention to become a citizen. Therefore, in that neighboring State, a medical doctor who is not a citizen need only indicate his intent to become a citizen in order to receive a license, while in North Dakota that same medical doctor would be granted only a temporary license, subject to nonrenewal if he has not become a citizen within six years.

Because there is no relationship between the quality of medical care and the citizenship of a medical doctor, the committee recommends that the statutes be amended to remove the citizenship requirement. The viewpoint was expressed that such an amendment should make the practice of medicine in this State more attractive, and may have the effect of easing the critical shortage of medical personnel in rural communities.

### **Business and Industrial Development Department**

The committee was assigned the duty of studying the structure, organization responsibilities, and programs of the Business and Industrial Development Department, and to make recommenda-

tions which may be necessary to most effectively utilize that agency in the promotion of business and industrial development.

Prior to the 1969 legislative session, the Economic Development Commission had been involved with industrial promotion, tourist promotion, planning, and economic opportunity programs. In addition to changing the name of the agency, the 1969 session removed all duties of the department except those relating to industrial promotion. The department operates with a staff consisting of a director, two industrial development specialists, one research analyst, and three secretaries. At the beginning of the biennium, the Business and Industrial Development Department established certain goals for the two-year period, with emphasis upon contacts with particular industries. The committee noted that it is difficult to measure the success of the department, but that the evidence which was presented would indicate that the department is now proceeding in the right direction. It was noted that the department is performing an important function in supplying facts and statistics not only to potential industries, but to other public and private industrial development agencies and organizations.

One area in which members of the committee indicated they believe more work is needed is that of educational programs to assist local communities to not only attract new industries, but to adequately prepare for such industries. The Business and Industrial Development Commission reported to the committee that two new positions to work on community development programs are being requested for the next biennium. Another field in which more emphasis is needed is in the promotion of agricultural and agriculturally related industries.

The committee makes no specific recommendation for legislation as a result of its study of the Business and Industrial Development Department. The committee is of the opinion that the changes made by the 1969 Legislative Assembly have made the department a more effective vehicle for the promotion of industry in this State. Most of the suggestions to improve the department deal with the financing of the department, but the committee does not believe that appropriations are within the scope of its responsibilities.

## **UNION WELFARE FUNDS**

### **Introduction**

Senate Concurrent Resolution No. 41 directed the Legislative Council to study the union welfare

funds, retirement benefits, royalties, and other matters pertinent to the lignite mining industry in North Dakota. The concern arose because evidence indicated that the coal mining companies operating in North Dakota, which employ miners belonging to the United Mine Workers of America, were contributing through royalties far more into the union's pension and welfare fund than the North Dakota miners could recover in benefits.

The committee reviewed a broad range of legal problems and possible alternative proposals in searching for an acceptable solution to this problem. The committee received testimony from coal company officials, union officials, attorneys, and other interested persons regarding this problem. The Chairman, Vice Chairman, and Committee Counsel traveled to Washington, D. C., to meet with officials of the United States Department of Labor and of the United Mine Workers of America Welfare and Retirement Fund.

### **Lignite Mining and Miners Welfare Funds in North Dakota**

There are three principal coal mining companies doing business in North Dakota. These companies are the North American Coal Corporation, Truax-Traer Coal Company, and the Knife River Coal Company. The first two companies have contracts with the United Mine Workers of America, while the Knife River Coal Company has a contract with the Progressive Mine Workers' Union of America. The contracts with the United Mine Workers' Union require a royalty payment of 20 cents per ton of coal mined in this State, which payments are made to the United Mine Workers of America Welfare and Retirement Fund. The contract between the Knife River Coal Company and the Progressive Mine Workers' Union provides for royalty payments of 10 cents per ton, with a provision that no royalty payments are to be made if the fund does not require replenishment.

Based upon mining activity for the fiscal year ending June 30, 1968, royalties paid into the United Mine Workers' Fund totaled \$460,766. As that union had 126 employees in the State at that time, this would average \$3,657 per man per year in contributions. At the time the study began, the United Mine Workers of America Welfare and Retirement Fund was paying retirement benefits of \$115 per month after 20 years of service and after attaining the age of 55. In contrast, the Progressive Mine Workers' Program paid \$150 per month after 20 years of service and after attaining the age of 65. The benefits of the United Mine Workers' Retirement program have since been

raised to \$150 per month also. The committee reviewed the other provisions of the two programs and found that the United Mine Workers' Program includes retirement, hospitalization, death, and welfare benefits, while the Progressive Mine Workers' Program provides pensions only.

In addition, other differences between the contracts with the two unions were noted. Workers covered by the contract with the Progressive Mine Workers receive approximately 15 cents more per hour and receive higher sick leave and annual leave benefits. These factors explain, in part, why the mines remain competitive in spite of the difference in royalty payments between the two union retirement programs.

The situs of the United Mine Workers Welfare and Retirement Fund is in Washington, D. C. The fund is an irrevocable trust under the control of the Probate Court in the District of Columbia. On a national scale, the fund collects an average of approximately \$1,500 per year for each employee in a classified job. It is evident that the mining companies in North Dakota are contributing far more per employee into the welfare fund than the average for the mining companies in other areas of the Nation. One reason for this difference is explained in part because of the higher productivity of open pit mining. In an effort to compensate (at least in part) for the difference in price which exists between lignite coal and bituminous coal, the contracts between the United Mine Workers and the bituminous coal companies require royalty payments of 40 cents per ton, as compared to 20 cents per ton on lignite coal.

Testimony before the committee indicated that the retirement benefits paid by the United Mine Workers' Fund could not be increased on a national basis if the fund were to remain actuarially sound. The costs of administering the fund have averaged approximately three percent per year, and in recent years the benefits paid by the fund have been nearly equal to the royalty payments received by the fund.

#### **Employee Welfare Fund Disclosure Acts in Other States**

In considering various alternative courses of action, the committee reviewed the employee welfare fund disclosure laws of other States. Since 1955, six States have enacted laws regulating employee welfare funds. In 1958, Congress passed the Welfare and Pension Plans Disclosure Act. Subsequent to the passage of the federal Act, two States, California and Connecticut, have repealed their Disclosure Acts.

The federal Act provides that welfare and pension funds publish contributions into the funds, benefits paid, number of employees covered, and a balance sheet of the financial condition of each fund. The federal law also stipulates that employee welfare and pension programs which provide benefits to persons in two or more States cannot be required to furnish to any State, other than the State in which the principal office of such fund is located, any information which is required to be published by the federal Act if copies of the reports are made available. However, the federal Act further provides that no State shall be precluded from obtaining additional information relating to employee welfare and pension plans.

The four States which currently have disclosure laws are Wisconsin, Washington, Massachusetts, and New York. All of these States enacted their statutes prior to passage of the federal Act. The state statutes have three major requirements: the filing of trust agreements with a state agency, examination of funds by the state agencies, and the filing of annual reports by each program in the State. None of the four States which have disclosure laws makes any attempt to regulate the contributions paid into such funds. It was noted that the States do not have jurisdiction over the bargaining agreements, but have control only over the administration of the trusts which are created by the bargaining agreements.

#### **Conclusions**

Pursuant to the directive of Senate Concurrent Resolution No. 41, the committee searched for acceptable solutions to the existing problems related particularly to the United Mine Workers Welfare and Retirement Fund. The members of the committee discovered that they were faced with a unique situation in which there appeared to be an inequitable situation, but in which all of the principals involved — the coal mining companies, the miners, the union, and even the competing companies and unions — are satisfied. The members of the committee indicated concern over the fact that the consumers of electricity were paying more than would seem necessary if the contributions into the United Mine Workers of America Welfare and Retirement Fund bore a closer relationship to the benefits which were received by North Dakota miners. However, none of the solutions which were suggested to the committee were found to be legally or practically feasible.

The contracts between the unions and the coal mining companies are the result of collective bar-

gaining, which is a matter of federal, rather than state, jurisdiction. Therefore, for the State to consider legislation to regulate the trust agreements or the contracts between the unions and the companies would involve serious questions of federal preemption and the obligation of contracts. The United Mine Workers of America Welfare and Retirement Fund is controlled by the courts in the District of Columbia, over which the State of North Dakota has no control. Consequently, any attempt by this State to regulate the administration of the trust, such as the place in which such funds are to be deposited, would not have the desired effect. As a practical matter, if such a proposal were possible, it would have the effect of increasing the administrative costs of the program.

The committee was particularly interested in the possibility of the value of a financial disclosure law. Although such a law would not have the

effect of regulating the welfare and retirement programs of unions and other organizations in this State, the opinion was expressed that such a law could have the effect of informing the parties involved of the disparity between the contributions made by North Dakota mines and the benefits received from such activities. However, after reviewing the Disclosure Acts of the other States, the committee concluded that the administrative costs of setting up a program to require such reports would perhaps outweigh any benefits which would be received, particularly in view of the fact that the Federal Government already requires the publication of the financial reports of these programs.

After consulting with the Attorney General's office regarding the legal questions which had been presented, the committee decided to recommend no legislation resulting from this study.

# JUDICIARY

House Concurrent Resolution No. 72 directed the Legislative Council to conduct a study to provide an orderly and equitable process of investigation and an evaluation of claims against the State of North Dakota for damages suffered by citizens.

Senate Concurrent Resolution No. 9 directed the committee to study the feasibility of modifying the doctrine of governmental immunity.

These studies were assigned to the Committee on Judiciary consisting of Senators Elton W. Ringsak, Chairman, Howard A. Freed, Leland Roen, Ernest M. Sands, and William J. Thoreson; and Representatives C. Morris Anderson, Lawrence Dick, James Hougen, William C. Kelsch, Harley R. Kingsbury, Gordon Matheny, Paul Swedlund, Joe Welder, and Carl A. White.

The report of the committee, as amended and adopted by the Council, is as follows:

## Payment of Claims

The committee discussed the payment of claims for which the State of North Dakota is liable to compensate individuals under the direction of the resolution dealing with the feasibility of modifying the doctrine of governmental immunity. However, the committee did consider an ancillary problem of courts of conciliation to handle small personal claims and whether such courts would be feasible in the State of North Dakota.

The committee agreed that some type of conciliation court system which would allow the plaintiff to sue an individual for a small amount which he normally could not afford to consult a lawyer, would be desirable. However, it was pointed out that section 120 of the North Dakota Constitution requires certain elements of due process to be followed in establishing such courts. That section states:

“Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.”

Therefore, the committee decided that even if such a conciliation court would be desirable, it would not be the best method of handling smaller claims because the constitutional safeguards require such due process to be given as a regular existing judicial court.

## Governmental Immunity

### Background

The doctrine of governmental immunity developed in England during the era when the King became the leader of the English church and the feudal immunity he enjoyed became merged with the philosophical idea of the divine rights of Kings. This produced the initial idea of governmental immunity where “The King can do no wrong.”

The concept of governmental immunity was brought to the United States, and when the States gained their independence, the doctrine of governmental immunity was retained, except that immunity was given not only to the sovereign, which would be the Federal and State Governments, but also to the different agencies in the governmental structures; i.e. school districts, counties, municipalities, etc.

The common law or court-made role of governmental immunity has been reinforced in some States by constitutional exceptions, which is the case in North Dakota. Section 22 of the Constitution provides that:

“All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.” (Emphasis added)

The Legislative Assembly has acted to a certain extent in allowing some claims to be brought against the State and its political subdivisions. For instance, an action may be brought against a municipality for negligence with respect to or for defective streets, crosswalks, sidewalks, culverts, or bridges. Also, the State, including its agencies and subdivisions, is now authorized to carry vehicle insurance for protection from loss or damage

arising from the use of such vehicles by its employees regardless of whether or not such vehicles are being operated in the scope of employment. There are statutes which authorize suits against different state agencies such as the Bank of North Dakota, counties, townships, and airports. Under these statutes, it is assumed that governmental immunity is waived at least to the extent of the limitation of the insurance coverage.

Although the doctrine of governmental immunity has been strongly entrenched in the United States for some 200 years, it is now being met with disfavor from the judicial branch of government in the States. The courts reason that it should not make any difference who injures a person; therefore, some courts state that the person causing injury, whether or not it is a state agency or a private individual, shall be liable for the damage caused.

### Committee Action

Following detailed study of the doctrine of governmental immunity and the problems in the field, the committee is of the opinion that the following alternatives are available:

1. Take no legislative action, and therefore, keep the governmental immunity rule in its present form.
2. Enact legislation which would waive the immunity establishment by the doctrine of governmental immunity, and thereby declaring that the State and its political subdivisions will be liable to the same extent as a private individual.
3. Enact legislation which would modify the doctrine of governmental immunity, but only to a limited extent.

The first alternative which the committee discussed was that of taking no legislative action, and thereby leaving the doctrine of governmental immunity as is. The committee is aware that governmental immunity has been abolished by judicial decision in 11 States. Whether or not the Supreme Court of North Dakota would refute or otherwise amend the rule of governmental immunity could not, of course, be known to the committee. To date, the majority of the courts have consistently upheld the immunity doctrine and reaffirmed the position that any change in the doctrine should be accomplished by the legislature.

The committee decided that the doctrine of governmental immunity should not be allowed to remain in its present form. A change in the

court's thinking or in the court itself could lead to judicial abrogation of the doctrine, and this, without legislative guidelines, could create an extreme financial crisis to the State and its political subdivisions. On the other hand, the committee is aware of the fact that if a person were injured and could not recover against the State or its political subdivisions, he might become a ward of the State and the State would eventually end up paying for the damages it caused in this fashion.

The second alternative considered by the committee was to abolish or abrogate the doctrine of governmental immunity in total. The committee in discussing this alternative pointed out that not all activities and functions of the State and its political subdivisions are comparable to private agencies. Therefore, since the State and its public entities have to engage in a broad spectrum of activities which often involves a high degree of exposure to injury-producing events, it would not be advisable to entirely eliminate governmental immunity.

The third alternative of modifying the governmental immunity doctrine to a limited degree was considered by the committee, and it was decided that before any positive action be taken on this alternative, a questionnaire should be sent to all municipalities, school districts, and counties in the State of North Dakota, requesting information on the type of liability insurance that these political subdivisions now carry.

From the questionnaires it was learned that 61 percent of all the political subdivisions which returned the questionnaires have insurance.

The questionnaire also pointed out that of the 325 claims paid, 189 or 58 percent were paid by insurance which led the committee to ask the question, "Since the political subdivisions have no authority to pay claims unless insurance coverage is obtained, how did the remainder of the claims get paid?"

It was pointed out to the committee by the insurance industry that sometimes it is more feasible for the political subdivisions to pay small claims and keep local citizens satisfied. It was also pointed out by the questionnaire that the larger population categories of the counties and municipalities have a disproportionately large number of claims. Also, as the size of the political subdivision increases, so do the insurance rates.

The questionnaire also pointed out that the opinions of officials of political subdivisions are

that if governmental immunity were to be modified, there should be a limitation placed on the amount recovered; and further, there should be a distinction made between those activities which the political subdivision must carry on as essential governmental functions and those in which it engages in a proprietary manner.

A tabulation of the governmental immunity questionnaires is attached as Appendix "A".

The committee thus decided that the modification of the governmental immunity doctrine is in order and should be recommended to the Legislative Council.

The broad alternatives for modifying the doctrine were narrowed down to the following three courses of action:

1. Enact legislation which reaffirms the immunity rule but sets out exceptions where immunity would not apply.
2. Enact legislation which would abolish the doctrine of governmental immunity but sets out exceptions where immunity would still apply.
3. Provide for the mandatory purchase of liability insurance by the State and its political subdivisions in certain specified areas of common risk and waive governmental immunity up to the extent of the coverage so required.

The first approach or alternative distinguishes between governmental and proprietary activities. However, since no exact definition or explanation as to what constitutes a governmental or a proprietary function has been developed in any State, this type of legislation would lead to uncertainty. Only case-by-case decisions of the State Supreme Court would establish those activities for which the State and its political subdivisions could be held responsible.

Under the second alternative, governmental immunity would be abolished, but exceptions to that abrogation would apply. The problem that the committee saw in drafting this type of legislation is that it is more difficult to establish all exceptions to the general rule of immunity than it is to continue general immunity and then set forth instances where immunity does not exist.

The third approach, that of requiring insurance, closely resembles the present law of North Dakota

to some extent since present law permits the purchase by the political subdivisions of certain types of insurance if they so desire. This type of approach results in sound fiscal planning through the budgeting of a definite amount for insurance premiums. However, the present law does not make the insurance mandatory, and thus, there is no assurance that a claimant will recover his legitimate damages for all injuries.

The committee recommends that the State and its political subdivisions be liable within the limits of liability insurance coverage in certain areas where private individuals would be liable under similar circumstances. By doing this, the committee would retain the governmental vs. proprietary distinction and set forth only three areas where the State and its political subdivisions are required to have minimum insurance coverage. These areas are:

1. Coverage while a highway, street, or road is in the construction or maintenance period.
2. Insurance on motor vehicles owned by the State or its political subdivisions, whether or not the vehicles are engaged in an emergency situation.
3. Insurance on all public buildings and their premises.

In discussing the limits of the insurance which is to be required by the State and its political subdivisions in these areas of common risk, it was noted that the amount of increase in premiums is very small as the dollar limits of coverage are increased. Thus, after the initial policy of \$20,000 is purchased, there is very little cost increase for a higher dollar coverage. Therefore, the committee recommends that the insurance coverage required for bodily injury be \$100,000 per person, and \$300,000 per accident, with the property damage set at \$100,000 per occurrence.

The committee also recommends that in order to assure uniformity among insurance policies and established specific guidelines for the insurance companies to bid upon, the Insurance Commissioner be directed to set forth specifications for the insurance which is required by the State and all its political subdivisions in those areas of common risk.

A bill is therefore recommended which would require the State and all its political subdivisions to take out liability insurance on their motor vehicles, their public buildings and their premises and their

roads, streets, and highways during the periods of construction or maintenance. The minimum amount of insurance for bodily injury would be no less than \$100,000 per person or \$300,000 per accident, and no less than \$100,000 for property damage. The Insurance Commissioner must specify the coverage required and also require that insurance companies insert in the policy a provision whereby the insurer states that the policy is sufficient to cover the specifications as set forth by the Insurance Commissioner, and if such specifications are not covered to the fullest extent as required, the insurer shall be liable for the consequential damages of the lack of coverage. The bill requires that the State and its political subdivisions obtain such insurance by July 1 of 1972.

### **Miscellaneous Matters**

Judge A. C. Bakken, Judge of the First Judicial District of North Dakota, by letter requested the committee to consider amending the North Dakota Century Code to require the State's Attorney in those counties where the population exceeds 35,000 to be a full-time employee. Also, if a State's Attorney hires an assistant in those counties, the assistant would also be a full-time employee.

The salary range for those State's Attorneys would be from \$14,000 to \$18,000 per year, which would be an increase from \$8,500 per year. By offering this sum of money, the committee believes that competent attorneys would vie for the position and such a salary would maintain the State's Attorney in a position where he would not have to maintain a private practice and would result in much more service to the county. A bill is recommended which would incorporate these changes in the State's Attorney position in those counties whose population exceeds 35,000.

The Attorney for the Unsatisfied Judgment Fund gave a report to the committee on some of the problems that are involved in administering the Unsatisfied Judgment Fund. It was reported

that the fund will be insufficiently funded for the next 10 years. To solve this problem, he proposed to continue the \$1 a year fee on license plates, plus charging an additional fee. The additional method of funding would be to assess a \$50 fee to all those persons who, at the time of registration, could not show financial responsibility or insurance in the sum of \$10,000 per person, \$20,000 per accident for bodily injury, and \$5,000 for property damage. After the amount in the fund exceeds \$300,000, only the \$50 fee would continue unless the fund again drops below \$300,000. A bill is recommended which would incorporate the alternative method of funding the Unsatisfied Judgment Fund.

The Attorney for the Unsatisfied Judgment Fund also recommended that the Highway Commissioner should not be required to suspend the license of an uninsured motorist who was involved in an accident if that motorist then took out insurance and if it appeared that the motorist was not negligent or responsible for causing the accident. Under present law, a person who does not have insurance and who causes an accident would have his license suspended even though his negligence is doubtful. If the person is found not negligent at a trial at some future date, often 18 to 36 months after the accident, his license would be returned to him. The committee recommends a bill to change the statutes in the manner suggested since it believes such a requirement does an injustice to those motorists who do not carry insurance but who would be required to make a \$50 per year payment to the fund under the bill previously recommended.

The committee also recommends a bill repealing section 16-20-10 of the North Dakota Century Code, relating to immunity from prosecution for testifying in regard to illegal political contributions. This bill would alleviate the problem which has resulted in the dismissal of indictments against persons who do not testify before a grand jury but yet are deemed by the courts to be immune from prosecution.

**TABULATION OF GOVERNMENTAL IMMUNITY QUESTIONNAIRES**  
**Appendix "A"**

	% Returned	% Carrying Insurance	Claims Presented	Claims Paid	Claims Paid By Insurance	Auto Premium Average	Liability Premium Average	Total Premium Average	Distinction Between Governmental or Proprietary Function		Limit Amount Recoverable	
									Yes	No	Yes	No
<b>School Districts</b>												
'High School .....	136 of 258 - 53%	108 of 143 - 75%	47	44	35	\$ .....	\$ .....	\$ .....	72	33	99	15
A. 1 - 250 ....	54 of 117 - 46%	38 of 54 - 70%	4	4	4	396	166	394	26	17	38	7
B. 251 - 500 ....	40 of 75 - 53%	33 of 40 - 83%	7	6	1	534	357	632	23	10	31	4
C. 501 - 1,000 ....	33 of 50 - 66%	28 of 33 - 85%	31	30	27	911	555	1,174	18	5	24	3
D. Over 1,000 ....	9 of 16 - 56%	9 of 16 - 56%	5	4	3	977	1,138	1,357	5	1	6	1
Elementary .....	29 of 63 - 46%	12 of 29 - 41%	4	4	1	157	49	168	16	4	22	0
One-Room and Nonoperating ....	48 of 114 - 42%	15 of 48 - 31%	14	14	14	111	.....	.....	18	8	19	8
<b>TOTAL .....</b>	<b>213 of 435 - 49%</b>	<b>135 of 220 - 63%</b>	<b>65</b>	<b>62</b>	<b>50</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>106</b>	<b>45</b>	<b>140</b>	<b>23</b>
<b>Counties</b>												
1. 1 - 5,000 ....	6 of 12 - 50%	6 of 6 - 100%	10	7	7	\$ 940	.....	.....	6	0	6	0
2. 5,001 - 10,000 ....	15 of 21 - 71%	14 of 15 - 93%	23	21	12	1,570	.....	.....	11	2	11	2
3. 10,001 - 15,000 ....	7 of 9 - 78%	7 of 7 - 100%	10	9	1	2,574	.....	.....	4	2	4	2
4. 15,001 - 20,000 ....	3 of 4 - 75%	3 of 3 - 100%	3	3	3	1,910 <sup>a</sup>	.....	.....	1	1	1	1
5. Over 20,000 .....	4 of 7 - 57%	4 of 4 - 100%	63	61	18	4,006	.....	.....	4	0	2	2
<b>TOTAL .....</b>	<b>35 of 53 - 66%</b>	<b>34 of 35 - 97%</b>	<b>110</b>	<b>101</b>	<b>41</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>26</b>	<b>5</b>	<b>24</b>	<b>7</b>
<b>Municipalities</b>												
1. 1 - 249 ....	71 of 161 - 44%	20 of 71 - 28%	3	3	3	\$ 195	.....	.....	29	14	40	7
2. 250 - 1,000 .....	61 of 129 - 47%	38 of 61 - 62%	13	11	11	314	.....	.....	36	20	47	4
3. 1,001 - 2,500 .....	27 of 50 - 54%	23 of 27 - 85%	53	47	35	944	.....	.....	14	7	16	6
4. 2,501 - 5,000 .....	1 of 3 - 33%	1 of 1 - 100%	0	0	0	1,173	.....	.....	1	0	1	0
5. Over 5,000 .....	5 of 11 - 45%	5 of 5 - 100%	142	101	49	4,135	.....	.....	2	2	3	1
<b>TOTAL .....</b>	<b>165 of 354 - 47%</b>	<b>87 of 165 - 53%</b>	<b>211</b>	<b>162</b>	<b>98</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>82</b>	<b>43</b>	<b>107</b>	<b>18</b>
<b>GRAND TOTAL</b>	<b>413 of 842 - 49%</b>	<b>256 of 420 - 61%</b>	<b>386</b>	<b>325</b>	<b>189(58%)</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>214</b>	<b>52</b>	<b>271</b>	<b>40</b>

<sup>a</sup>High School totals include figures shown for A, B, C, and D.

<sup>b</sup>Only exception to premium increase as size increases (probably underinsured).

# LEGISLATIVE PROCEDURE AND ARRANGEMENTS

The Legislative Council was directed by Senate Concurrent Resolution No. 1 to study the feasibility of establishing a system of recessed biennial legislative sessions, in order that the legislature might more effectively utilize the 60 days authorized each biennium for the legislative session.

The Legislative Council is also directed by section 54-35-11 of the Century Code to make all necessary arrangements, with the exception of the employment of temporary session employees, to facilitate the proper convening and operation of the Legislative Assembly. The study, carried out under Senate Concurrent Resolution No. 1, and all matters relating to arrangements for the forthcoming legislative session were assigned to the Committee on Legislative Procedure and Arrangements, consisting of Representatives Arthur A. Link, Chairman; S. F. Hoffner, Ernest N. Johnson, Bryce Streibel, and Earl S. Strinden; and Senators George Longmire, Robert Melland, Herbert L. Meschke, and Clark Van Horn.

The report, recommended legislation, and recommended amendments to Legislative Rules of the Committee on Legislative Procedure and Arrangements was submitted to the full Legislative Council at its biennial meeting at Camp Grafton, Devils Lake, North Dakota, in November 1970. The Legislative Council adopted the committee report and approved the recommended legislation and Rules amendments for submission to the Forty-second Legislative Assembly.

## Introduction

The committee's activities and recommendations cover the entire range of legislative affairs. The committee recommends several amendments to the legislative rules of both Houses, and the joint legislative rules, including an amendment which directs the staff of the Legislative Council to check all bills and resolutions introduced to ensure that they are in the proper form and style and do not cause conflicts by amending or creating the same Code or constitutional sections. The committee also thoroughly studied the application of electronic data processing techniques to the legislative process, and authorized the purchase of an electronic Statutory Search and Retrieval System which will permit rapid computer searching and retrieval from the entire text of the North Dakota Century Code. In accordance with the requirements of law, the committee has prepared an agenda for the December Organizational Ses-

sion, scheduled for December 8-10, 1970. The committee took numerous steps to improve the legislative space situation and to otherwise improve legislative facilities. In order to aid in alleviating the problem of shortage of time for standing committees to adequately consider the large number of bills presented to them, the committee is again recommending a change in committee scheduling and reduction in the number of standing committees in the House to match the number of committees in the Senate. The committee is also greatly concerned for the integrity of the initiative and referral process, and is recommending a bill and a concurrent resolution for a constitutional amendment dealing with that topic. The committee, in accordance with authority given by statute and legislative rules, has made several changes in regard to legislative printing, including arrangements for the printing of bills and Session Laws by direct offset from original copy. The committee also took numerous other actions which will be discussed in the text of the report.

## Recessed Biennial Session Plan

Senate Concurrent Resolution No. 1 directed the committee to study the feasibility and constitutionality of establishing a system of recessed legislative sessions. The recessed biennial session pattern under consideration would provide for the Legislative Assembly to meet in December of the even-numbered year in an Organizational Session, as is presently being done, after which it would recess until January of the odd-numbered year, then reconvene for a period sufficient to allow introduction of bills, passage of appropriations and emergency measures, and referral of bills, studies, and research projects to committees. The legislature would then recess until January of the next year, and during the interim the House and Senate standing committees would meet jointly and conduct public hearings on the bills introduced during the short odd-year session.

The committee determined that a recessed biennial session system would probably meet the test of constitutionality. Although the North Dakota Supreme Court has not spoken directly on this point, it is interesting to note that the Court has, in one of its opinions, recognized the greatly expanded responsibilities of the legislature. The Court stated:

"The functions of state government have grown and expanded greatly since state-

hood. The responsibilities of the legislators and the amount of work which they must accomplish in the limited 60-day session have also grown in amount and in complexity. We must assume that the necessity for these expenses (referring to the \$35 per month interim expense allowance) was made the subject of a proper investigation by the legislature and constitutes an honest decision made with the best interests of the State in mind. The wisdom, necessity, and expediency of the law are primarily matters for legislative rather than judicial consideration." (Insertion supplied.) **Verry v. Trenbeath**, 148 N.W. 2d 567 (N.D. 1967).

At its meeting preceding the September primary election, the committee decided to table any further action on Senate Concurrent Resolution No. 1 until the results of the primary election, on the question of holding a Constitutional Convention, were known. When the Constitutional Convention amendment was approved, the committee decided to take no further action under Senate Concurrent Resolution No. 1, and to recommend that, if necessary, further study of the possibility of using the recessed biennial session technique wait until after the Constitutional Convention has completed its work.

### Legislative Data Processing Applications

Early in the biennium, the committee directed the Council staff to obtain additional information regarding storage and retrieval of the North Dakota statutes through use of electronic data processing. Later, the committee also requested the staff to look into the possibility of adding a computer-assisted bill typing program.

Two firms were contacted in regard to both of these applications: Aspen Systems Corporation of Pittsburgh, Pennsylvania, (Aspen); and Data Retrieval Corporation of America of Milwaukee, Wisconsin, (DRCA). DRCA had already developed a search and retrieval and bill typing system which is operational in a Wisconsin legislative service agency. However, the DRCA programs are designed to run on an IBM Model 360/50 computer system and would need extensive modification before they would run on an RCA Spectra 70/45, which is the type of computer equipment used by the Central Data Processing Division of the Department of Accounts and Purchases. Aspen Systems Corporation (Aspen) had its statutory search and retrieval system (Aspensearch IV) operational on RCA Spectra equipment; however, its computer-assisted bill typing capability had not yet been fully developed.

During the thorough data processing study which had been carried on by the Council during the preceding biennium, RCA Corporation had agreed to furnish the legislature with a computer-assisted bill typing capability as a portion of the agreement for installation of RCA equipment in North Dakota. However, before RCA could develop and install such a system, the legislature would have to arrange for a statutory search and retrieval system to be installed, because the data base created for use by the statutory search and retrieval system is vital to the full use of a computer-assisted bill typing system. Furthermore, with or without the statutory search and retrieval system, RCA could only develop a limited computer-assisted bill typing system for use during the 1971 Legislative Session.

The committee was hopeful of having both the search and retrieval and bill typing systems fully usable for the 1971 session and looked into several alternatives:

1. Alternative No. 1 was to purchase the full search and retrieval and bill typing system from DRCA and have it installed on state equipment. This alternative finally proved to be not feasible because, in addition to the \$192,000 estimated cost, DRCA also wanted to be paid for conversion of its system to RCA hardware.
2. The second alternative was to use the DRCA statutory search and retrieval system and to have RCA develop a limited bill typing system, both systems to be operational on the state computer. The approximate cost for this alternative was \$142,000. The committee felt that this alternative was not feasible because of its cost, and because the bill typing system would have several limitations. In addition, the bill typing system would have to coincide with the DRCA's search and retrieval system, and the extent to which the DRCA would offer its full cooperation to RCA in carrying out this coordinated effort was unknown.
3. The third alternative considered was to use DRCA's search and retrieval and bill typing systems on a computer located outside the State of North Dakota. The approximate total cost for this alternative was \$88,000; however, the committee rejected this alternative on the basis that, although cost savings could probably be accomplished for the 1971 session, the legislature could not be assured that the savings would be continued in future sessions. In the meanwhile, the

State's Central Data Processing Division would not be developing the local capability of operating a search and retrieval and bill typing system for the legislature.

Having considered and rejected these three alternatives, the committee further looked into the possibility of development of a computer-assisted bill typing system by RCA, and received a promise that if a statutory search and retrieval system were purchased and installed for use during the 1971 legislative session, RCA would develop a complete computer-assisted bill typing system which would be integrated with the statutory search and retrieval system for use during the 1973 legislative session.

Aspen offered its statutory search and retrieval system, which is already operational on RCA computer equipment in other States, to the State of North Dakota at a cost of \$29,000. Furthermore, Aspen showed a willingness to cooperate fully with RCA in the development of a computer-assisted bill typing system for the State of North Dakota. DRCA offered its statutory search and retrieval system at a price of \$50,000, and the cost of converting such a system to RCA computer equipment would have to be borne by either the State of North Dakota or RCA Corporation.

Finally, the committee authorized the Chairman of the Legislative Council to enter into a contract with RCA Corporation for implementation of an on-line bill status and computer-assisted bill drafting program, to be interfaced with a purchased statutory search and retrieval system, the entire data processing package to be implemented for use prior to and during the 1973 legislative organizational and regular sessions. The committee also authorized the Chairman of the Council to enter into a contract with either DRCA or Aspen for purchase of a statutory search and retrieval system for use during the 1971 session.

A contract was entered into for the purchase of the statutory search and retrieval system developed by Aspen Systems Corporation, which will be installed and in operation prior to the organizational session in December. Aspen further agreed in the contract to cooperate fully with RCA Corporation in the development of a computer-assisted bill typing system. The cost of the programs purchased from Aspen is \$29,000. The contract also provides that the Legislative Council will have the capability of asking for searches to be run on Aspen computer hardware at no cost for a period of six months.

The computerized bill status reporting system, which was used during the 1969 legislative session,

will be continued in approximately the same form during the 1971 legislative session; however, the committee directed that the bill status system be on-line to terminals located in the legislative wing during the 1973 legislative session. With the on-line system, the status of a bill pending before the legislature could be discovered almost instantaneously by an individual legislator, or by the legislative staff personnel, through use of a video or typewriter terminal located in the legislative wing. Furthermore, actions taken on a bill could be recorded on the bill status system almost as rapidly as they are taking place through use of the same terminals.

The computer-assisted bill typing system mentioned above will be operational just prior to the 1973 session, and would be utilized by the Legislative Council staff for the preparation of bills for interim committees, and, primarily, for introduction during the session. The system would operate on cathode ray tube (CRT) video terminals or electric typewriter terminals located in the staff offices. These terminals would be linked directly to the main computer located in the Central Data Processing Division's offices. The main computer would have the entire current text of the Century Code in storage, and a terminal operator, located in the Council staff office, could request that the computer print on her terminal any section or sections of the Code, which she could then amend by inserting and deleting the proper language as directed by the professional staffman drafting the bill. When the amendment is completed, the operator will punch a code on the terminal which will cause the computer to retype the amended section or sections in proper bill form ready for introduction. The text of the newly drafted bill would also be stored in the computer, from where it could be called back to the terminal in case it needed further amendment. During the session, bills which had passed could be enrolled through use of the system. Finally, at the end of the legislative session, the text of all bills which have passed could be reprinted by the computer for use in compiling the Session Laws and the Century Code Supplements.

### **Initiative and Referendum**

Following the decision of the North Dakota Supreme Court in **Hernett v. Meier**, 173 N.W. 2d 907 (N.D. 1970), which case involved a challenge to the sufficiency of the petitions referring Senate Bill No. 410, which provided for construction of a multipurpose building on the Capitol Grounds, the committee determined that steps should be taken to ensure the integrity of the recall, initiative, and referral processes.

Therefore, the committee recommends a bill which deals with the regulations governing initiative, referendum, and recall petitions, and the powers and duties of the Secretary of State in that area. Section 1 of the bill creates section 16-01-11.1 of the Century Code which provides that the Secretary of State shall pass upon the sufficiency of petitions within 35 days after they are filed. To aid in his decision, the Secretary of State is directed to mail individual questionnaires to not less than 51 percent of the persons who signed all copies of initiative or referendum petitions. The form of the questionnaire is to be determined by the Secretary of State but it shall be designed to find out whether the signer of the petition was a qualified elector at the time he signed the petition. Each questionnaire is to be addressed to the person at the postal address indicated on the petition, and each questionnaire shall have prepaid return postage provided for, so that the person questioned can return it to the Secretary of State at no cost.

The section provides that if a questionnaire is returned undelivered because the addressee is unknown, or the address is nonexistent, a presumption arises that the addressee did not sign the petition. If, in the course of determining the sufficiency of the petition, the Secretary of State discovers fraud, he is to deliver the evidence to the Attorney General, who is directed to prosecute the persons responsible. However, answers to the questionnaires are not to be introduced in any criminal action.

Section 2 of the bill creates section 16-01-11.2 which provides that persons circulating initiative, referendum, or recall petitions must be at least 18 years old, and the affidavit to be affixed to each copy of the petition must be signed by a person who is also at least 18 years old. All signatures on any copy of a petition which has an attached affidavit signed by a person less than 18 years of age shall be deemed invalid.

Section 3 of the bill amends section 16-01-11 to provide that each signer of a petition shall add after his signature only his post-office address and the date of signing. The amendment also provides that every person signing a petition must do so in the presence of the person who is circulating the petition and that the affidavit attached to each copy of the petition must be executed by the circulator of that particular copy of the petition, and must be accompanied by a typed or printed list of the signers of the petition. Any person who signs a petition who is not an elector, or any person who signs a name other than his own, or any person who signs an affidavit knowing all or part

of it to be false, is guilty of a misdemeanor. All signatures on any copy of a petition which is accompanied by a false affidavit are invalid.

Section 4 of the bill provides an appropriation of \$2,100 to the Secretary of State to cover the cost of postage and handling of the questionnaires required by section 1 of the bill. The appropriation will be canceled at the end of the biennium in the event the Secretary of State does not need it.

The committee also recommends a concurrent resolution proposing an amendment to section 25 of the Constitution dealing with protection of the rights of initiative and referendum. The amendment provides that the Secretary of State shall have a period of 35 days to pass upon the sufficiency of each petition in the manner provided by law. If the Secretary of State determines that the petition is insufficient, he shall notify the Committee for the Petitioners of that fact and allow 20 days for correction. The present constitutional provision is that the petitioners have 20 days for "correction or amendment". Because the "or amendment" language has been construed to mean that the Committee for the Petitioners could seek additional signatures, the committee decided to delete that language, since it believes that petitioners should not be able to get additional signatures following the deadline for filing. The amendment further provides that initiative and referendum petitions may only be circulated by qualified electors.

The decision of the Secretary of State in regard to the sufficiency of any petition is subject to review by the district court of Burleigh County, rather than by the Supreme Court. However, either party would have the right of appeal to the Supreme Court. The committee recommends this change because it believes that the District Court would have the machinery more readily available for looking into the facts surrounding any question of the sufficiency of a petition or petitions.

The amendment also changes the requirement that no initiated or referred measure may be amended or repealed by the legislature, except by a two-thirds vote so as to limit that requirement to a period of five years following the enactment or approval by the electorate.

Finally, the section is amended to provide that laws may be enacted to facilitate the operation of the section, which shall remain self-executing and mandatory, and to protect the initiative and referendum processes from fraud. The number of sig-

natures required on either an initiative or referral petition would not be changed by adoption of this amendment.

### **State Capitol Security**

Following several break-ins and other unauthorized entries into the Legislative Council staff offices and other offices within the legislative wing, the committee directed the staff to look into the possibility of purchasing a new lock system for the legislative wing of the State Capitol. The staff contacted the Director of Institutions and asked him to request proposals for installation of a new lock system in the legislative wing. The staff also suggested that, if the current biennium's budget allowed, the Director look into the possibility of changing the lock system throughout the entire Capitol Building. In the event the Director's budget would not allow installation of the new lock system throughout the entire Capitol, the committee agreed that the legislature would pay for the installation of locks in the legislative wing, in order that the new system could be installed prior to the next legislative session.

The Director of Institutions presented proposals from three lock companies: Best Locks, Inc., of Minneapolis, Minnesota; D & M Supply Company of Fargo, North Dakota, (representing Corbin Locks); and Hardware, Inc., of Fargo, North Dakota, (representing the Sargent Lock Company). The Sargent Lock Company produces a type of lock for which keys are stamped according to a computer program and cannot be duplicated.

The Director of Institutions believes it best to install the entire lock system at one time, and feels that he has the funds available to install any of the three systems throughout the Capitol Building if the legislature would pay for the installation within the legislative wing. The committee recommended to the Director of Institutions that a maximum security, nonduplicable locking system be installed throughout the entire Capitol Building, and agreed that the legislature would pay for the locks replaced in the legislative wing. Pursuant to that direction, the Director of Institutions has entered into a contract with the Sargent Lock Company, and the new lock system should be installed prior to the legislative organizational session.

The committee also believes that arrangements should be made to tighten control over keys issued, and directed the staff to prepare alternate bills providing that employees should either make a deposit prior to being issued a key to any door

in the Capitol Building, or that their final salary or wage payment should be retained if they fail to turn back a key previously issued to them, or pay a fee in lieu of return. Either bill is also to provide that the Legislative Council may have control over the issuance of keys to the legislative wing.

The committee considered the two bill drafts and recommends the bill draft providing for retention of a state official's or employee's final wage or salary check upon failure to return an issued key, and provides for payment of a fee in lieu of return.

Section 1 of the bill creates section 44-08-18 of the Century Code which provides that all elected and appointed state officials and state employees are responsible for the safekeeping and return of Capitol keys issued to them, and shall upon or before terminating their employment return their keys to a designated person in the office or department in which they were employed, or to the Director of Institutions (or to the Legislative Council in cases where the Council has issued keys).

Section 2 of the bill creates section 54-06-15 which provides that when an official or employee fails or is unable to return a key or keys issued to him, his final warrant-check shall be retained until the key or keys issued to him are returned, or until a fee of \$5 is paid for each key which is not returned. The warrant-check shall be retained by the head of the department in which the employee works.

Section 3 of the bill creates section 54-21-17.1 which directs the Director of Institutions to see to the security of the State Capitol, and to control the issuance and return of keys to doors in the State Capitol. The Director may request the Legislative Council to issue and control keys to doors in the legislative wing. The Director is authorized to promulgate rules and regulations regarding the manner in which keys are to be issued and returned. Section 4 declares the Act to be an emergency measure.

### **Legislative Rules Amendments**

The committee has considered and is recommending numerous rules amendments dealing with a wide variety of legislative procedure or arrangements. The meeting dates and number of standing committees again received scrutiny, and the committee decided to re-propose the "5-3-2 committee system".

The committee recognizes that the standing committee system is the heart of the legislative process, for it is in standing committee hearings that particular measures will get the only formalized, close scrutiny that time allows. The committee further recognizes that the present standing committee schedule does not allow enough time for the work of some committees to be completed, while other committees, based on the statistics regarding referral of bills are not overburdened by their workload.

The Senate accepted some changes in its committee structure during the last session of the legislature; however, the committee has agreed that the adoption of the "5-3-2" plan in both Houses would be an improvement over even the Senate committee schedule of the last session. Implementation of this committee schedule would require legislators in both Houses, except the leadership and members of the Appropriations Committees, to serve on two committees. Implementation would also require consolidation of the House Committees on Social Welfare with Veterans' Affairs, the House Committees on Industry and Business with Labor, and would eliminate the House Committee on General Affairs.

Under the proposed schedule, both Appropriations Committees would meet five days per week, and members of those committees would serve on no other standing committees. The committees which statistics indicate have the greatest workload would meet three days per week, and the committees with a lesser workload, in terms of the number of bills referred, would meet for two days per week.

The proposed committee schedule and membership would be as follows:

#### SENATE

Committee	Meeting Days	No. of Members
Appropriations.....	MTWThF	13
Finance and Taxation.....	MTW	7
Judiciary.....	MTW	7
Industry, Business and Labor.....	MTW	7
Education.....	MTW	7
State and Federal Government.....	MTW	7
Political Subdivisions.....	ThF	7
Social Welfare and Veterans' Affairs.....	ThF	7
Transportation.....	ThF	7
Agriculture.....	ThF	7
Natural Resources.....	ThF	7

#### HOUSE

Committee	Meeting Days	No. of Members
Appropriations.....	MTWThF	20
Finance and Taxation.....	MTW	15
Judiciary.....	MTW	15
Industry, Business and Labor.....	MTW	15
Education.....	MTW	15
State and Federal Government.....	MTW	15
Political Subdivisions.....	ThF	15
Social Welfare and Veterans' Affairs.....	ThF	15
Transportation.....	ThF	15
Agriculture.....	ThF	15
Natural Resources.....	ThF	15

During the course of consideration of a new committee system, the committee had directed the staff to gather statistics regarding the consideration of bills by standing committees. These and other legislative statistics were compiled and are published with this report as Appendix "A". In order to implement the new committee schedule, the committee is recommending amendments to House Rules Nos. 40, 41, and 42, and Senate Rules Nos. 39, 40, and 41.

The committee considered the problem of conflicts created by introduced bills which create or amend the same section of the Century Code or the Constitution. The committee also noted the fact that there are numerous bills and resolutions introduced which are not drafted by the staff of the Legislative Council, and that these bills are often in improper form which causes problems in consideration and amendment of them during the session and in preparing them for publication in the Session Laws and the Century Code Supplements.

The committee considered and rejected the idea of creating a Screening Committee with legislative membership which would have powers to screen all bills and resolutions introduced for content, form, style, and the creation of conflicts. Instead, the committee is recommending amendments to Senate Rules Nos. 31 and 32 and House Rules Nos. 32 and 33 which direct the Legislative Council staff to check all bills and resolutions introduced to ensure that they are in the proper form and style, and to indicate to the sponsor of a bill or resolution if it creates a conflict by amending a section of the Century Code, or of the North Dakota Constitution, which was already amended in a bill or resolution previously introduced.

The procedure would be as follows: When a bill is filed with the Secretary or Chief Clerk without a note attached stating that it was drafted, re-typed, or approved by the Legislative Council staff, the Secretary or the Chief Clerk will immediately deliver the bill to the Council Staff for checking. The Council will check the bill to ensure that it is typed on pre-printed bill paper and is otherwise in the form and style required. The staff will also check to determine whether the bill creates a conflict and will notify the sponsor if a conflict is created. If the bill or resolution meets the form and style requirements it will be returned to the Secretary or the Chief Clerk for introduction. If the bill does not meet form and style criteria, the staff will put it in the proper form and style and return it to the Secretary or Chief Clerk for introduction.

Senate Rule No. 31 and House Rule No. 32 are also amended to provide that the original of each bill or resolution filed with the Secretary or the Chief Clerk shall be typed on pre-printed bill paper, and to provide that each bill or resolution may have no more than five individual sponsors.

The committee recommends amendments to Senate Rule No. 36 and House Rule No. 38, and the creation of Joint Rule No. 20 to clarify the procedure to be followed in the handling of Legislative Council study resolutions. The amendments to the two rules provide simply that all resolutions calling for a Council study are to be referred to the appropriate standing committees, and then re-referred to the Legislative Council Resolutions Committee, which shall retain them until action is taken as provided in Joint Rule No. 20.

Joint Rule No. 20 provides that, following the 35th legislative day, the two Legislative Council Resolutions Committees shall meet jointly and shall consider and report on all study resolutions (or bills) which have been re-referred to them. The committees may meet jointly as many times as is necessary.

The Chief Clerk of the House appeared before the committee and requested that the committee amend the legislative rules so as to clarify the procedure to be followed by conference committees. He noted that conference committees often gave their first report to the House which did not have possession of the bill under consideration, thus causing confusion in the legislative records. The committee recommends an amendment to Joint Legislative Rule No. 6 to clarify this situation. The amendment provides that when the conference committee report is prepared, it will be submitted first to the House having possession of the bill, and

after action upon it, will be submitted to the other House. When that House has acted, it will notify the House having possession of the bill, which will then proceed to take appropriate action on the bill and transmit it to the other House.

The committee also decided that, in order to give a more accurate picture of the cost of carrying out interim legislative studies, the Rules should be amended to provide that a fiscal note should be attached to all Legislative Council study resolutions having an impact of over \$1,000. Therefore, the committee recommends an amendment to Joint Rule No. 14 to provide for fiscal notes on Council study resolutions. The practical effect of this rule will be that fiscal notes will be attached to all study resolutions, since it is very unlikely that any interim legislative study would take less than \$1,000 worth of legislative meeting or professional staff time.

The committee also recommends several other miscellaneous Rules amendments, one of which would make the "clincher motion" nondebatable, and another which would provide that 250 rather than 200 copies of the permanent Journal be printed. This amendment is necessary because desired distribution patterns exceed the present supply of permanent Journals.

The committee is also recommending other Rules amendments which deal with legislative employees and the duties of the Sergeant-at-Arms in each House, but these will be discussed in those portions of the report which deal with the general topic involved. The committee authorized the staff to make all necessary ministerial and clerical corrections in the text of the Legislative Rules prior to republication.

### **Legislative Physical Facilities**

The committee authorized numerous changes in the legislative physical facilities to be used during the forthcoming session. Some of the changes have already been effected, and some await the approval of the Legislative Council and the legislature. The committee was active in early planning for the multipurpose building called for by Senate Bill No. 410, and advised the Capitol Grounds Planning Commission in the commission's planning for the building. It was the hope of the committee that the multipurpose building could be partially finished prior to the legislative session, and that use of the planned legislative space therein would greatly alleviate the space problem during the 1971 session. When the electorate, upon referral of the question to them, rejected

construction of the multipurpose building, the committee decided to take other steps to find more space.

The State Commission on Alcoholism was directed to vacate the space which it occupied on the Senate Balcony level for the duration of the session, and the area formerly used by the House Chief Stenographer and Payroll Clerk was enlarged by removing the wall between that area and the area containing telephone booths, which were not used during the legislative session. This project has been completed and the room will be in use during the session.

In order to move two members of the Council staff from the hallway in Room G-3 and make room for one additional person on the Legislative Council professional staff, as well as to provide space for the additional clerical help hired during the legislative session, the Council Chairman authorized the staff to occupy additional quarters in the room which was used by the House Stenographers during the 1969 session. This room has been numbered G-8 and is used by three members of the Council's professional staff.

The above change forced the committee to attempt to solve the problem of space for the House Stenographers. It was brought to the committee's attention by several members of the 1969 House Appropriations Committee that its committee room was highly undesirable for committee hearings. It was recommended that the Large Hearing Room be divided by a folding divider so that it can be used for meetings of both the Senate and House Appropriations Committee. Estimates of the cost of purchasing and installing such a folding divider were approximately \$15,000, and consequently, the committee decided not to recommend dividing the Hearing Room. However, the committee does recommend that the Large Hearing Room be used as the House Appropriations Committee room, and that the former House Appropriations Committee room be used by the House Stenographers.

The committee feels that the Large Hearing Room will be better suited for use as the House Appropriations Committee meeting place, because internal environmental control is more adequate in that room, and it will provide adequate space for spectators and persons appearing before the committee. The Auditorium in the State Highway Department Building will be available for legislative hearings attracting an unusual number of spectators.

In order to reduce the noise in Committee Rooms G-1 and G-2, the committee directed the

staff to solicit bids for placing acoustical tile on the ceiling of the semicircular corridor outside of those committee rooms, or for carpeting that corridor. After presentation of both groups of bids, the committee directed the staff to have carpeting placed in the corridor and the new addition to staff quarters, Room G-8. The Council Chairman also authorized the carpeting of the remainder of the main staff offices.

The committee determined that the Floor Leaders of the Senate also need more room in their offices for meetings with small groups. In order to provide that additional room, the committee authorized the staff to arrange to have the former Supply Room divided in half for use as offices for the secretaries to the Senate Floor Leaders. This has been done, and the new secretarial offices will be in use during the session.

Because the former Supply Room will be put to another use, the committee made other arrangements for the handling of supplies during the session. Since space is at a premium, the committee feels that it would be feasible to use the Sergeant-at-Arms in each House as a roving Supply Clerk. Therefore, the committee is recommending amendment of Senate and House Rules No. 9 to direct the Sergeant-at-Arms to act as the Supply Clerk for his House. He may maintain a supply room, either individually or jointly, with the other Sergeant if space is available.

In regard to the legislative telephone system, the committee is again recommending that telephone credit cards not be issued. The committee has provided for the installation of five additional WATS lines during the session, which is an increase of two more than were in use during the last session. The telephone booths previously operated and located separately for each House will be operated jointly during this session, and will be located in the west end of Memorial Hallway along the north and south walls. The number of booths has been increased from nine to ten, and the committee believes that the number of telephone attendants can be cut from four to three, and is recommending a Rules amendment to that effect.

The committee makes no recommendation on the installation of private floor phones; however, Northwestern Bell Telephone Company has requested that private floor phones be ordered by December 15, 1970. Because the use of floor phones during floor sessions is distracting and does not enhance the legislative image, the committee has arranged for installation of a "call director" system during the session. This system allows

incoming and outgoing calls to private floor phones to be cut off while the House or Senate is in session. The calls would be received at a small switchboard (call director) by an operator who will take any messages. The cutoff would only be turned on while one or both Houses are in session. The cutoff would affect only private floor phones.

The committee heard a presentation by Mr. Conrad Rose, WDAY Television in Fargo representing the television industry, requesting the committee to arrange for the installation of permanent floodlights in both the House and Senate Chambers. There are two basic reasons for this request: First, the present method of jury-rigging lights each time there is to be television coverage in a Chamber is very inconvenient both for the technicians and for spectators and members who are forced to walk around a large number of extension cords strung throughout the rear of the Chamber; and second, much of the television coverage of the next session is to be shot in color which will require special color-corrected lighting. Mr. Rose recommended that four lights be placed on the Balcony in each Chamber, with another located on the wall behind the rostrum in each Chamber. The committee has directed the Council staff to arrange for the necessary electrical work to be done by the lowest responsible bidder, and to purchase the necessary light fixtures for installation prior to the regular session.

Other miscellaneous recommendations regarding physical facilities include arranging for the rostrums at the front of each Chamber to be carpeted and the repair of damaged arms of legislators' chairs. The committee also requested the Director of the Council to ask the Director of Institutions if more room could be made available for legislative use during the session on the Ground, First, and Third Floors.

The committee also looked into the feasibility of renting or purchasing electronic air cleaners for use in standing committee rooms during the session. Adequate information about cost and performance was not available at the last meeting of the committee, so no further action was taken on the matter.

### **Legislative Printing**

The cost of legislative printing is one of the major legislative budget items, and the committee believes that substantial savings could result if the methods used to print legislative bills and the Session Laws were modified. Therefore, the committee, as authorized by statute and rules, has

directed that both the bills and the Session Laws volumes be printed by direct offset from original copy. These changes will allow the printing of these materials to be done faster, more accurately, and at less cost.

In order to implement offset printing of bills, it was necessary to design a format for pre-printed bill paper, so that the amount of composition to be done by the bill printer will be kept to a minimum. Bills will be typed on 8½"x14" pre-printed bill paper and reduced and printed by the printer on 8½"x11" paper. The printer will use a xerox copy of the original bill for printer's copy, and thus, the text of the bill will read exactly as it was introduced. The only composition to be done by the printer will be the setting of the bill number and a notation regarding the committee to which the bill was referred.

Session Laws will be printed by direct offset from xerox copies of enrolled bills. The format of enrolled bills is changed so that they will be typed single-spaced on 8½"x11" paper, and then reduced 30 percent by the printer to the size of a present page in the Session Laws. Because the Contract Enroller and Engrosser must make one xerox copy of each enrolled bill and resolution for use as a printer's copy, the Council staff has discussed with him the possibility of making all necessary copies by xeroxing, rather than typing numerous carbons. The Enroller and Engrosser believes this is a feasible plan.

The Enroller and Engrosser has also requested, and the committee recommends, that the Enrolling and Engrossing Clerks be hired by the Enroller, rather than by the legislature. The reason for this recommendation is to give the Enroller control over the proofreading of enrolled bills to ensure the quality copy necessary if these bills are to be used directly as copy for the Session Laws. The committee therefore recommends amendments to Senate Rule No. 79 and House Rule No. 86 to delete the positions of Enrolling and Engrossing Clerks from the list of legislative employees.

Other action in regard to legislative printing includes arranging to have the daily calendars reproduced from typewritten copy by the State Printer, and directing the State Printer to reproduce 40 copies of the daily Bill Status Report. The latter action will save four runs on the high speed line printer in the Central Data Processing Division, and should result in an overall cost saving.

Finally, the committee recommends a bill to amend section 46-02-10 to clarify the deadline for

delivery of printed volumes of the permanent Journals and the Session Laws. The bill also provides that, in the case of the Session Laws, the deadline for delivery cannot be extended by the Department of Accounts and Purchases without the concurrence of the Legislative Council.

### **Legislative Employees**

The problems involved in hiring competent legislative employees on a timely basis were considered by the committee, and it recommends a Senate resolution and an identical House resolution which provide that the Senate Employment Committee meet jointly with the House Employment Committee during the organizational session to prepare uniform legislative employment application forms and formulate a joint policy statement regarding the responsibilities of the Employment Committees in regard to the hiring, supervision, and discharge of temporary legislative employees. The Legislative Council is to accept and hold employee application blanks prior to the December organizational session in 1972, so that the Employment Committees will have lists of qualified employees available when they meet jointly during the organizational session.

The committee also recommends amendments to Senate Rule No. 79 and House Rule No. 86 to delete the position of House Postmaster, and to increase the number of Senate Committee Clerks from five to six. The committee believes that the postmaster's duties can be performed by some other legislative employee as designated by the Secretary of the Senate or Chief Clerk of the House, possibly an Assistant Sergeant-at-Arms. The number of Senate Committee Clerks was increased to correspond to the number of Committee Clerks for the House. It was felt that since both Houses would have the same number of standing committees if the new committee schedule is adopted, they should have the same number of Committee Clerks.

### **Legislative Interns**

The committee reviewed the legislative intern program which was initiated during the 1969 session. The consensus is that the program is very worthwhile, both in terms of assistance to the legislature and in providing experience and education for the interns. The committee therefore decided that the intern program should be continued during the forthcoming session, and the Council staff has arranged for the employment of interns from both the University of North Dakota and North Dakota State University.

In addition to the intern program, the committee directed the staff to employ two persons to handle the input to the bill status reporting system during the session. This duty was performed by one person during the last session and required an undue amount of overtime ranging up to 20 hours of work each day. The committee believes that two persons are necessary to perform the task in a reasonable number of man-hours.

### **Organizational Session**

The agenda for the organizational session has been approved by the committee and provides for a three-day session to be held on Tuesday, Wednesday, and Thursday, December 8-9-10, 1970. The afternoons of the first two days will be devoted primarily to orientation sessions for freshmen legislators. Preliminary party caucuses are planned for Monday evening, December 7, 1970, with formal caucuses scheduled for Tuesday morning at 10:00 a.m. Announcement of committee assignments and adoption of the permanent Legislative Rules are scheduled for early Thursday afternoon. Committee preference questionnaires will be distributed by mail to all members prior to the organizational session in order to speed the committee appointment process.

### **Miscellaneous**

The committee was interested in replacing the present billbooks used by members with binders which would not be so unwieldy, and which would allow the Pages to more rapidly insert new material. The S. E. & M. Vernon Company of New Jersey makes a binder which would be suitable, but it did not have the necessary capacity. After negotiation, that company did not choose to make a similar binder with a larger capacity. Since a suitable binder could not be found, the committee directed the staff to replace the badly worn billbooks.

The committee discussed the desirability and usefulness of the daily bill summaries which were prepared for each bill prior to second reading in each House. The committee decided to leave the question of preparation of the bill summaries to the discretion of the Council staff which will act only upon the request of the legislature, or either House.

Informing the public of the workings of the legislative process is a topic of interest to the committee, and it directed the staff to prepare a short brochure on the legislature and its operation. In addition, the staff was directed to arrange for an

audio-visual display booth to be built which would automatically give a recorded presentation accompanied by slides when it is turned on by visitors to the legislature or by Capitol visitors between sessions. The brochure and the display booth will be prepared prior to the regular session.

The committee decided that legislative bills should not be numbered the same in both Houses as was done during the last session, and prescribed the following numbering system for bills and resolutions introduced during the forthcoming session:

House Bills — commence at 1001

Senate Bills — commence at 2001

House Concurrent Resolutions — commence at 3001

## Appendix "A"

### MEMO ON LEGISLATIVE STATISTICS

1. **Introductions:** A total of 600 legislative documents, (bills, concurrent resolutions, resolutions, and memorial resolutions) was introduced in the House: 516 bills, 77 concurrent resolutions, 6 resolutions, and 1 memorial resolution. A total of 569 legislative documents was introduced in the Senate: 484 bills, 78 concurrent resolutions, 5 resolutions, and 2 memorial resolutions. Each House considered 353 bills from the other House, with the Senate being a little bit harder on House bills. Two hundred eighty-five House bills passed the Senate of the 353 considered, or 80.7 percent, while 294 Senate bills passed the House, or 83.3 percent.

Fifty-five and two-tenths percent of the bills introduced in the House, and 60.7 percent of the bills introduced in the Senate were finally passed by both Houses. Two hundred thirty-one House bills and 190 Senate bills were killed (by one method or another). The House killed 163 of its own bills, and had 68 killed by the Senate. The Senate killed 131 of its own bills, and had 59 killed by the House. Fifty-seven and nine-tenths percent of all bills introduced passed both Houses, but only 57 percent became law; the other .9 percent were vetoed. The House considered a total of 1,003 legislative documents, and the Senate considered a total of 981. The House considered a total of 869 bills in 61 working days, or an average of 14.2 bills per day. The Senate considered 837 bills, or an average of 13.7 bills per working day.

2. **Sponsorship of Bills and Resolutions:** In the House: The leading sponsor was prime sponsor of

Senate Concurrent Resolutions — commence at 4001

House Resolutions and Memorial Resolutions — commence at 1

Senate Resolutions and Memorial Resolutions — commence at 1

In addition, the committee approved a new format for bill covers which was recommended by the former Contract Enroller and Engrosser and the Chief Clerk. The bill covers are to be printed on eight different colors of paper to distinguish between House and Senate bills and resolutions and engrossed House and Senate bills and resolutions. Printing on the bill covers is designed to allow a more complete record to be kept of the actions taken on each bill or resolution.

30 bills, or 5.81 percent of the total. The top five prime sponsors sponsored 102 bills, or 19.8 percent of the total. The top ten prime sponsors introduced 156 bills, or 30.2 percent of the total. Sixteen Representatives, or 16.3 percent of the total (98), were not prime sponsors of any bills. Fourteen Representatives were the prime sponsors of no bills or resolutions. Fourteen Representatives were the prime sponsors of one bill. In the Senate: The leading prime sponsor introduced 29 bills, or 5.99 percent of the total number of bills introduced in the Senate. The top five prime sponsors introduced 124 bills, or 25.6 percent of the total. The top ten prime sponsors introduced 204 bills, or 42.1 percent of the total. Two Senators were the prime sponsors of no bills, and three Senators were prime sponsors of one bill.

Five hundred sixty-three of the 1,000 bills introduced were sponsored by two or more legislators. Of those 563, 332, or 58.96 percent, passed both Houses. One hundred three bills were introduced by the Committees on Appropriations and Delayed Bills in both Houses, and 86, or 83.49 percent, of them passed. Three hundred thirty-four bills had only a single sponsor, and 161, or 48.20 percent, of those bills passed.

3. **End of Session Activity:** Forty-seven and fifteen hundredths percent (273) of the total bills passed by the Forty-first Legislative Assembly (579) were finally passed in the period March 10 - 19, 1969. The House passed 96 Senate bills and 30 House bills, and the Senate passed 117 House bills and 30 Senate bills during this period. Fifty-nine and seventy-nine hundredths (58) of the total

number of Conference Committees appointed (97) were appointed from March 10 - 19, 1969.

4. **Committee Activities:** For a listing of bills and resolutions considered by committees during the 1967 and 1969 sessions, see Tables I and II. **Committee "rejection" record** — Rejection of a committee report by the body was limited to reports for indefinite postponement, which were rejected (i.e., the report failed of adoption) 16 times (11 in the Senate, and 5 in the House). Of the 16 bills involved, 9 passed the House in which the committee report was rejected, and 7 failed; thus, the committee's original judgments on indefinite postponement were vindicated 45 percent of the time. The number of instances in which the committee report was "do pass" and the bill failed was 41 times, 24 in the House, and 17 in the Senate. The number of times in which the recommendation was "do pass as amended", the amendments passed, and the bill failed was 26, 12 in the Senate, and 14 in the House. The instances in which the committee recommended "do pass as amended" and the amendments failed was three. Of the three bills involved, one passed without the amendment, one was amended on the floor and passed, and one failed. Thus, House committees had their reports "rejected" in 44 cases out of a total of 869 reports, for a rejection percentage of 5.06 percent. The Senate Committees had their reports "rejected" 5.01 percent (42 out of 837) of the time. This percentage is even lower if consideration is given to the number of times the committee report was finally vindicated on the floor; i.e., six times in the Senate and two times in the House.

5. **Conflicts and Duplicate Bills:** See Table III.

**Table I**  
**BILLS AND RESOLUTIONS CONSIDERED**  
**BY COMMITTEES — 1967\***  
**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	.6
<b>TOTAL .....</b>	<b>789</b>	<b>100.0</b>

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

**Table II**  
**BILLS AND RESOLUTIONS CONSIDERED**  
**BY COMMITTEES — 1967\***  
**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
<b>TOTAL .....</b>	<b>775</b>	<b>100.0</b>

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

**TABLE III**

1. Number of Bills Introduced in 1969 Session Having At Least One Conflict:

There were 81 Senate Bills and 95 House Bills introduced in the 1969 Legislative Session which had at least one conflict in them. For these purposes, a conflict is created when two or more bills amend or repeal the same section of the Code. This total of 176 bills having conflicts is a minimum figure — this total represents only those conflicts we caught.

2. List of Duplicate or Near-Duplicate Bills Introduced in Each House:

S.B.	H.B.	Topic
114 (also 72)	485	Constitutional Convention
384	385	Educational T.V.
137	97	Personal Property tax repeal
108	131	Change Primary Election date to end of June

<b>S.B.</b>	<b>H.B.</b>	<b>Topic</b>
127	211	Hunting from aircraft
306	512	Airport Service Fees (Boarding Fees)
279	101	Establishment of Branch Banking Stations
392	420	Trust Principal and Income Acts
258	302	Teachers' Insurance and Retirement Fund
44	256	Legislative Compensation Commission
296	305	Legislative Intent Regarding Foundation Program
193	149	Titling, Taxation and Licensing of Mobile Homes
355	341	Tax Exemption for Farm Machinery
68	75	Tax Exemption for Persons with Minimum Income

3. Conflicts Remaining at End of Session and Resolved by Code Revisor:

<b>H.B.</b>	<b>S.B.</b>	<b>Topic</b>
405 (also 135)		Reduction of Oleomargarine Tax
469 (also 218)		Marking of Overwidth Vehicles
388	46	Extending Membership in Employees' Retirement System
44 (also 403)		Legislators' Expense Allowance
55	425	Maintenance of State Offices
295	42	Legislators' Interim Compensation
44	42	Legislative Organizational Session
489 (also 184)		Motor Vehicle Excise Taxes and Treatment of Trade-ins

**TABLE I**  
**BILLS AND RESOLUTIONS CONSIDERED BY COMMITTEES — 1969\***  
**HOUSE**

	<b>Bills</b>	<b>Percent of Total Bills</b>	<b>Resolutions</b>	<b>Percent of Total Resolutions</b>	<b>Total Bills and Resolutions</b>	<b>Percent of Total Bills and Resolutions</b>
Judiciary.....	110	12.6	4	3.9	114	11.7
State and Federal.....	78	9.0	31	30.3	109	11.2
Appropriations.....	98	11.3	3	2.9	101	10.4
Finance and Taxation.....	93	10.7	6	5.9	99	10.2
Education.....	82	9.4	11	10.8	93	9.6
Industry and Business.....	80	9.2	6	5.9	86	8.9
Political Subdivisions.....	77	8.9	5	4.9	82	8.5
Transportation.....	70	8.1	5	4.9	75	7.7
Agriculture.....	50	5.6	14	13.7	64	6.6
Natural Resources.....	40	4.6	7	6.9	47	4.8
Social Welfare.....	39	4.5	1	1.0	40	4.1
General Affairs.....	24	2.8	7	6.9	31	3.2
Labor.....	18	2.1	0	0	18	1.9
Veterans' Affairs.....	10	1.2	2	2.0	12	1.2
<b>TOTAL.....</b>	<b>869</b>	<b>100.0</b>	<b>102</b>	<b>100.0</b>	<b>971</b>	<b>100.0</b>

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

**TABLE II**  
**BILLS AND RESOLUTIONS CONSIDERED BY COMMITTEES — 1969\***  
**SENATE**

	<b>Bills</b>	<b>Percent of Total Bills</b>	<b>Resolutions</b>	<b>Total Bills and Resolutions</b>	<b>Percent of Total Bills and Resolutions</b>
State and Federal.....	83	10.0	41	124	13.3
Judiciary.....	119	14.3	4	123	13.2
Appropriations.....	109	13.1	3	112	12.0
Finance and Taxation.....	95	11.4	7	102	10.9
Industry, Business, and Labor.....	98	11.8	4	102	10.9
Political Subdivisions.....	80	9.6	2	82	8.8
Education.....	70	8.4	11	81	8.7
Transportation.....	57	6.9	4	61	6.6
Social Welfare.....	48	5.8	3	51	5.5
Agriculture.....	37	4.4	12	49	5.3
Natural Resources.....	36	4.3	9	45	4.8
<b>TOTAL.....</b>	<b>832</b>	<b>100.0</b>	<b>100</b>	<b>932</b>	<b>100.0</b>

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

# MODEL LAWS AND INTERGOVERNMENTAL COOPERATION

Senate Concurrent Resolution No. 10 expressed the willingness of the State of North Dakota to study and develop, individually or cooperatively, with the States of Montana, South Dakota, and Wyoming, joint program proposals in the fields of higher education and penology, including the sharing of penal facilities. In order to carry out the legislative responsibility implicit in Senate Concurrent Resolution No. 10, the Legislative Council established the Committee on Model Laws and Intergovernmental Cooperation, consisting of Senators George M. Unruh, Chairman, Edwin C. Becker, Ed Doherty, George Longmire, Ernest G. Pyle, and Clarence G. Schultz; and Representatives William C. Kelsch, Lyle L. Dawson, Fred Hoghaug, Clark J. Jenkins, Edward Metzger, Mike Olienyk, Claire A. Sandness, and Oscar Solberg.

The Legislative Council also assigned to this committee the responsibility of reviewing present uniform and model laws in force in North Dakota, and uniform and model laws recently proposed, to determine whether recommendations should be made to the Forty-second Legislative Assembly regarding amendment of existing Uniform or Model Acts, or adoption of newly proposed Acts.

The report and recommended legislation of the Committee on Model Laws and Intergovernmental Cooperation was submitted to the full Legislative Council at its biennial meeting at Camp Grafton, Devils Lake, North Dakota, in November 1970. The Legislative Council adopted the committee report and approved the recommended legislation for submission to the Forty-second Legislative Assembly.

## INTERGOVERNMENTAL COOPERATION

### Penal Facilities

Prior to the first meeting of the committee, the Chairman and Council staff personnel held conferences with representatives of the States of Iowa, Minnesota, Montana, South Dakota, and Wyoming at the 1969 meeting of the National Legislative Conference in St. Louis, Missouri. Six possible topics for further study were outlined at these conferences:

1. Intergovernmental cooperation in the field of medical education for regional students.

2. Intergovernmental cooperation in development of an advanced degree-granting program in social work.
3. Cooperation in providing facilities and programs for female incarcerates.
4. Cooperation in providing facilities and programs for tubercular patients.
5. Providing cooperative programs and facilities for emotionally disturbed children.
6. Cooperating to provide facilities and programs for alcoholics.

During its first meeting, the committee heard presentations from North Dakota representatives of the institutions or governmental organizations primarily interested in each of the six topics. The consensus of the committee is that, on the basis of the reports received, the areas in which it seems most feasible to make progress are: cooperation in providing facilities and programs in the penal and correctional field; and cooperation in providing medical education to regional medical students. The committee directed the staff to arrange for an **Ad hoc** meeting with representatives of the States of Montana, South Dakota, and Wyoming to discuss cooperative arrangements to provide penal facilities and programs.

This meeting was held on March 20, 1970, in Bismarck, and an **Ad hoc** Committee on Penal Facilities was created. Senator Unruh was elected Chairman of the committee, which consists of two legislators from each State; the Director of Institutions, or his equivalent in each State; and the Directors of the State Criminal Planning Agency of each State. The **Ad hoc** Committee requested the Director of the North Dakota Combined Law Enforcement Council to seek a grant from the Federal Law Enforcement Assistance Administration (LEAA) to carry out a study of the penal facilities and programs in the four States, and to recommend areas wherein the four States could cooperate.

After negotiation, the LEAA agreed to have the study carried out, at no cost to the States involved, by the staff of the National Council on Crime and Delinquency (NCCD) which was under

contract to the LEAA for consulting work. This study was due to be completed in the fall of 1970, but upon reconsideration, the LEAA decided that the project was too large for its contract consultant and requested the four States to apply for a grant to fund the study.

After further negotiation, the LEAA again reconsidered, and has now authorized the study to be carried out by a contract consultant. The study is due to be completed on December 7, 1970, and it is hoped that another meeting of the **Ad hoc** Committee on Penal Facilities can be held prior to the convening of legislatures of the four States.

Although the Committee on Model Laws and Intergovernmental Cooperation is not making specific recommendations regarding interstate cooperation in the penal field due to the fact that the four-State study has not been completed, the committee does feel that unilateral action can be taken to provide the legal authorization to the Director of Institutions to contract for out-of State incarceration of North Dakota convicts. Therefore, the committee recommends a bill to create section 54-21-25 of the Century Code to authorize the Director of Institutions to contract with the Federal Government or other States for incarceration of persons convicted under the criminal laws of North Dakota. The Director must assess the facilities and programs of the agency or institution with which he proposes to contract, and he may not contract with any institution or agency where the programs and facilities are not equal to or better than those offered by the State Penitentiary.

The contract must provide that the Director may inspect any facility at which a North Dakota prisoner is incarcerated under a contract, and that he be allowed to visit North Dakota prisoners. The Director is to ensure that North Dakota prisoners receive treatment equal to that received by prisoners resident in the State in which they are imprisoned. Any North Dakota prisoner incarcerated out-of-State will remain subject to the jurisdiction of the State. The Director may contract for the out-of-State incarceration of a convict, regardless of the fact that the convict's sentence was to a term in the North Dakota State Penitentiary.

### **Regional Medical Education**

Under the auspices of the Appropriations Committee of the Minnesota House of Representatives, a Four-State Coordinating Committee on Higher Education was formed in October 1969. The Four-State Committee included membership from the States of Minnesota, North Dakota, South Dakota,

and Iowa. The goals of the Four-State Committee are to study and recommend methods of cooperation among the four States in the education of doctors, dentists, and allied health care personnel.

The Four-State Committee requested that its membership from each State inventory the needs and assets of that State in regard to delivery of health services. A meeting was held in Grand Forks for this purpose in December 1969. The meeting was held jointly with the Subcommittee on Human Resources of the Legislative Council's Committee on Industry and Business. A report on that meeting was presented to the Four-State Committee at a meeting later in December 1969.

The Four-State Committee, at a later meeting, decided to limit its present activities to determining how best to provide medical education to regional medical students. It was agreed that regional medical education should be directed to the training of general practitioners, who will be influenced and given incentive to practice in rural areas.

At its last meeting in September 1970, the Four-State Committee heard a presentation by the Northern Association for Medical Education (NAME) regarding creation of a regional medical school. Under NAME's proposal, the regional school will be located in St. Paul, Minnesota, and would be open to medical students from the four States who had completed the basic sciences portion of their medical education. The school's curriculum would be coordinated with the curricula of the medical schools at the universities of North Dakota and South Dakota. NAME has made tentative arrangements to lease physical facilities for the school in St. Paul, and does not have any immediate plans for capital construction. Although NAME is seeking the sponsorship of the Four-State Committee, it has indicated that it will go ahead with the regional medical school plan regardless of sponsorship.

The Four-State Committee has directed the legislative staff personnel within its membership to prepare drafts of legislation to provide for a permanent interstate body to manage a regional medical school. These draft proposals are being prepared, and it is hoped that they can be presented to the Four-State Committee prior to the convening of the legislatures of the four States.

### **Membership in the National Conference of State Legislative Leaders and the Education Commission of the States**

The committee discussed the question of whether the legislature should retain membership

in the National Conference of State Legislative Leaders. Two newspaper articles printed in March 1970 in the Chicago Daily News and the Austin (Texas) American were presented to the committee. The articles indicated that NCSLL publishes an annual yearbook, and that the conference's headquarters solicit the placement of ads in the yearbook from companies in industries which are regulated by the several States. The ads cost \$2,000 for a full page, \$1,150 for a half page, and \$800 for a quarter page. Persons quoted in the articles intimated that the ad solicitations "smacks too much of the shakedown kind of thing".

In light of the hint of impropriety contained in these articles and the fact that the National Legislative Conference, a well-recognized organization affiliated with the Council of State Governments, also provides a forum for discussions among legislative leaders, as well as all legislators and staff, and is an organization dedicated to upgrading the legislative process and image, the committee recommends that the legislature not retain its membership in the NCSLL.

The Education Commission of the States was created by a compact which was entered into by North Dakota in 1967 (chapter 15-64, NDCC). The committee was informed that North Dakota's current dues for membership in the commission have not been paid, although the two legislators in North Dakota's membership in the commission were allowed to attend the annual meeting of the commission this year. The committee recommends that, if the legislature does not see fit to appropriate the funds necessary to pay current and past dues, the compact should be repealed and North Dakota should withdraw its membership from the commission. Under Article VIII of the compact, withdrawal is not effective until one year after the Governor notifies the other party States of North Dakota's action repealing the compact. A bill draft has been prepared repealing chapter 15-64 if the legislature decides that North Dakota should withdraw its membership from the commission.

### **Tri-State Water Compact**

The committee considered the question of continuing the Tri-State Water Compact presently in force. The compact was enacted in 1937, and according to the Chief Engineer of the State Water Commission, has not been active since 1947. In addition, President Lyndon B. Johnson, by Executive Order No. 11359, 1967, created the Souris-Red-Rainy River Basins Commission, which commission includes a member from North Dakota. The

Souris-Red-Rainy River Basins Commission has authority to exercise all of the powers which can be exercised under the Tri-State Water Compact, plus additional powers.

In light of these facts, the committee recommends a bill to repeal chapter 61-17, which chapter embodies the Tri-State Water Compact. Minnesota and South Dakota, the other two member States of the compact, have been notified of this proposed action and have not, as of this time, registered any protest.

### **UNIFORM AND MODEL LAWS**

The committee requested the Council staff to prepare an inventory of the uniform and model laws presently in force in North Dakota, noting instances where the laws were considered obsolete or had been superseded by the national organizations which had originally promulgated them. The staff was also directed to review recently promulgated Uniform and Model Acts to determine which, if any of them, would be appropriate for enactment in North Dakota. A memorandum was presented to the committee containing the texts of a wide variety of uniform and model laws gathered from numerous sources, and on the basis of this memo, the committee selected those Uniform and Model Acts which it wished to consider further.

The inventory compiled by the staff showed that there are 47 uniform or model laws (or substantial parts thereof) presently in force in North Dakota. Forty-four of these have been promulgated or approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL); two were promulgated by the American Bar Association-American Law Institute (ABA-ALI); and one, the Uniform Vehicle Code, is approved and updated by the National Conference on Uniform Traffic Laws (NCUTL). Sixteen of the Uniform Acts in force in North Dakota have been declared obsolete or superseded by the NCCUSL in the form in which they were originally enacted. However, many of these laws have been updated by amendment, or have been superseded by an Act having a much wider scope, enactment of which is not necessary in North Dakota at this time. Of the 63 Uniform Acts presently recommended for adoption by the NCCUSL, North Dakota has 27 in force.

A member of the Council staff attended the 1970 meeting of the NCCUSL, and reported to the committee on the Uniform and Model Acts which were approved at the meeting. A summary of the

Uniform Acts approved is attached to this report as Appendix "A". The committee took no action on Acts approved by the NCCUSL this year, due to a lack of time for thorough study of each Act. The remaining paragraphs of this portion of the report will discuss the recommendations of the committee in regard to specific Uniform and Model Acts.

The committee discussed the Uniform Aeronautics Act, contained in chapter 2-03 of the Century Code, which was enacted in its basic form in 1923, and has not been substantively amended since that time. The committee believes that the present aeronautics law should be revised to reflect current terminology and to change the status of legal liability which may arise due to operation of an aircraft. Consequently, the committee recommends a bill to amend several sections of chapter 2-03. The bill redefines the term "aircraft" to use the language of definition used in the Federal Aviation Act, and substitutes the word "airman" for the word "aeronaut" wherever the latter word appears in the chapter.

Section 3 of the bill deletes the provision for absolute liability of the owner of an aircraft for personal injury or property damage arising from operation of the aircraft. Instead, liability may be placed upon either the owner or the pilot, or both of them, in accordance with the standard laws of tort. The committee could not accept the concept that an aircraft owner should be absolutely liable for the negligence of a pilot in every case. The section also provides that a person in whose name an aircraft is registered with the United States Department of Transportation or the State Aeronautics Commission is prima facie the owner of the aircraft.

Section 7 of the bill provides that reckless operation of an aircraft in this State is a misdemeanor. Tampering with or damaging an aircraft belonging to another is also a misdemeanor. The section also provides that no person shall operate an aircraft while under the influence of drugs or liquor. Offenders may be punished by fines of from \$100 to \$500, or by imprisonment for up to a year, or both.

Section 8 of the bill amends the present aircraft guest passenger statute to provide that a guest shall not have a cause of action for injuries caused by the gross negligence of the owner or operator if the guest was guilty of contributory negligence.

The committee considered a proposed revision of the Model Hazardous Substance Labeling Act

which was enacted in North Dakota in 1963 (chapter 19-21, NDCC). The revision extends the law to require toys and other articles intended for use by children to carry warning labels and directions for protecting children. It also creates a category of hazardous substances which are so inherently dangerous that they can be banned from intrastate commerce.

Although the committee realizes that the State Laboratories Department has not had the funding to allow adequate enforcement of the present law, the committee feels that the proposed revision should be adopted so that enforcement can be carried out on an emergency basis; for instance, in the event that a particular toy is imported into the State, and then discovered to have properties which are extremely dangerous to children.

Section 1 of the bill amends the definition of the word "label" to extend the requirement of labeling from packages and containers to the article itself when the article is unpackaged. The section also creates a new category of hazardous substance known as a "banned hazardous substance". This category includes any article intended for use by children which bears or contains a hazardous substance which is accessible by the child to whom the toy is given. Also included is any hazardous substance which the department finds, by regulation, to be so dangerous that, despite the fact that it is properly labeled, it must be banned. Chemical sets and like articles may be exempted by the department by regulation.

Section 2 of the bill prohibits the sale or delivery of a banned hazardous substance or the altering or removal of a label or otherwise tampering with an article which results in its being a banned hazardous substance.

Section 3 of the bill gives the department authority to petition the Burleigh County District Court for a temporary or permanent injunction restraining any person who is committing an act prohibited under this bill. Section 4 of the bill gives the department authority to exempt certain articles from the requirements of the Act in regard to labeling, and also authorizes the department to declare an article to be a banned hazardous substance and require its removal from the channels of commerce.

The committee considered a revised version of the model state seed law which is contained in chapter 4-09 of the Century Code. The proposed revision was sent to the State Seed Department for its comment, and the Deputy State Seed Com-

missioner replied that all of the proposed revisions would not be necessary, but that it would be helpful if the law could be amended to provide a longer period between inspection of seeds contained in a hermetically sealed container.

Therefore, the committee recommends a bill which would require hermetically sealed seed containers to be labeled as such, and would change the inspection requirement on seed contained in such containers from the present nine-month limit to a three-year limit.

During the course of its consideration of the North Dakota version of the Uniform Firearms Act, the committee discovered an error in a previous revision of the law regarding pistol sales. At one time the law had provided that copies of pistol licenses and copies of records of pistol sales should be filed with the Secretary of State. The law was amended in 1961 to provide that copies of pistol licenses should be filed with the Superintendent of Criminal Identification, rather than the Secretary of State. However, the statute dealing with the filing of records of pistol sales was not changed. Committee investigation revealed that, as a matter of fact, pistol sales records have not been filed with the Secretary of State, but rather are being filed with the Superintendent of Criminal Identification. Therefore, the committee recommends a bill to amend subsection 4 of section 62-01-14 to substitute the Superintendent of Criminal Identification for the Secretary of State, in order to make the statute reflect the actual practice.

The committee discussed the Uniform Illegitimacy Act which is contained in chapter 32-36 of the Century Code and was enacted in North Dakota in 1923. The NCCUSL has recommended that the Uniform Illegitimacy Act be replaced by the Uniform Paternity Act; however, the committee feels that, with one exception, the present law adequately deals with the field. The exception is that the Uniform Paternity Act provides for the taking of blood tests of the parents and child involved in the action, and allows the results of those tests to be received in evidence.

Therefore, the committee recommends a bill amending chapter 32-36 to incorporate the provisions of the Uniform Paternity Act, relating to blood tests of the parents and child to aid in the determination of the paternity of a child born out of wedlock. The bill provides that the court may, on its own initiative, and shall upon motion of a party to the action, order blood tests of the mother, child, and alleged father. If any party refuses to submit to blood tests, the court may resolve the question of paternity against that party, and the

court may enforce its order for blood tests if the interests of justice require.

The tests shall be performed by experts appointed by the court, but a party may demand that other experts perform independent tests. The fees of an expert appointed by the court shall be paid as the court shall order. The fees of an expert witness appointed at the request of the party shall be paid by that party. If the conclusion of all expert witnesses called is that the alleged father is not the father of the child in question, the court shall determine the case accordingly. If the expert witnesses disagree, the case shall be submitted upon all the evidence, and if the experts conclude that the alleged father may be the father, admission of that evidence is left within the discretion of the court.

The committee considered and recommends a bill embodying a Model Act providing a method for service of process on the United States, or an officer or agency thereof, in a civil suit in a state court. Section 1 of the bill provides that any person authorized by state law or the rules of civil procedure may serve process upon the United States by delivering a copy of the summons and complaint to the United States Attorney, an assistant United States Attorney, or a clerical employee designated by the United States Attorney, and mailing a copy of the process to the Attorney General of the United States by certified mail. If the action attacks the validity of an order made by a federal officer or agency who or which is not made a party to the action, a copy of the process is also to be sent to that officer or agency.

Service upon an officer or agency shall be made by serving the United States and by delivering a copy of the process to the officer or agency. Service upon a governmental corporation is to be done in the manner provided for service upon a domestic North Dakota corporation. The United States is given 60 days to answer the complaint or cross-claim.

The committee considered and recommends a bill embodying the latest revised version of the Uniform Recognition of Foreign Acknowledgments Act. The bill repeals the present statutes providing the procedure for recognition of foreign acknowledgments of documents to be used in this State, and substitutes the language of the new Uniform Act.

The bill provides that foreign acknowledgments will be recognized in North Dakota if they were made before: a notary public; a judge or clerk of

any court of record; an officer or consular agent in the Foreign Service of the United States; a commissioned or noncommissioned officer in the United States' Armed Forces, if the acknowledgment is taken from a serviceman, a United States merchant seaman, or any other person serving with or accompanying the Armed Forces; and any other person authorized by the laws of his place of residence to perform notarial acts.

The bill sets forth the requirements for authenticating the authority of the acknowledging official, and details the allowable formats which a certificate of acknowledgment can take. The bill also sets out simplified short acknowledgment forms for use in taking acknowledgments of individuals, corporations, partnerships, etc.

The committee considered a Uniform Act relating to interstate rendition of accused persons. The Uniform Act would provide a simplified procedure, in comparison with extradition proceedings, for returning a person who has been charged with a crime in another State and who is found in this State in violation of the terms of his release from custody in the other State. Because the extradition procedure is relatively cumbersome and must always involve officials at the state level, the committee recommends a bill embodying the Uniform Rendition of Accused Persons Act.

The bill provides that an agent of the foreign court may request the issuance of a warrant by a magistrate of this State who has jurisdiction in the area where the person sought is located. When the agent has presented sufficient documentary proof that the person sought has violated the terms of his release and that the agent is in fact authorized by the demanding court to pick up the fugitive, the magistrate shall issue an arrest warrant for the person sought. The magistrate shall immediately notify the State's Attorney of his action, and shall request him to carry out an investigation to determine that the agent of the foreign court is authorized to act, and that the person sought has actually violated the terms of his release.

When the person whose removal is sought is arrested, he shall immediately be brought before the magistrate, who shall inform him of his right to have a hearing on the question of removal. If the person sought does not waive the hearing, the magistrate shall set the hearing date. If the hearing reveals that the person sought has violated the terms of his release and that the agent is bona fide, the magistrate is to issue an order authorizing the agent to return the person to the demanding court.

The committee considered a Model Act dealing with temporary stopping and questioning of per-

sons abroad in public places, and compared it with the present "stop and frisk" law in force in North Dakota. Due to the fact that the present law provides that a peace officer may stop and search a person whom he suspects of a "violation of any provision relating to possession of narcotic drugs", the committee agreed that the present statute might be constitutionally suspect. The basis for "stop and frisk" is that the experience of the peace officer, or the overt acts of the person stopped, lead the officer reasonably to believe that a crime has been or may be about to be committed. If a person was in fact carrying a marijuana cigarette in his shirt pocket, nothing in his overt actions or in the experience of the peace officer, could lead the officer to reasonably believe that the person had committed or was about to commit a crime.

Thus, in order to prevent futile arrests by peace officers acting under a statute which may violate the Fourth Amendment, the committee recommends a bill to amend section 29-29-21 to substitute the provisions of the Model Act for the present law. The bill provides that the "stop and frisk" action of the peace officer must be on the basis of the officer's observation of suspicious conduct, in light of his experience. While the officer need not have probable cause in the classic sense, he must be able to conclude reasonably that criminal activity may have been or may about to be engaged in. Similarly, the officer must be able to conclude reasonably that the suspect is armed and dangerous.

The peace officer must identify himself as such, and take reasonable steps, if his personal safety does not require otherwise, to dispel his suspicions before searching the suspect. The search is limited to patting the outer clothing for what might reasonably be concluded to be weapons. The bill outlines the procedure to be followed if a weapon is found, and finally, provides that evidence obtained in compliance with the provisions of the Act is admissible in court.

The committee discussed a Model Act dealing with cancellation of automobile liability insurance policies, and requiring the insurer to state the reasons for cancellation to the insured. During a hearing on the bill, a Bismarck insurance agent pointed out that the insurance industry had drafted a Model Act which permitted policy cancellation for only two reasons:

1. Nonpayment of premium.
2. Suspension or revocation of driver's license or motor vehicle registration by the named insured or any person covered by the policy,

provided that if a person covered by the policy loses his driver's license, he may be excluded from coverage under the policy, and the policy will not be cancelled.

The committee believes that the insurance industry's Model Act deserves further consideration, since the limitation on the reasons for cancellation seems to be beneficial to the driving public. Therefore, the committee directed the staff to draft a new bill to embody the essential provisions of the industry Model Act.

After further consideration of the bill as re-drafted, the committee recommends it for passage. The bill provides that a private automobile liability insurance policy which has been in effect for 60 days may be canceled only for the two reasons set out above. An insurer shall not cancel a policy without giving 20 days' written notice of its intention to the insured, except that when cancellation is for nonpayment of premium, when only ten days' notice is required. The insurer is to send a statement of the reasons for cancellation with the notice of cancellation, or a statement notifying the insured that a statement of reasons will be furnished upon his request. Failure to give the proper notice before cancellation, or failure to furnish the reasons for cancellation, shall be sufficient grounds for the Insurance Commissioner to revoke or suspend the insurer's certificate of authority to do business in North Dakota.

The bill provides that insurers shall also give

#### Appendix "A"

#### **SUMMARY OF UNIFORM ACTS CONSIDERED AND APPROVED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AT ITS MEETING IN ST. LOUIS, MISSOURI, ON AUGUST 1 - 7, 1970**

At its meeting in St. Louis in August, the National Conference of Commissioners on Uniform State Laws approved four Uniform Acts and several amendments to the Uniform Consumer Credit Code. The four Uniform Acts are:

1. The Uniform Consumer Sales Practices Act.
2. The Uniform Controlled Dangerous Substances Act.
3. The Uniform Jury Selection and Service Act.

20 days' notice of nonrenewal, and shall either furnish the reasons for nonrenewal with the notice, or shall furnish them upon the written request of the insured. An insurer shall not fail to renew a policy **solely** on the basis of the age, residence, race, color, creed, sex, national origin, ancestry, or occupation of anyone insured under the policy. Violation of this provision is made a misdemeanor, and is also grounds for revocation or suspension of the insurer's certificate of authority. When a policy is canceled or is not renewed, the insurer is to notify the insured of his possible eligibility for coverage under an assigned risk plan. Finally, the bill provides that no one shall be liable for furnishing the reasons on which the insurer based its decision not to renew or to cancel a particular policy.

#### Conclusion

The concluding recommendation of the committee is that the legislature and the Legislative Council give serious consideration to creating a similar committee during the next biennium. First, because it is a valuable forum for the presentation of ideas regarding interstate cooperation and can provide, from its ranks, the membership of **Ad hoc** interstate bodies, similar to those which were formed during this biennium; and, second, because such a committee serves as a sifting and deliberative body for consideration of the numerous Uniform and Model Acts which are promulgated by several national organizations during each year.

4. The Uniform Marriage and Divorce Act.

The remainder of this memo will be a brief discussion of the Uniform Acts.

#### Uniform Consumer Sales Practices Act

The Uniform Consumer Sales Practices Act is a consumer protection Act designed to protect against deceptive and unconscionable sales practices by a supplier. The word "supplier" is defined as a seller, lessor, assignor, or other person who engages in or solicits consumer transactions regardless of whether he deals directly with the consumer, and thus, would include an advertiser.

The Act describes a deceptive act or practice by a supplier in connection with a consumer transaction, and states that such act or practice violates

the Act whether it occurs before, during, or after the transaction.

The Act goes on to describe unconscionable acts and practices and states that they violate the Act whether they occur before, during, or after a consumer transaction. The unconscionability of a particular act or practice is basically a question of law for the court, and the court is to take into account certain factors in determining whether an act or practice is unconscionable.

The Act provides that suppliers engaging in consumer transactions in the State must designate an agent upon whom service of process may be made, and if they do not do so, process may be served upon the Secretary of State and mailed to the supplier, and gives rise to jurisdiction over claims arising out of consumer transactions covered by the Act.

The Act provides for the creation of the Office of Administrator, which office could be a division of the Attorney General's office, whose job it would be to enforce the Act throughout the State, and to inform consumers and suppliers on a continuing basis of acts or practices which violate the Act.

The Act gives the administrator rulemaking authority. It also gives the administrator full investigatory powers, including the power to subpoena witnesses and documents. The administrator is also empowered to bring action to obtain a declaratory judgment that an act or practice violates the Uniform Act, or to seek an injunction against a supplier who is violating or threatening to violate the Act. The administrator may also bring a class action on behalf of numerous consumers for actual damages caused by an act or practice in violation of the Act or a rule adopted pursuant to the Act by the administrator.

The Act further provides for private remedies for consumers who have suffered losses as a result of the violation of the provisions of the Act or rules adopted pursuant to the Act.

The Act does not apply to any act or practice required by federal law or other state law not repealed by the Act, and provides that the news media are not responsible for the dissemination of information on behalf of others, if the media did not have actual knowledge that such information constituted a violation of the Act.

The rationale behind the Uniform Consumer Sales Practices Act seems to be: First, that be-

cause suppliers, as defined in the Act, are often acting on an interstate basis, it is necessary for the States to provide uniformity in protection for consumers; and second, to supplement the areas of consumer protection which are not specifically covered or adequately enforced under the Federal Trade Commission's jurisdiction.

Although the NCCUSL emphasized the need for enactment of its Uniform Acts in exactly the same form in each State, it seems that if the idea of providing for a consumer sales practices law in North Dakota is feasible, it would be feasible regardless of complete uniformity of wording.

It should be noted that North Dakota already has several chapters of the Code which deal with unfair consumer practices:

1. Chapter 51-10 — The Unfair Trade Practices Act, administered by the Trade Commission (not funded).
2. Chapter 51-12 — The False Advertising Act, enforced privately or by the Attorney General.
3. Chapter 51-15 — The Consumer Fraud and Unlawful Credit Practices Act, enforced by the Attorney General.

Part or all of these Acts could be repealed upon enactment of the Uniform Act.

### **Uniform Controlled Dangerous Substances Act**

The Uniform Controlled Dangerous Substances Act was designed to replace the Uniform Narcotic Drug Act, previously adopted by the NCCUSL, and the Model State Drug Abuse Control Act. The federal statutes on which the latter two Acts are based would be repealed by virtue of the enactment of the Uniform Controlled Dangerous Substances Act, and it would become necessary for the separate States to update and revise their narcotic, marijuana, and dangerous drug laws.

The new Act is designed to complement the new federal legislation, and will provide an interlocking of federal and state laws which will enable government at all levels to control drug abuse problems more effectively. The Act provides for sorting of drugs into schedules, with Schedule I containing the most dangerous drugs, and Schedule IV including the least dangerous substances.

The Act provides for the designation of a state agency to maintain the schedules and revise them

as the need arises, and according to revision of the complementary federal schedules. The Act also provides for regulation of the manufacture, distribution, and dispensing of controlled dangerous substances.

The penalties for illegal possession of controlled dangerous substances vary according to whether those substances fall into Schedules I, II, III, or IV. The Act sets forth additional penalties where the person distributing a controlled dangerous substance is over 18 years of age and is distributing to a person under 18 years of age, and at least three years junior to the distributor. The punishment is twice that authorized for distribution in a case not involving receivers under 18 years of age and three years junior to the distributor. The Act also provides for deferred sentencing and conditional discharge for first offense possession.

The Act provides for administrative inspection and issuance of administrative warrants to an appropriate state employee to allow inspection of business premises where drugs may be kept or handled in an illegal manner. The Act would repeal chapter 19-03 of the North Dakota Century Code, which is essentially the predecessor of the Uniform Narcotic Drug Act.

#### **Uniform Jury Selection and Service Act**

The Uniform Jury Selection and Service Act is designed to ensure that appropriate federal standards are used by the States in the selection of state court juries. The Act provides for the creation of a "master list" within each court's territorial jurisdiction which may contain names from actual voter lists, lists of utility customers, lists of property taxpayers, motor vehicle registration lists, and drivers' licenses listings.

The Act provides for the creation of jury commissions in the appropriate jurisdictions. The jury commission is to consist of the clerks of court and a commissioner appointed by the court. The commission is responsible for compilation and maintenance of the master list, and for filling and drawing from the master jury wheel and the qualified jury wheel.

The master jury wheel is to be filled with names from the master list. If the master list contains less than 1,000 names, all of them will be placed in the master jury wheel; if the master list contains more than 1,000 names, the master jury wheel will be filled with 1,000 names from the master list, plus one percent of the total number of names on the list. The master jury wheel is to

be emptied and refilled in December of each even-numbered year.

Upon court order, the jury commission shall periodically draw the names of prospective jurors from the master jury wheel, and the clerks of court mail juror qualification forms to each person whose name is drawn. On the basis of the forms, the court shall determine if a juror is qualified, and if so, his name will be placed in the qualified jury wheel. A juror shall be disqualified at this point only:

1. If he is not a citizen and does not maintain the proper residency;
2. If he is not 21 years of age;
3. If he is unable to read, speak, and understand the English language;
4. If he is unable due to mental or physical disability to perform satisfactory jury service; or
5. If he has lost the right to vote because of a criminal conviction.

Particular jury panels will be selected from the qualified jury wheel. The Act provides that no qualified juror is exempt from jury service, but that the court may, upon request from a prospective juror, excuse him. A juror who fails, without reason, to perform service is guilty of criminal contempt. Within any two-year period, no person shall have to serve as a petit juror for more than ten court days, unless extended service is necessary to finish a particular case. The Act provides the procedure for challenging the jury selection process on the basis that the responsible persons did not comply with the Act.

It should be noted that a bill draft has been requested by an individual legislator which encompasses provisions basically similar to the Uniform Act.

#### **Uniform Marriage and Divorce Act**

The Uniform Marriage and Divorce Act represents a radical departure from most state laws regarding marriage, and especially, divorce. The Act sets forth the age groups who may marry without parental consent (18-year-olds), with parental consent (16-year-olds), and with parental consent and judicial approval (under 16-year-olds). A marriage may be solemnized by a judge of a court of

record, a public official whose powers include solemnization of marriages, or in any mode countenanced by any religious denomination, Indian Nation or Tribe, or Native Group (Eskimos?). Marriage may be by proxy.

The Act sets forth the categories of prohibited marriages as follows:

1. A bigamous marriage.
2. A marriage between an ancestor and a descendant, or a brother and a sister, whether by the half or the whole blood.
3. A marriage between an aunt and a nephew, or an uncle and a niece, except where permitted by "established customs of aboriginal cultures".

The Act provides that a court may enter a decree of invalidity of a marriage and sets forth the

grounds for such a decree. This decree would replace the legal concept of annulment. The Act also establishes the concept of "putative spouse", and gives putative spouses many of the rights of legal spouses. The NCCUSL made adoption of the "putative spouse" concept optional.

The Act provides for dissolution of a marriage (divorce) upon a finding that the marriage is irretrievably broken, which is the only ground for dissolution. The parties may also be legally separated. The court must make a finding of irretrievable breakdown if both parties state that such is the case, or if one party claims it and the other party does not dispute it. Otherwise, the court may make such a finding based on all the facts.

The Act provides for separation agreements, disposition of property, and child custody and support, and the court may appoint a lawyer to represent the interests of children of the marriage.

## POLITICAL SUBDIVISIONS

Senate Bill No. 402 directed the Legislative Council to study the procedures, administration, and functions of county government, and provided an appropriation for carrying out the study. As required by House Concurrent Resolution No. 6, the Legislative Council also undertook to study the feasibility of adopting a procedure for the consolidation of county, city, and county seat city governments.

These studies were assigned to the Committee on Political Subdivisions, consisting of Representatives S. F. Hoffner, Chairman, Ardean Aafedt, Myron Atkinson, H. Odell Berg, Gordon Emerson, M. E. Glaspey, Robert E. Grant, Theodore A. Lang, Dale Linderman, Albert Seibel, and Earl S. Strinden; and Senators David E. Nething and Milton G. Kelly.

The report and recommended legislation of the Committee on Political Subdivisions were submitted to the full Legislative Council at its biennial meeting at Camp Grafton, Devils Lake, North Dakota, in November 1970. The Legislative Council adopted the committee report and approved the recommended legislation for submission to the Forty-second Legislative Assembly.

### County Government Study

Senate Bill No. 402 directed that the Legislative Council carry on a study of the procedures, administration, and functions of county government for the purpose of determining the degree of application of modern administrative management, recordkeeping and data retrieval and storage practices in the several counties; and for the purpose of promoting economies in county government and improved governmental service. The Council was also directed to look into the feasibility of shifting the functions and responsibilities of some county officers or offices; the feasibility of consolidation or cooperation of county offices within the county, and with those of other political subdivisions; and the efficacy of state law in regard to county governmental operations. The bill appropriated the sum of \$12,000 to carry out the study.

Prior to the first meeting of the committee to which the study was assigned, the Legislative Council staff had requested proposals for carrying out the study from several consulting firms. At the first meeting of the committee, on June 23, 1969, consulting proposals were presented by representatives of the firms of Arthur Andersen &

Co. and Touche Ross & Co. The committee entered into a contract with Arthur Andersen & Co. to carry out the study at a cost not to exceed \$11,000.

The study was to be carried out by personal visitation by the consultant's representatives in five counties, and preparation of a comprehensive questionnaire for mailing to the remaining counties. The committee chose the counties of Burleigh, Stutsman, McKenzie, Ransom, and Foster, and left the decision as to the first county to be visited to the consulting firm.

The county commissioners in each county were notified by mail of the fact that Arthur Andersen & Co. was to carry out this study and the commissioners were requested to extend their full cooperation. The committee also extended an invitation to attend committee meetings to the officials of the various county officers' associations and attendance on the part of county officials was good throughout the biennium.

Early in the study, the committee disclaimed any intention of making recommendations regarding forced consolidation of counties, and noted that the committee's goal in carrying out the studies was primarily to strengthen local government, and to promote efficiency and dollar savings in county governmental operations. The committee felt that its obligation was to study the system of county government as a whole, and not to conduct an efficiency study of particular offices or personnel.

The consulting firm commenced an in-depth, on-the-scene study in Stutsman County. A representative of the firm remained in Stutsman County for approximately three weeks. In order to enlist the support and secure the full cooperation of the Stutsman County Commissioners, certain members of the committee, certain personnel from the Legislative Council staff, and representatives of the consulting firm visited personally with the Stutsman County Commissioners prior to the commencement of the study. The commissioners were interested in the project and pledged their support, including provision of office space in the courthouse for the member of the consulting firm who remained in Jamestown to commence the study. Upon completion of the Stutsman County portion of the study, the field representative of the consulting firm went directly to Ransom County to continue the study and finished that portion of the fieldwork in eight days.

Since counties of a large (Stutsman) and medium (Ransom) size had been reviewed, the consultant decided to study a county of small population (Foster) prior to preparation of the comprehensive questionnaire. On completion of the study of Foster County, the questionnaire was drafted and mailed in September 1969.

The committee held its next meeting on November 10, 1969, in Jamestown, North Dakota. At that time, 48 of the 50 questionnaires mailed had been returned, and on the basis of collation of these questionnaires, a representative of Arthur Andersen & Co. made a preliminary report. This meeting was well attended by county officials and resulted in a worthwhile interchange of information.

The committee discussed the possibility of a legislative appropriation to be used as a grant-in-aid to a certain county or counties which indicated a willingness to make a study of the feasibility of a change in form of county government, and implementation of modern administrative and accounting procedures. The reaction of the county representatives present at the meeting was generally favorable to this proposal. Following the Jamestown meeting, the consultants continued collation of the questionnaires and completed the on-the-scene visitation in the counties of McKenzie and Burleigh.

### Summary of Consultant's Report

The consultant's report, in final draft form, was presented at a meeting of the committee held on March 16, 1970, in the Large Hearing Room of the State Capitol. The printed consultant's report has been distributed to each member of the Forty-first Legislative Assembly, and will be summarized in this report. The report is divided into three basic sections which are:

1. Procedural recommendations
2. Organizational recommendations
3. Recommended approach to implementation

The procedural recommendations are grouped according to the county office to which they apply, and according to general recommendations relating to procedures in the county as a whole.

In regard to the County Auditor's office, the following recommendations were made:

1. Counties should utilize the calendar year for both budgeting and taxing purposes, and should revise their budgeting and reporting procedures, especially in the area of interim financial reports. In preparing the annual budget, each county office should be required to estimate all expenditures which it can initiate, and that office should be held accountable throughout the year for its expenditures in relation to the amount budgeted therefor. Monthly financial reports should be prepared which should compare monthly expenditures to a monthly budget breakdown, and year-to-date expenditures to the annual budget.
2. More effective internal control should be established over financial affairs by:
  - a. Proper maintenance of well-planned records;
  - b. Establishment of accountability, other than by duplication of records; and
  - c. Effective segregation of duties among personnel operating the financial system.
3. Counties should make more extensive use of machinery and appropriately designed forms to reduce clerical effort and generate financial savings.
4. Delinquent tax accounting is presently carried on in the Auditor's office, while current tax processing is done in the Treasurer's office. The consultants recommended that these two functions be performed in the same office. This recommendation was made in conjunction with an organizational recommendation that many or all of the functions of the Auditors' and Treasurers' offices be combined.

In regard to the County Treasurer's office, the following recommendations were made:

1. Where excessive cash balances are maintained, some type of pooling of cash balances, in excess of a minimum requirement, should be done for short term investment purposes on a statewide basis. Each county should also reduce the number of bank accounts which it maintains, and if necessary to maintain accounts in several different banks within the county, it should be done on a rotating basis, rather than having several accounts open at the same time.

2. In order for the Treasurer to maintain control over cash collections, each day's receipt should be deposited in total on a daily basis. In addition, a petty cash fund should be created for miscellaneous disbursements, rather than using cash receipts to cover such disbursements.
3. Duplicate records, such as the Daily Balance Ledger and the Daily Cash Balance Ledger, which both contain the same information, should be eliminated. In addition, the Treasurer should adopt a new method of allocating revenue to be based on an overall budget, rather than allocating revenue directly to a particular function. The Treasurer should be given authority to allocate delinquent tax collections to the general fund of each taxing authority where the taxes have been delinquent for a certain period of time. Real estate tax billings should be mailed to all taxpayers, in order to induce payments by mail.
4. Better management of invested capital should be considered and special consideration should be given to the possibility of pooling county investment capital to allow professional management of the investments on a statewide basis.

The following recommendations were made in regard to the office of Register of Deeds:

1. Microfilming of retained records should be used in the counties which experience a sufficient volume to justify the expense.
2. Copying equipment should be used for the copying of documents registered and retained in the office of Register of Deeds so as to prevent the necessity of maintaining a supply of forms, and retyping of documents by the Register or his employees.
3. The method of indexing used in the Register's office in many counties could be simplified.
4. The billing process for accounts receivable should be transferred from the Register's office to the office of the Treasurer.

In regard to the office of the County Superintendent of Schools, the following recommendations were made:

1. A large percentage of the Superintendent's

time is spent in preparation, summarization, and verification of reports for the Department of Public Instruction. Many of these reports are initiated at the school district level. These reports could be sent directly to the Department of Public Instruction by each school district, especially in view of the fact that much of the information contained in the reports is processed through the Central Data Processing computer in Bismarck.

2. The school visitation function of the County Superintendents should be reevaluated in order to determine whether it is an appropriate function for the County Superintendent, and if so, whether the average amount of time presently spent on school visitation permits a thorough job to be accomplished.

Recommendations concerning the office of County Judge and Clerk of the District Court are as follows:

1. Copying equipment should be used to eliminate much of the manual effort in retyping documents processed by these offices. Indices maintained by the two offices could be simplified, and in some cases combined.
2. Where support payments are made to a county office, it might be better to have such payments made to the Treasurer, rather than to the Clerk of the District Court, because procedures for internal control over cash receipts and disbursements are better understood in the Treasurer's office.
3. Cash receipts of these offices should be deposited with the Treasurer more often than monthly, as is the present case.

In regard to the Sheriff's office and the County Highway Departments, the consultant recommended that where those offices currently have responsibility for billing for their own accounts receivable, the function should be transferred to the Treasurer's office, and that cash collected by those offices be deposited with the Treasurer on a more frequent basis.

General recommendations regarding county procedures included the following:

1. A comprehensive county financial statement should be prepared by the County Auditors on a monthly basis, and the State Auditor should prepare a consolidated annual financial statement for all counties.

2. A provision should be made for a detailed design of a county financial system and for preparation of a procedure manual based upon that design which would apply to all the major accounting functions performed by counties.
  3. Forms used by counties should be completely redefined and redesigned with a view toward standardization, so that offices within counties, and the counties themselves, could combine to purchase forms on a volume basis in order to reduce the cost of the forms needed in a particular county.
  4. Records management within each county should be studied in order to ensure that the counties are operating under a proper system for retention or destruction of county records.
  5. County commissioners should be paid a flat monthly salary plus reimbursement for expenses incurred while on official business, in order to avoid the present confusion caused by application of the per diem reimbursement requirement.
  6. Consideration should be given to reviewing all fees charged by county officials in light of current costs, and such fees should be adjusted to more closely approximate the cost of providing the service or material.
- b. Combine the document-filing functions for legal documents of the office of the County Judge and Clerk of Court with the document-filing functions in the Register of Deed's office.
  - c. Consider combination of the office and office staff personnel of the County Judge and the State's Attorney.
  - d. Consider the use of a common jail facility for several counties.
  - e. Consider transferring control of county and district courts to a state judicial department under the control of the State Supreme Court.
  - f. Consider joint use of county Highway Department equipment, and use of all county highway equipment at the county level, rather than at the commissioner district level.

The consultant stated that although these organizational improvements, if implemented, should improve the overall operating efficiency of county government, optimum performance for county government within North Dakota must be attained through a physical consolidation of counties. County populations which are larger than any presently existing in North Dakota are necessary, not only for procedural efficiency but to assure an adequate tax base to support county governmental activities.

The organizational recommendations of the consultant are as follows:

1. The day-to-day affairs of the county should be managed by a full-time professional administrator.
2. Most county officers should be appointed and not elected.
3. One financial office should be established through a consolidation of the Treasurers' and Auditors' offices.
4. Certain functions and procedures should be combined to allow more economical operation. This recommendation includes the following subrecommendations:
  - a. Eliminate the office of County Superintendent of Schools and replace it with a system of Regional Superintendents of Schools.

The consultant's recommended approach to implementation was to select one county within the State, preferably one which is of large or medium size, and undertake a detailed system design within the major offices of the selected county. Procedures and forms should be designed to incorporate efficient processing and internal control methods, and the most advanced data storage and retrieval techniques which are economically justifiable should be used. The result of this effort would be a detailed procedure manual for use by the remaining counties in implementing the same concepts. A number of internal organizational changes, such as the combination of the Auditors' and Treasurers' offices should also be implemented.

#### **Recommendations of the Committee**

The committee, by motion, accepted the report on county government as prepared by Arthur Andersen & Co. as fulfillment of that firm's contract to carry out a study of county governmental operations. The committee directed the staff of the Legislative Council to prepare numerous bills implementing the recommendations contained in the

report. The bills recommended by the committee will be discussed in the remaining paragraphs of this portion of the committee report.

The committee believes that in order for improvements to be made in county governmental operations, some inducement must be given to the counties to make the attempt to consolidate or change their governmental form, and implement the most effective administrative procedures. This belief is reinforced by the fact that although the Constitution provides for consolidation of counties and for optional forms of county government, and the necessary facilitating statutes have existed for numerous years, no county has seen fit to take action under these constitutional and statutory provisions. During the committee's deliberations it was brought to light that many county officials are not aware that the Century Code contains statutory authorization for optional forms of county government. The committee believes that the most effective inducement for a county or counties to implement the recommendations of the Arthur Andersen report, and to attempt to consolidate their governments or change their governmental form would be in the form of financial assistance for a county or counties willing to undertake the project.

The committee therefore recommends a bill which appropriates \$50,000 to the Legislative Council, to be administered by the Council for grants-in-aid to a county or counties that apply for a grant and agree to submit the question of county consolidation, or adoption of an optional form of county government, or both, to the electorate, and to implement all or part of the recommendations contained in the Arthur Andersen report.

Section 1 of the grant-in-aid bill draft contains several "Whereas" clauses explaining the legislative rationale. Section 2 provides that the Legislative Council is to administer grants-in-aid during the 1971-1973 biennium. The Council will receive applications from interested counties and will proceed to select one county, or a group of counties willing to consolidate, if five or less applications are received; or to select two counties, or two groups of counties willing to consolidate, if six or more applications are received. The Council would enter into agreements with the county or counties selected, and the agreements would establish the time schedule for implementation of the governmental improvements.

The question of consolidation of counties, or a change in county governmental form, or both, must be submitted by the county or counties which have applied to and have been selected by

the Legislative Council within 120 days following the effective date of the bill (July 1, 1971). The bill provides that if the county electorate fails to approve the question submitted to it, the Legislative Council may, in its discretion, refuse to authorize expenditure of further funds under the agreement.

The theory of this bill is very similar to the theories behind legislation establishing federal grant-in-aid programs to state and local governments. A federal grant administration agency is generally given the discretion to approve of a grant application, and of the plan submitted with it.

The committee recognizes the validity of the recommendation in regard to preparation of monthly financial statements by the County Auditor, and consolidated annual county financial statements by the State Auditor, and recommends a bill to amend subsection 2 of section 11-13-02 and section 54-10-17 to require preparation of these reports. The committee feels that preparation of the monthly report will be helpful to the county commissioners in making their determinations regarding county policies. Preparation of a consolidated annual financial statement of all counties will be valuable to the legislature in making determinations regarding county finances in general.

The Arthur Andersen report pointed out that in many instances, counties would be able to purchase supplies more cheaply if they could take advantage of the centralized purchasing power of the State Department of Accounts and Purchases. The committee accepted this recommendation and now recommends a bill which would amend sections 11-11-26, 11-11-30, and 54-44-09. The committee, however, feels that there is no reason why the ability to take advantage of purchase contracts entered into by the Department of Accounts and Purchases should be limited to counties, and the bill draft provides that all political subdivisions may purchase supplies under contracts held by the Department of Accounts and Purchases, with its approval. The department is authorized to charge the political subdivisions for any additional cost of administration resulting from their purchases.

The county government study revealed that the present method of compensating county commissioners had given rise to several problems. Commissioners are presently allowed a per diem of \$15 while performing official duties, and an allowance for actual meals and lodging expenses, not to exceed \$12 per day. However, the per diem and expense allowance paid to a county commis-

sioner cannot exceed certain maximums, based upon the size of the county involved.

It was reported during the course of the Arthur Andersen study that county commissioners are involved in disputes as to whether or not their per diem could be claimed when certain commissioner's duties, other than attendance at a commission meeting, were performed which might or might not involve a full day's work. It was noted that there is a tendency on the part of some commissioners to claim the total amount of per diem and expenses allowable to reach the established maximums. Furthermore, each claim has to be submitted by voucher.

The committee believes that the solution to this problem is to provide a flat annual salary for commissioners, and an allowance for meals, lodging, and travel expenses incurred while on official business outside the county, to be paid at the same rate as provided by law for state officials and employees. Therefore, the committee recommends a bill amending subsection 3 of section 11-10-10 to provide that each county commissioner shall receive an annual salary, payable in monthly installments, as provided by resolution of the board. The salaries would be set at or within the present maximum limits based upon county populations, which are:

1. \$3,200 In counties having a population of 8,000 or less;
2. 3,750 In counties having a population of over 8,000 and less than 15,000; and
3. 4,500 In counties having a population of over 15,000.

This salary would be the total compensation received by commissioners for all official duties performed within the county. Under the salary plan, the detailed recordkeeping and disagreements over the validity of \$15 per diem charges would be eliminated. Reporting of expenses for food, lodging, and travel would only be required when a commissioner is on official business outside of the county. Thus, recordkeeping should be greatly simplified.

The consultant had recommended that the county fiscal year be changed so as to be concurrent with the calendar year, which is also the tax year. This change will allow the counties to budget for a 12-month period which matches the period in which the revenues to support the budget are received. The committee recommends a bill

draft which would provide for a calendar fiscal year for counties. No other political subdivisions would be affected, and the budgeting period would remain the same. The first budget prepared after passage of the Act would be for an 18-month period, and thereafter, counties would budget in July for a fiscal year commencing January 1.

The consultant recommended that the counties be authorized in instances where volume justified, to provide for central filing of documents kept by the Register of Deeds, the Clerk of the District Court, and the County Judge. Implementation of the recommendation would be especially helpful in those counties where courthouse space is at a premium. Therefore, the committee recommends a bill amending section 11-10-20 to provide for central filing of documents upon direction of the Board of County Commissioners, by resolution. The commissioners' resolution is to state in which office the filing is to be done, and which persons are to have custody of and access to the central files. The bill is permissive, and would not force central filing upon any county.

Interest was expressed in those portions of the consultant's report which dealt with investments, and it was noted that varying legal opinions had been given by State's Attorneys regarding the legality of investing funds in certificates of deposit. The committee decided that all political subdivisions should be allowed to invest surplus funds in certificates of deposit, as well as in the other legal investments. The committee recommends a bill to amend section 21-06-07 to provide that all political subdivisions may invest surpluses in their general or special funds in certificates of deposit, bonds, treasury bills, and notes or other securities which are a direct obligation of the treasury of the United States, or of an instrumentality thereof.

The bill draft as originally considered by the committee had provided that counties could invest surplus funds in certificates of deposit of the Bank of North Dakota; however, the committee believes that there is no reason why all political subdivisions could not invest in certificates of deposit issued by any responsible financial institution.

The committee also considered the Arthur Andersen recommendation that counties be prohibited from maintaining concurrent deposits in more than one bank within a county, especially demand deposits. If it were necessary to make deposits in more than one bank within a county, it should be accomplished by an annual rotation of deposits from bank to bank.

Testimony received by the committee from numerous county officials was generally in opposition to this recommendation, and in one instance it was noted that although demand deposits were kept in several banks within the county, each deposit was used to carry out transactions dealing with a particular function. The committee tabled a bill draft which would have provided for rotation of county deposits among banks located within the county on an annual basis, and which would have prohibited deposits in more than one bank within the county.

The committee also considered a concurrent resolution calling for a study of county records management in regard to retention and destruction of records. The committee determined that a Legislative Council study was not necessary in light of the fact that the Secretary of State has been authorized, by section 54-46-12, to promulgate rules and regulations regarding retention and destruction of county records, and had issued such rules and regulations in 1965.

The committee tabled the concurrent resolution draft and requested that the Chairman write a letter to all county officials who are involved in records management informing them that the Secretary of State, as chief records administrator, had issued rules and regulations, and that copies could be obtained from the Secretary of State. Numerous county officials wrote to the Secretary of State requesting copies of the rules and regulations, thus indicating an interest in the records management problems at the county level.

The committee gave consideration to the Arthur Andersen recommendation that the county fee structure be updated so that fees charged for services or materials would more closely approximate the costs involved in performing the service, or rendering the material. These recommendations were considered near the end of the interim period, and the committee did not feel that it had sufficient information regarding actual costs to attempt to revise county fee structures. Therefore, the committee directed the Chairman to send a letter to the presidents of the various county officials' associations which are involved in charging county fees, requesting these officials to appoint committees to review their own fee structures and report any recommendations for change directly to the Forty-second Legislative Assembly. The County Registers of Deeds' Association has already, pursuant to the Chairman's request, established such a committee.

The committee decided that most of the remaining recommendations contained in the Arthur An-

dersen report could either be accomplished administratively, or should be accomplished during implementation within a county or counties under the grant-in-aid bill.

### County - City Consolidation Study

Pursuant to House Concurrent Resolution No. 6, the committee studied the feasibility of the consolidation of county and city governments. The staff of the Legislative Council gathered information from numerous jurisdictions where county-city consolidated governments were already operational, and submitted a memorandum to the committee regarding the organizational structure of several existing county-city consolidated governments. That memorandum is appended to this report as Appendix "A".

The committee determined that there are two basic procedures which could be used by the legislature to provide machinery for county-city governmental consolidation. One would involve the passage of a constitutional amendment permitting county-city government consolidations, either through the device of allowing "county home rule", or specifically providing for a county-city consolidated government to be established in the manner provided by law followed by introduction of legislation setting forth the organizational structure of such government. The second method would be to create a new optional form of county government pursuant to section 170 of the Constitution, which would be the county-city consolidated form.

The co-sponsors of House Concurrent Resolution No. 6 gave testimony to the effect that they would like the committee to submit its recommendations in the alternative, providing for both a constitutional amendment for county home rule, and a new optional form of county-city consolidated government.

The committee believes that there is a basic problem in only recommending creation of a new optional form of county government, because no county has seen fit to take advantage of the presently existing forms of optional county government. In light of the fact that two cities, Fargo and Grand Forks, have taken action under the constitutional and statutory provisions for city home rule, the committee feels that it is best to offer counties and cities the alternatives of adopting a county-city consolidated form of government, or adopting county home rule, or both. Therefore, the committee considered drafts of a resolution for a constitutional amendment providing for county

home rule, and a bill creating two new chapters of the Century Code providing an optional county-city consolidated governmental form.

The concurrent resolution presented to the committee provided for the amendment of sections 150, 170, 172, and 173 of the Constitution.

Section 1 of the resolution amends section 150 of the Constitution to provide that a superintendent of schools shall be elected in each county, except in the case of home rule counties or counties which have adopted an optional form of county government, or in the case where counties have decided to elect a joint county superintendent of schools.

Section 2 amends section 170 of the Constitution to specifically provide that one of the optional forms of county government to be provided by the legislature shall be the county-city consolidated government form, and further provides that the adoption of one of the optional forms of government shall be by approval of a majority, rather than 55 percent of the electors, voting on the question. The determination to submit the question of adoption of one of the optional forms of county government to the voters may be made by a majority vote of the county legislative body, or shall be made upon petition of 10 percent of the electors of the county who voted for Governor at the last general election.

Section 3 of the resolution contains the essence of the proposed amendment, and amends section 172 of the Constitution to provide that the Legislative Assembly shall enact laws permitting the establishment of county home rule charter committees. Such a committee would be created in any county by resolution of the county legislative body passed by majority vote, or when a petition requesting creation of such a committee is signed by 10 percent of the voters of the county who voted for Governor at the last general election.

The amendment provides that each county in the State may adopt a county home rule charter by majority vote of the electors voting on the question. The home rule charter is to be drafted by the charter committee, and may be submitted to the electorate at a special, primary, or general election as chosen by the committee, but the charter shall not be submitted at an election held within 60 days of the date on which the charter is certified to have been completed for submission.

The home rule charter is to provide for the type of government which the home rule county is to

have. Selection of the governmental form is the sole prerogative of the charter committee; however, the governmental form must provide for a division of governmental powers between a legislative, an executive, and a judicial branch of government. The charter must provide for the method of selection of governmental officials, and describe their functions, terms of office, and method of removal.

The charter, and any ordinance enacted pursuant to it, can provide for the exercise of any governmental power by the county which is not in conflict with the Federal or State Constitution. A home rule county is directed to perform all the functions which general state laws require non-home rule counties to perform. Home rule county ordinances may provide penalties for their violation, but the penalties can't exceed the general penalty for misdemeanors as provided by state law.

The home rule charter shall provide for the continuance of existing relationships with other political subdivisions located wholly or partially within the boundaries of the home rule county, unless these subdivisions decide to allow their governmental functions to be performed by the home rule county. If a political subdivision within a county which is considering adoption of home rule decides to dissolve and join the county government, the question of dissolution may be submitted to the voters concurrently with the question of adoption of county home rule.

Section 4 of the resolution amends section 173 of the Constitution to specifically provide that the present elected county officials need not be elected in a home rule county, or a county operating under an optional form of county government.

The committee decided to recommend this constitutional amendment resolution for passage; however, it further determined to recommend an alternative county home rule amendment resolution which would be based essentially on the constitutional provision for city home rule — section 130. The only relevant difference between this alternative proposal for amendment of the Constitution and the one outlined above is that the amendment to section 172 simply provides that the Legislative Assembly shall provide by law for home rule in counties. The language of the alternative amendment to section 172 is essentially the language contained in the suggested revision of section 130 of the Constitution, as proposed in the constitutional revision package adopted by the legislature in 1967 and submitted to the voters at the general election in November 1968.

Both concurrent resolutions providing for county home rule also provide that they will not be submitted to the electorate in the event the Constitutional Convention revises the Constitution to provide for county home rule, and such revision is accepted by the voters. The question of whether the Constitutional Convention has provided for county home rule in any revision of the Constitution which they might propose is to be determined by the Attorney General. If the Constitutional Convention is determined by the Attorney General not to have provided for home rule in counties, then the concurrent resolution providing for home rule shall be submitted to the electorate at the primary election held in 1972.

Pursuant to its determination to also provide a new optional form of county government, the committee considered a bill draft creating chapters 11-09.1 and 11-09.2 which would provide for a county-city consolidated form of government.

The question of adoption of the county-city consolidated form would be submitted when the Board of County Commissioners and the governing body of one or more of the cities within the county determined by resolution that such action should be taken. The question would be submitted at the first primary election following the decision to seek consolidation. If the resolutions on submission of the question of consolidation were adopted within 90 days of the next primary election, then the question is to be submitted at the next general election.

At the same time the question of adoption of the consolidated form of government is submitted, the question of the dissolution of the city or cities involved must also be submitted. The county-city consolidated form of government cannot be adopted unless it receives the approval of 55 percent of those voting on the question, and if it does not receive that ratio of approval, no action shall be taken regardless of the fact that the question of dissolution of a city or cities within the county received a majority of the votes.

Dissolved cities cease to exist as governmental bodies. However, the population of the former city is to be counted for purposes of determining allocation of revenues from the State to the city. The amounts so allocated shall be paid to the proper department of the county-city government. The name of a dissolved city may be continued as the designation of the territorial limits of all, or a part of, an urban service district and may also be used as a point of map reference. The adoption of a county-city consolidated governmental form

would have no effect on any other political subdivisions within the county, or partially within the county, and their relationship with former county or city offices would be continued with the proper office of the consolidated government.

All actions pending under ordinances of dissolved cities would be transferred to the county-city court, and former city ordinances would remain in effect within the territorial limits of the dissolved city until they have been superseded by ordinances adopted by the county-city council.

Each county-city is to be divided into a general and an urban service district. The bill provides for the types of services which the government is to perform within each type of service district, and these services correspond generally to the types of services now provided in cities and in the rural areas of the counties. The county-city government can levy taxes at a higher level within the urban service district than within the general service district. The urban service district may be expanded, but only when the county-city government is able to provide added services within the expanded area within a reasonable time, not to exceed one year, after the added tax levies in the expanded area become due.

The county-city is declared to be a body corporate and politic, and the authority of the county-city is vested in:

1. A county-city council, consisting of nine members elected for four-year terms (the first group elected shall have staggered terms).
2. Either an elected county-city mayor, or an appointed county-city manager.
3. A county-city court, which replaces the municipal courts of the dissolved cities, and would have jurisdiction to enforce all county-city ordinances.

The bill provides that each county-city shall also have eight administrative departments, plus such other departments as the county-city council may create by ordinance. Executive departments created by the bill are: the Department of Finance; the Department of Highways and Roads; the Department of Police Services; the Department of Health, Education, and Welfare; the Department of Parks and Recreation; the Department of Legal Services; the Department of Fire Protection; and the Department of Public Works. These departments will assume essentially all of

the functions now carried out by county and city governments.

The county-city council will consist of nine members elected to four-year terms, with the first group of councilmen elected to serve staggered terms — four serving for two years, and five serving for four years. Four of the councilmen are to be elected at large, and the remaining five are to be elected from districts of equal population, but if redistricting cannot be accomplished, all councilmen are to be elected at large. Seven members of the council shall constitute a quorum.

The qualifications for councilman are that he be 21 years of age prior to commencement of his term of office, a citizen of the United States, and a resident of the county-city. In the case of councilmen elected from councilmanic districts, the candidate must have resided six months in the district from which he is to be elected. Vacancies in office are to be filled by appointment by the remaining councilmen.

The council is to meet regularly on the second and fourth Tuesday of each month, and special meetings may be held upon the call of the mayor, or upon written request of a majority of the councilmen. Twenty-four hours' written notice of a special meeting must be given to all council members. All meetings of the council are to be open to the public and the news media, but the council may regulate electronic broadcasting from the meeting place.

The legislative authority of the council is to be exercised by ordinance passed by a majority of the total membership of the council. Ordinances could not be passed until at least three calendar days after their introduction, and no ordinance would take effect until 20 days after its passage, unless it were declared to be an emergency measure and received an affirmative vote of two-thirds of the total membership of the council.

The county-city mayor has veto power over ordinances, but ordinances may be re-passed over a veto if two-thirds of the total number of councilmen concur. If the mayor does not specifically exercise his veto, the ordinance would take effect without his approval. An appointed county-city manager would not have veto power.

The council is to select a clerk to serve at the pleasure of a majority of the councilmen and be responsible for keeping the journal of the proceedings of the council; for preparing ordinances for introduction; and for attesting to their authenticity

after passage. The clerk may be ordered by the council to codify county-city ordinances.

At its first meeting in every odd-numbered year, the council must select a Chairman and a Vice Chairman. The Chairman must have a vote on the final passage of every ordinance, and may vote on any other question.

The bill draft as first submitted to the committee for consideration contained provisions only for an elected county-city mayor as the chief executive officer. The committee believes that counties and cities interested in adoption of a consolidated form of government should have the option of either electing or appointing the chief executive official of the county-city government, and therefore, the bill recommended by the committee creates two separate chapters of the Century Code dealing with county-city consolidated governments which are essentially the same in all respects, except that one chapter provides for election of a county-city mayor who shall have veto power over county-city ordinances, and the other chapter (11-09.2) provides for appointment by the county-city council of a county-city manager who shall not have veto power. In the following paragraphs discussing the executive branch of the county-city government, all statements will apply to either elected or appointed executive officials, unless specifically indicated to the contrary.

In order to be qualified for office, a manager or mayor must be 25 years of age, a citizen of the United States, and in the case of the mayor, a resident of the county-city for two years prior to the commencement of his term. The initial compensation of the first manager or mayor of any county-city is set at \$10,000 per year, and thereafter, his compensation is to be set by ordinance. The manager or mayor is to hold no other position within the county-city government and is to devote full time to his office. A manager or mayor is authorized to supervise and control all departments of the county-city. The mayor would appoint all department directors, who would serve at his pleasure and who would be paid in the amount established by the mayor. The appointed manager would appoint directors of departments, subject to the approval of the council, and the council would establish their salaries by ordinance. The elected mayor would have such other powers as are held by the mayors of cities under state law. The appointed manager would have such other powers as are given to him by the county-city council by ordinance. The bill provides that upon the effective date for adoption of a county-city consolidated form of government, the following offices or agencies shall be abolished:

- |  |  |
|--|--|
| 1. Board of County Commissioners           | 19. County Highway Engineer and the County Highway Department, by whatever name called |
| 2. County Auditor                          | 20. City Commission  |
| 3. County Treasurer                        | 21. City Council   |
| 4. County Sheriff                          | 22. Mayor  |
| 5. County Superintendent of Schools        | 23. City Manager   |
| 6. State's Attorney                        | 24. City Auditor   |
| 7. County Constable                        | 25. City Treasurer   |
| 8. County Coroner                          | 26. City Attorney  |
| 9. County Justice                          | 27. City Street Commissioner   |
| 10. Register of Deeds                      | 28. Chief of Police and the Police Department  |
| 11. County Welfare Board                   | 29. Municipal Judge  |
| 12. County Director of Tax Equalization    | 30. City Assessor  |
| 13. County Surveyor                        | 31. City Engineer  |
| 14. County Superintendent of Public Health | 32. City Board of Public Works   |
| 15. County Tuberculosis Board              | 33. Fire Department  |
| 16. Rural Fire Protection District         | 34. City Health Officer  |
| 17. District Assessor                      | 35. County and City Boards of Park Commissioners                                       |
| 18. Public Administrator                   |  |

The bill provides that any office, officer, board, or commission not specifically abolished shall be continued and shall carry out the functions imposed by general statute. Any office or agency which previously had jurisdiction only within the territorial limits of a former incorporated city shall continue to exercise such jurisdiction within the urban service district.

The bill sets forth the responsibilities of each of the eight departments created by it, and provides that the departmental organizational structure may be provided by ordinance, or as directed by the county-city mayor, with the approval of the council. The eight departments are to assume the functions previously performed by the officials or agencies which are specifically abolished.

County-city redistricting must be carried out in the manner provided in chapter 11-07, and if a county has properly redistricted prior to adoption

of a new governmental form, the former commissioner districts may be used as councilmanic districts. If redistricting is required after adoption of the county-city consolidated governmental form, it must be carried out within 45 days of the effective date of the new government. All county-city elected officials are to be elected on the no party ballot at the general election.

Each county-city would have a county-city court with jurisdiction throughout the territorial limits of the county-city and over all violations of county-city ordinances. The jurisdiction and powers of district and county courts are not changed.

The county-city government would be located at the county seat, or former county seat. However, the government may maintain such other offices throughout the county-city as may be necessary.

The bill provides that other incorporated cities within the county may join the consolidated government at a later time, after having dissolved pursuant to chapter 40-53.1 of the Century Code.

A transitional government is provided to operate the county-city until such time as the new county-city government can be elected. The former Board of County Commissioners and four other members appointed by that board would serve as the transitional county-city council. The former municipal judge of the largest city which was dissolved when the new governmental form was adopted would serve as the transitional county-city judge. The former mayor of the largest city which was dissolved would serve as the transitional county-city elected mayor, or a transitional county-city manager could be appointed by the transitional council.

The former county sheriff would serve as the transitional director of the Department of Police Services, and directors of other departments would be appointed, on a transitional basis, by the county-city mayor, or by the transitional county-city council where the chief executive of the county-city has been appointed. Transitional officers will receive the same salary as they received in their former positions, plus \$100 per month during their period of service as a transitional officer. Transitional officers may run for permanent county-city office.

County-city officials would be subject to the recall provisions of article 33 of the amendments to the Constitution. No elected county-city offi-

cial can serve in any other capacity within the county-city government, nor shall any official or employee of the county-city have any interest in a contract with the county-city. Bonding of county-city officials and employees would be in accordance with the general law regarding bonding of county employees.

### MISCELLANEOUS

During its study, the committee discovered that some confusion existed as to the proper interpretation of section 54-40-08 of the Century Code which deals with joint governmental cooperation. That section had been amended in 1969 to insert language in what was a general statute dealing specifically with joint cooperation for the construction or remodeling of libraries. The committee, in order to forestall any confusion regarding the proper construction of section 54-40-08, recommends a bill which would amend section 54-40-08 and section 40-38-11 to provide that cooperative action between political subdivisions shall be allowed generally by section 54-40-08, and that merger or consolidation of public library services is to be specifically provided in section 40-38-11.

### Appendix "A"

#### A SURVEY OF SELECTED CONSOLIDATED COUNTY-CITY GOVERNMENTAL FORMS IN USE IN THE UNITED STATES

House Concurrent Resolution No. 6 of the Forty-first Legislative Assembly directs the Legislative Council to conduct a study of and formulate the procedures for consolidation of the governments of counties, cities, and county seat cities. As part of this study, the staff of the Council has gathered material and information regarding county-city governmental consolidations presently operational in various States. Adequate material was not available on all of the consolidated county-city governments which are presently operational in the United States. Thus, while all types of consolidated governments will be covered briefly, this memo will deal with five governments in depth. They are:

1. Carson City and Ormsby County, Nevada, hereinafter Carson City.
2. City and County of Denver, hereinafter Denver.
3. Indianapolis and Marion County, Indiana, hereinafter Indianapolis.

4. Jacksonville and Duval County, Florida, hereinafter Jacksonville.
5. Nashville and Davidson County, Tennessee, hereinafter Nashville.

In addition to the governments listed above, the following counties and cities have consolidated their governments:

1. City of Virginia Beach and Princess Anne County, Virginia.
2. Baton Rouge and East Baton Rouge Parish, Louisiana.
3. South Norfolk and Norfolk County, Virginia.

**Virginia Beach:** The consolidation of Virginia Beach and Princess Anne County, Virginia, took place in 1963, and a borough form of government was adopted with the total consolidated area being divided into seven boroughs. The plan was effected pursuant to Virginia State law, and the charter embodied in the plan was approved by the legislature. The legislative body, known as the City Council, consists of 11 councilmen. Four councilmen are elected at large without regard to residence. Seven councilmen are elected by the voters of the entire city, one being required to reside in each of the seven boroughs.

The consolidation of Virginia Beach is discussed in the U. S. Supreme Court case of **Dusch v. Davis**, 387 US 112, 87 S.Ct. 1554 (1967), in which the Supreme Court held that the apportionment plan of Virginia Beach was acceptable even though there were radical differences in population between the seven boroughs. In commenting on the Virginia Beach "Seven-Four" Plan, the Court stated at 387 US 116-117: "District representation from the old County of Princess Anne with elected members of the Board of Supervisors selected only by the voters of the particular district has now been changed to permit citywide voting. The 'Seven-Four Plan' is not an evasive scheme to avoid the consequences of reapportionment or to perpetuate certain persons in office. The plan does not preserve any controlling influence of the smaller boroughs, but does indicate a desire for intelligent expression of views relating to agriculture which remains a great economic factor in the welfare of the entire population. As the plan becomes effective, if it then operates to minimize or cancel out the voting strength of racial or political elements of the voting population, it will be time enough to consider whether the system still passes constitutional muster."

**Baton Rouge:** The Baton Rouge parish of East Baton Rouge metropolitan government was inaugurated on January 1, 1949. The 1966 population estimates set the total population of the parish at 273,752. In 1940, the population of the parish was 88,000.

In November 1946, the people of the State of Louisiana adopted an amendment to their Constitution which authorized creation of a City-Parish Charter Commission, which Commission was vested with authority to develop a plan of government to be submitted to the people of the parish for adoption. Basically, the plan, as developed, provided for the following:

1. Provision for a Mayor-President-Council form of government. The Mayor-President, as the Chief Executive, was vested with responsibility for the administrative work of the government. His unusual title stems from the fact that he is Mayor of the City of Baton Rouge and President of the Parish Council. A 10-member City-Parish Council was vested with the legislative authority and general supervision over all branches of the government through final control of the budget. The Council members are elected by wards. The city area comprises one ward, which elects seven members at large. The rural area is divided into two wards from which a total of three members are elected. The seven members from ward one (the city ward) also comprise the City Council;
2. Provision for consolidation of the major departments of governments. For example, a single Department of Public Works is charged for the responsibility of carrying out public works functions throughout the parish and the city;
3. Providing for creation of urban, industrial, and rural areas for taxing purposes. The urban area is coterminous with the corporate limits of the city of Baton Rouge, and property located in the city is subject to municipal taxes. The industrial area was created for the purpose of encouraging industrial development and includes all the major industries located within the parish. Since the industries operating in the parish are providing their own "municipal services," the industrial area has the same tax base as the rural area, which is the constitutional limit of four mills;
4. Provision that no additional municipalities could be created in the parish, thus eliminat-

ing the possibility of competing jurisdictions. Two small municipalities, some distance from the city of Baton Rouge, were continued in existence.

The plan of government as adopted was submitted to all citizens of the parish, and did not require concurrent majorities in the city and parish.

**South Norfolk:** We have no information regarding the South Norfolk-Norfolk County consolidation. We presume that it would be under the same organic law which permitted the consolidation of the city of Virginia Beach and Princess Anne County.

### General Characteristics

Before giving in-depth consideration to the five county-city consolidations which are the primary topics of this memo, it is well to note some of the general similarities which appear in all five governmental forms. (Note: Table 1 attached to this memo sets out some of the similarities in graphic form.) Four of the five county-city consolidations create a distinct executive officer entitled, in each case, the Mayor. The Mayor serves, in each case, a four-year term. The fifth consolidated government, that of Carson City, Nevada, provides for a Mayor, elected for a four-year term; however, the Mayor in Carson City is also a member of the legislative body.

Three of the five governments provide for the Mayor's salary in the charter, one allows the establishment of the salary by ordinance, and one sets a starting salary by charter, which can be changed by ordinance. The salaries range from \$3,600 for the Mayor of Carson City to \$30,000 for the Mayor of Jacksonville.

With the exception of the Mayor of Carson City, all of the Mayors have executive veto power, but the legislative body has the power, by a two-thirds vote, to override the executive veto.

Each consolidated government has a distinct legislative body with membership ranging from five members for Carson City to 40 members for the metropolitan government of Nashville. Each consolidated government elects its legislative body members for four-year terms. The salaries of members of the legislative bodies range from \$3,000 to \$5,000 per annum.

Three of the five consolidated government charters specifically provide for the creation of two or

more taxing districts with provision being made on the basis of urban and rural districts. Carson City has an urban district and the Ormsby (County) district. Jacksonville has a general services district, encompassing the total territory of the government, and two urban services districts. Nashville has an urban services district and a general services district.

Three of the five governments had popular referendums on adoption of their charters; the other two charters were contained in legislative acts which took effect without popular referendum.

Consideration of the consolidated governments of the five city-counties listed on the first page of this memo will be contained in the remaining text of this memo.

**Carson City:** Carson City, the capital city of Nevada, had a 1960 population of 5,163. Carson City is contained within the territorial limits of Ormsby County which had a 1960 population of 8,063.

Senate Bill No. 75, as passed by the 1969 session of the Nevada Legislature, embodied the charter of the "City of Carson City" which was a government replacing the former governments of Ormsby County and Carson City. Senate Bill No. 75 became effective on July 1, 1969.

The charter provides for creation of an urban district and the Ormsby district for taxing purposes. Territory may be annexed to the urban district or detached therefrom in the manner provided by the general state statutes for annexation or detachment of municipal territory.

Article 2 of the legislative charter creates a legislative agency called the Board of Supervisors and vests the legislative power of Carson City in that board. The board consists of five Supervisors, including the Mayor. Carson City is divided into four wards in which the four Supervisors must reside. However, the Mayor and the other four members of the Board of Supervisors are elected at large for four-year terms.

The charter provides that the Board of Supervisors shall hold at least two regular meetings per month and may, by ordinance, provide for the holding of additional regular meetings. Special meetings may be held on call of the Mayor or a majority of the board. No business may be transacted at a special meeting except such as has been indicated in the call of the meeting, and no ordinance may be passed at a special meeting, except an emergency ordinance.

The board may enforce its ordinances by providing penalties not to exceed the penalties provided for misdemeanors by the legislature. The board has all powers which are conferred upon the governing bodies of counties and cities by applicable state laws, where such are not in express or implied conflict with the Carson City charter.

Article 3 of the charter (Senate Bill No. 75) provides for the executive department. The Mayor is to preside over meetings of the Board of Supervisors and is recognized as the head of the Carson City government for all ceremonial purposes and by the Governor of Nevada for purposes of military law. The charter provides for appointment of a manager to perform such administrative duties as the board may determine. His salary is fixed by the board. The charter also provides for the office of Clerk, which is an office which had existed under previous Nevada law (County Clerk). The Clerk receives an initial salary of \$13,200 per year, and the annual salary may be set by ordinance at not less than \$10,500, nor more than \$15,500.

The charter provides for the Office of Recorder and Auditor, which is an office which had existed under previous Nevada law (County Recorder or Auditor). The Office of Assessor is also continued under the consolidated government charter.

The charter continues the Office of Sheriff. The Sheriff is responsible for enforcement of all the ordinances of Carson City. He is also responsible for the collection of amounts due on delinquent licenses and the performance of such other duties as may be imposed by the Board of Supervisors or by Nevada State law.

The foregoing officers all receive initial salaries and have salary ranges which are the same as those of the Clerk. The office of County District Attorney is continued as the District Attorney of Carson City. He is entitled to an initial salary of \$13,800 per year, and his salary may be revised within the same limits provided for the Clerk.

Article 4 of the charter provides for a justice court for Carson City. Carson City comprises one township and all provisions of Nevada State law relating to justice courts shall apply to the justice court of Carson City. The charter also creates a municipal court for Carson City. The Justice of the Peace of Carson City is ex officio Judge of the municipal court, and his salary is fixed by the Board of Supervisors.

The debt limit set by the charter is 10 percent of the total assessed valuation of the taxable property within the boundaries of either the urban

district or the city as a whole. If the board determines that it is necessary to borrow money for an urban purpose, the tax levy made for repayment of the bonds shall be on the urban district, and if the indebtedness is incurred for the city as a whole, the tax levy shall be on all taxable property within the city.

Article 8 of the charter provides for levying of municipal taxes within the city, which may be only real and personal property taxes. The charter does not grant the power to the city to levy any other kind of tax.

**City and County of Denver:** The authorization for the city and county of Denver is contained in article 20 of the amendments to the Constitution of the State of Colorado. The charter of the city and county of Denver was adopted by a vote of the people on March 29, 1904. Section 1 of article 20 provides in part: "The municipal corporation known as the city of Denver, and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe in the State of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body, politic and corporate, by the name of the 'City and County of Denver.' . . ."

The executive power of the city and county of Denver is vested in a Mayor, who is elected for a term of four years. The Mayor must be a citizen of the United States, a resident and a taxpayer of the city and county of Denver for at least 5 years, and shall be over 30 years of age.

The Mayor's Cabinet consists of the Manager of Improvements and Parks, the Manager of Revenue, the Manager of Health and Charity, and the Manager of Safety and Excise. The Mayor and his Cabinet formulate the general administrative policies of the city and county, and each Manager and officer within his department is responsible for and has full power to carry out such policies. The Mayor and his Cabinet have the power to hire and dismiss, and to make rules and regulations for all employees under their control.

Article 3 of the charter gives the city and county of Denver the power of eminent domain. The power is to be exercised by the Council acting by ordinance.

The fiscal year of the city and county of Denver is the same as the calendar year. Section A 6.2

sets a 15-mill limit on real and personal property tax levies.

Article 7 of the charter provides for the Office of Auditor, who is the general accountant of the city and county.

Article 9 of the charter notes the continued existence of the Office of Sheriff. The article also creates a Police Department with the authority to enforce the laws of the State and the ordinances of the city and county.

Article 11 of the charter creates the Office of Clerk and Recorder which is, in essence, a continuation of the Office of County Clerk and Recorder. The Clerk serves as a member of the Election Commission.

Article 13 of the charter creates a municipal court system with jurisdiction to enforce ordinances throughout the city and county of Denver. The municipal court created by article 13 has original jurisdiction of all cases, the jurisdiction of which may have been conferred upon justice of the peace courts by the Constitution and laws of the State of Colorado.

Chapter B, article 1 of the charter provides for a legislative body called the Council. There are nine members of the Council, elected from nine single-member councilmanic districts for a term of four years. Each councilman must be a citizen of the United States, a resident of the city and county of Denver for 3 years, for 2 years a taxpayer thereof, and for 1 year a resident of the district from which he is elected, and each member must be over 25 years of age.

Every ordinance or resolution passed by the Council is subject to the veto power of the Mayor. For repassage after veto, a two-thirds vote of the membership of the Council is necessary. Note that if the Mayor does not return a resolution or ordinance with his veto notation within a five-day period, it takes effect as if he had approved it.

The Council meets each Monday in regular session, and at such other times as it may be called together by the Mayor or any two members upon a 24-hour written notice. Five members constitute a quorum.

Article 2 of chapter B of the charter provides for initiative and referendum of ordinances. It also provides for the recall of any elective city and county official.

All persons in the employ of the city and county or any of its departments whose salaries or compensations are not fixed by the charter are appointed by the Mayor or requisite department head, and their compensation is fixed by ordinance.

The Mayor is responsible for appointing the heads of all administrative departments and appoints all officers and the membership of all commissions and boards under his control. The appointees hold their offices as long as their services are satisfactory to the Mayor. All vacancies in elective or appointive offices, not otherwise as provided for, are filled by the Mayor.

The charter provides for a career service authority to consist of five members appointed by the Mayor which has control over personnel rules for all employees of the city and county of Denver, with certain exceptions.

**Indianapolis:** The Enabling Act allowing the consolidation of the city of Indianapolis (a city of the first class) with the county of Marion was S. 543, approved March 13, 1969 (ch. 173, Indiana Acts, 1969, p. 357, etc.). References throughout the remainder of this memo will be to article and section numbers of ch. 173.

Article 1 of the Act defines a "consolidated city" as a body corporate including within its boundaries all of the territory of a first-class city and of the county, except for the territory located in excluded cities, but certain departments and special taxing districts of the consolidated city may have jurisdiction in territory greater or less than such territorial boundaries.

A "special taxing district" of the consolidated city is a district of less, equal, or greater territorial limits than the boundary of the consolidated city wherein the property owners of the district bind themselves for the construction and maintenance of a local public improvement for the use of those who receive the benefit thereof. Such public improvement projects may include storm sewers, sanitary sewers, flood control, drainage and water course improvements, parks, redevelopment projects, thoroughfares, roads, and any other projects permitted by law.

A "special service district" is a district within the consolidated city or the county created for the purpose of providing the property owners therein with a service or services. A special service district is administered under the administrative structure of the consolidated city, but is a separate body corporate without the power to

issue general obligation bonds. It has a Special Service District Council which is composed of the city-county councilmen elected from all those districts which encompass any part of the district.

The consolidated city, or any of its special taxing or special service districts, is not able to annex real estate which is beyond the existing territorial limits of Marion County.

The executive power of the consolidated city is vested in a Mayor, who is elected and serves for a four-year term. The Mayor must be over 21 years of age, must be a citizen of the United States, and a resident of the consolidated city for 5 years prior to the time he is to take office. No Mayor shall serve for more than two consecutive four-year terms.

The legislative branch of the consolidated city is the City-County Council consisting of 29 members elected for 4-year terms. Four of the members are elected at large from the entire county, and 25 of the members are elected from single-member council districts. A member of the City-County Council cannot be less than 21 years of age prior to the time he is to take office, and must be a citizen of the United States. The first Council redistricting must be done by the City-County Council by ordinance passed by November 30 of the year preceding the first general election pursuant to ch. 173.

The City-County Council is to establish standing committees, consisting of not less than three Council members, for each consolidated city department created by ch. 173.

The President of the Council is elected each year in the month of January. Regular meetings of the Council are held at least once a month. A majority of the members of the Council constitutes a quorum.

The City-County Council takes action by adoption of ordinances and resolutions. All ordinances or resolutions of the Council are subject to the veto power of the Mayor. The Mayor has the authority to veto a line item in an appropriation or budget ordinance, and the Council may repass all ordinances or resolutions, including line item appropriations, by a two-thirds vote of its total membership.

Compensation of the Mayor, members of the City-County Council, and all employees is set pursuant to ordinance or resolution. The compensation of the Mayor or any member of the Council cannot be changed during the term of his office.

Departments of the consolidated city initially consisted of the following:

1. Department of Administration.
2. Department of Metropolitan Development.
3. Department of Public Works.
4. Department of Transportation.
5. Department of Public Safety.
6. Department of Parks and Recreation.

Each department is administered by a Director, who is the chief administrative officer of the department and has the power to hire and dismiss all personnel of the department.

Departments created by ch. 173 may be divided into divisions. Division heads may be appointed either by the Mayor or by the Director of the department.

The Department of Public Safety includes a Police Division. Initially, the police special service district will comprise just the area of the former city of Indianapolis, but the jurisdiction of the Police Division may be expanded by ordinance of the City-County Council. When the jurisdictional boundaries of the Police Division become coterminous with the boundaries of the consolidated city, the police special service district may be dissolved by the Director of the Department of Public Safety, and the police special service district will become a department of the consolidated city. The County Sheriff and his department shall continue to have the same authority and jurisdiction as previously existed for the sheriff of Marion County. After extension of the Police Division jurisdiction to include the entire consolidated city, the duties of the County Sheriff will consist of carrying out his civil functions, maintaining order in the courts and at public hearings, enforcing the process and orders of the courts, administering the jails in the county and the prisoners therein, transporting prisoners, and maintaining the security of public property, including the county home and juvenile center. The sheriff may appoint deputies for the purpose of assisting him in performing these duties.

Article 15 of ch. 173 provides for annexation of territory of an excluded city to the consolidated city, and annexation of territory of the consolidated city to an excluded city. It also provides for the expansion of included towns by annexation.

**Jacksonville:** The authority for the consolidation for the city of Jacksonville and Duval County,

Florida, is contained in article VIII, section 9 of the Florida Constitution. This article was adopted in 1934, but consolidation did not take place until 1967, when the Florida Legislature passed House Bill 3029, (ch. 67-1320, Laws of Florida — 1967) which was referred to the people and approved in August 1967.

House Bill 3029 was an Act creating a single consolidated government consisting of the former governments of Duval County, the city of Jacksonville, the city of Jacksonville Beach, the city of Atlantic Beach, the city of Neptune Beach, the town of Baldwin, the Duval County air improvement authority, the East Duval County mosquito control district, and the Northeast Duval County mosquito control district. The name of the new government is the "City of Jacksonville".

The total territory of the new consolidated government is to be divided into a general services district and two urban services districts. The general services district consists of the total area of the consolidated government, and the urban services districts consist of (1) the former city of Jacksonville, and (2) the corporate limits of the cities of Jacksonville Beach, Atlantic Beach, and Neptune Beach. The statutory authority (charter of Jacksonville) provides that, at a later date, the Council, by an ordinance passed by two-thirds vote, may consolidate the two urban services districts.

Section 2.04 of ch. 67-1320, Laws of Florida 1967 states: "Throughout the entire general services district the consolidated government shall furnish the following governmental services: airports, agricultural agent, child care, courts, electricity, fire protection, health, hospitals, library, police protection, recreation and parks, schools, streets and highways, traffic engineering and welfare services. The foregoing enumeration is intended as a list of those governmental services which shall be performed by the consolidated government within the general services district and is not intended to limit the rights of the consolidated government to perform other governmental services within the general services district."

In addition to the services set out in section 2.04 above, the following additional services are to be carried out in urban services districts: water supply, sanitary sewers, street lighting, street cleaning, and garbage refuse collection. This listing is also not exhaustive.

Section 2.06 of ch. 67-1320 provides that the state homestead laws apply in the general services district as if that district was a rural area, as opposed to a city or town area.

The powers of the consolidated government (city of Jacksonville) are divided among three branches, the legislative, executive, and judicial. Section 4.01 of ch. 67-1320 provides in part: "No power belonging to one branch of the government shall be exercised by either of the other branches, except as expressly provided in this Charter."

**The Legislative Branch.** The legislative branch of the city of Jacksonville consists of the Council. The Council consists of 19 members, 14 of whom are elected from councilmanic districts, and 5 who are elected at large "in the consolidated government, by number groups." (Sec. 5.01, ch. 67-1320.)

Section 5-02 provides for the reapportionment of Council districts within six months after the publication of the official Federal or state census figures for Duval County. An existing board, the Jacksonville-Duval County Planning Board, is responsible for the apportionment, but if it fails to complete the apportionment within six months after the publication of any census, the city attorney is to petition the "fourth judicial circuit" to make the apportionment.

Section 5.03 provides that councilmen shall serve for a term of four years commencing on the first day of July following their election.

Section 5.04 provides that councilmen shall receive an annual salary of \$5,000.00 and expenses incurred in travel and other duties required by their office "according to rules and regulations established by the council in conformity with provisions for such expenses contained in the general provisions for public officers and employees for the state of Florida."

Section 5.07 provides that the Council meets regularly once a month and that special meetings may be held on call of the Mayor, or the President of the Council, or seven or more members of the Council. The Council may enact ordinances and resolutions only at meetings open to the general public. At the first meeting in each year, the Council selects one of its members as President and one of its members as President pro-tempore.

Section 5.10 provides that the Council appoint an Auditor who examines the accounting systems used by all offices and departments of the consolidated government and all independent agencies, and who conducts a continuous internal audit of the fiscal operations of the consolidated government and all independent agencies.

Section 5.13 provides that the Council, or any duly appointed committee of the Council, may

make investigations into the affairs of the consolidated government, and for this purpose, the Council is given the power of subpoena.

**The Executive Branch.** The executive power is vested in a Mayor, who is elected for a four-year term, assuming office on the first day of July following his election. The Mayor is not eligible for more than two consecutive terms of office.

Section 6.03 provides: "The mayor shall administer, supervise and control all departments and divisions created by this charter and all departments and divisions created by ordinance or resolution hereafter. The mayor shall appoint all directors and deputy directors of departments and shall appoint the chief of each division within such department. All directors and deputy directors of departments and all division chiefs appointed by the mayor shall serve at the pleasure of the mayor. . . ."

"The mayor shall submit to the council an annual budget for the consolidated government as provided for in Article XV of this charter."

Section 6.04 provides for a mayoral veto of any ordinance or resolution except ordinances and resolutions dealing with:

1. Consolidation of the urban services districts.
2. Appointments to the Equalization Board, Zoning Board, and Zoning and Building Codes Adjustment Board.
3. Zoning exceptions.
4. The Auditor, the Secretary of the Council, or other employees of the Council.
5. Internal affairs of the Council.
6. Investigations by the Council or any committee thereof.

Following a mayoral veto, the Council may reenact the ordinance or resolution by a two-thirds vote of all the members, except that if the Mayor vetoes any item in the consolidated budget appropriation, only a majority vote of the members is required to adopt the item over the Mayor's veto.

The initial departments created by the charter for the consolidated government are: The Finance Department; the Central Services Department; the Health and Welfare Department; the Public Safety Department; the Recreation and Public Affairs Department; the Public Works De-

partment; the Agriculture Department; and the Department of Child Services.

Article VIII of ch. 67-1320 provides for the office of Sheriff and provides that he shall be responsible for: "The performance of duties imposed upon the sheriff of Duval County by the Constitution or by the general or special laws of Florida and shall be responsible for the management, operation and control of law enforcement and traffic safety in the consolidated government. He shall be responsible for providing traffic engineering services to the consolidated government, but may contract for such services to be provided by an independent engineer or engineering firm, with the approval of the Council. He shall administer the prison farms and jails and shall be responsible for service of civil process." The Sheriff is elected for a term of 4 years and receives annual compensation of \$17,000.

Other elected officials include the Supervisor of Elections, who is elected for a term of 4 years and is paid a salary of \$14,200; the Tax Assessor, who is elected for a term of 4 years and receives a salary of \$16,500; and the Tax Collector, who is elected for a term of 4 years and paid compensation of \$16,500.

Article XII creates the following advisory and regulatory boards:

1. Health Advisory Board.
2. Library Board.
3. Recreation Advisory Board.
4. Child Services Advisory Board.
5. Zoning Board.
6. Zoning and Building Codes Adjustment Board.
7. Equalization Board.

The members of the first four boards listed above are appointed by the Mayor, subject to confirmation by the Council. The members of the last three boards are appointed by the Council.

No member of any board receives compensation for his services, or is entitled to pension or other retirement benefits. However, all board members are reimbursed for their actual and necessary expenses incurred in the performance of their duties.

**The Judicial Branch.** All county courts existing under previous Florida law or the Florida Constitution are continued as they were constituted

on the consolidation of the several governments. The Offices of Clerks of Court, where previously existent, are also continued, as is the Office of State's Attorney.

Chapter 2 of article XIII creates a municipal court having venue throughout the territorial limits of the consolidated government and provides for initial election of 2 municipal court judges and provides for an additional municipal court judge for each increase of 250,000 in population. Municipal court judges serve for a term of 4 years and receive an initial salary of \$17,500. Municipal courts will retain jurisdiction over all violations of any ordinance of the consolidated government.

Article XIV, ch. 67-1320, provides that the former "Duval County Board of Public Instruction" shall be continued as presently constituted under general and special law with the responsibility for the public school system in Duval County. The Duval County Board of Public Instruction consists of seven members elected from seven school board districts created and established by the city of Jacksonville charter. Each school board district shall be composed of two adjoining council districts. The County Board of Public Instruction appoints a superintendent of public instruction who is the chief administrative employee of the Board.

Article XVI provides that all outstanding bonds issued prior to consolidation shall become obligations of the consolidated government, provided that payment of such bonds and the interest thereon shall be made solely from, and charged solely against, funds derived from the same sources from which such payments would have been made had the charter not become effective.

The article (article XVI) goes on to provide that the consolidated government may issue bonds which cities, counties, or any of the other former governments previously existing were authorized to issue prior to the effective date of the charter.

Section 17.08 provides for the recall of any elected official of the consolidated government or the school board.

Article XVIII provides that the Council can provide a system of retirement and pension benefits for officers and employees of the consolidated government, and that existing retirement and pension plans of former governments will continue after adoption of the charter.

Article XIX provides for the establishment of a civil service system, and creates a Civil Service Board consisting of seven members.

Article XX of the charter provides for a Code of Ethics for governmental employees. It provides that any officer or employee of the consolidated government who has any private financial interest, directly or indirectly, in any contract or matter pending before any department of the consolidated government must disclose that private interest to the Council.

Article XXIII provides, in section 23.03, that the consolidated government constitutes a county and a municipality for all purposes of general law. Article XXIII also provides for the method of amendment of the charter and further provides for establishment, by the Council, of a Charter Revision Commission.

Article XXV sets mill levy limitations for taxation to support the Board of Public Instruction, the general services district, and the urban services district.

**Nashville:** The primary authority for the consolidated government of Nashville-Davidson County is contained in article 11, section 9, of the Tennessee Constitution, the pertinent portions of which provide: "The General Assembly may provide for the consolidation of any or all of the governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in the counties in which such municipal corporations are located; provided, such consolidation shall not become effective until submitted to the qualified voters residing within the municipal corporation and the county outside thereof, and approved by a majority of those voting within the municipal corporation and by a majority of those voting in the county outside the municipal corporation."

The foregoing quotation is contained in a total section which deals with home rule for cities **and** counties. This constitutional provision was created by amendment in 1953. Pursuant to the constitutional provision, the legislature, in 1957, passed an Act authorizing the establishment of metropolitan government charter commissions (Tennessee Code Annotated sections 6-3701 through 6-3725).

Section 6-3719 of Tennessee Code Annotated provides: "This chapter shall have no effect upon the Chancery Courts, Circuit Courts and Criminal Courts established for or functioning in the county affected by a consolidation hereunder, and it shall have no effect upon the judicial functions of the county judge. The charter of a metropoli-

tan government may provide that the powers and duties of the county judge as accounting officer and as general agent of the county shall be exercised by such officer or agency of the metropolitan government and in such manner as said charter may provide. Municipal courts created by the charters of the principal city and smaller cities may be provided for, consolidated or abolished by the charter for metropolitan government as courts thereof; provided that the term of office of an incumbent judge of a municipal court shall not be terminated or abridged by the charter for metropolitan government; however, at the end of the term of any incumbent judge of a municipal court ending after the adoption of the charter for metropolitan government, said municipal judge shall in no matter hold said office for a further term except by approval of the majority of the voters voting in an election to be held for such purpose or in the next regular election."

Section 6-3722 provides that a smaller city which has been excluded from the metropolitan government by its charter may at any time surrender its own municipal charter and become a part of the metropolitan government "under such terms and conditions and by such methods and procedures as may be established in the charter of the metropolitan government".

In **Frazer v. Carr**, 360 S.W. 2d 449 (S. Ct. Tenn. 1962), the Tennessee Supreme Court generally upheld the constitutionality of the metropolitan government of Nashville-Davidson County. The appellants had filed suit under the declaratory judgment law to have the metropolitan government declared void because such government was brought about by unconstitutional procedure.

The appellants in the **Frazer** case brought up numerous points in attack on the metropolitan government, including an attack on the school system adopted by that government. The court in reply to this latter attack stated: "Next, it is insisted that the school system adopted by the Metropolitan Charter amounts to the abolition by private act, of the General Law establishing a county school system. Here again, it must be recognized that the Metropolitan Act is a consolidation of county and city governments. A city and county may have different school systems as to the appointment of school officials, or may be governed by the same laws. So it is that a metropolitan government may, by reason of its peculiarities, also properly have a different system for the operation of the schools falling within the jurisdiction of the distinctly new and distinctly different governmental entity."

In *Glasgow v. Fox*, 383 S.W. 2d 9 (S. Ct. Tenn. 1964), an action was brought for declaratory judgment that the office of Constable had been abolished by consolidation of the county of Davidson and the city of Nashville into a new metropolitan government. The Supreme Court held that the office of Constable was not abolished by the consolidation of the county of Davidson and the city of Nashville into a new metropolitan government where consolidation statute did not necessarily require that all functions or offices of prior governments be obliterated, but left large discretion in those matters to the drafters of the metropolitan charter, and the drafters did not see fit to include in the charter a provision abolishing all county and city offices.

Although the populations of the five consolidated governments reviewed in depth range from 8,063 to 697,567, it can be seen that the govern-

mental plans have many things in common, and also encompass solutions to numerous problems which would occur in city-county consolidation in North Dakota. It is worthy of note that the powers granted to each of the consolidated governments are most similar to those powers granted to cities within those States, and in North Dakota, rather than the powers granted to counties. This is so because, as in North Dakota, the county is a much more limited governmental body than is a city. A city, as a political entity, has, in most instances, more of the legal and administrative machinery necessary to allow it to function adequately as the level of government standing between the people and the state and Federal governments. The county, on the other hand, with the exception of its road maintenance, welfare, and election responsibilities, has acted primarily as the tax collector for the State and other political subdivisions.

**Table I  
COUNTY - CITY CONSOLIDATIONS**

	<b>Name of Executive Officer and Term of Office</b>	<b>Executive Officer's Salary</b>	<b>Executive Veto Power</b>	<b>Legislative Body; Name, Membership, Terms of Office</b>	<b>Salaries of Legislative Body Members</b>	<b>Passage of Ordinances Over Veto</b>	<b>1960 Population of City and County</b>	<b>Specific Creation of Two or More Taxing Districts</b>	<b>Referendum on Consolidated Government Charter</b>
Carson City	Mayor <sup>2</sup> — Four-year term	\$3,000 - \$3,600 as set by ordinance	No, ordinances shall be signed by Mayor	Board of Supervisors — Five members (including the Mayor) — Four-year terms	\$2,400 - \$3,000 as set by ordinance	No	City: 5,163 County: 8,063	Yes, Urban District, and Ormsby District created by Charter	No, S.B. 75, effective 7-1-69, contains the Carson City Charter <b>in toto</b>
City and County of Denver	Mayor — Four-year term	\$14,000 set by Charter <sup>1</sup>	Yes	Council — Nine members — Four-year terms	\$4,000 for President; \$3,000 for members <sup>1</sup>	Two-thirds vote of total membership	City: 493,887 County: 493,887	Not mentioned	Yes, adopted in 1904
City of Indianapolis	Mayor — Four-year term	Set by ordinance	Yes, including appropriations items	City-County Council — 29 members — Four-year terms	Set by ordinance	Two-thirds vote of total membership	City: 476,258 Marion County: 697,567	Not mentioned	No, "Charter" was contained in legislative Act. (c. 173, Indiana Acts 1969.)
City of Jacksonville	Mayor — Four-year term	\$30,000 per annum initially	Yes, including appropriations items	Council — 19 members — Four-year terms	\$5,000 as set by Charter	Two-thirds vote of total membership <sup>3</sup>	City: 201,030 Duval County: 455,411	Yes, Charter creates a General Services District and two Urban Services Districts	Yes, Charter contained in legislative Act (H.B. No. 3029)
Metropolitan Government of Nashville and Davidson County	Metropolitan County Mayor — Four-year term	\$25,000 set by Charter	Yes, including appropriations items	Metropolitan County Council 40 members — Four-year terms	\$3,600 as set by Charter; Vice mayor receives \$4,200	Two-thirds vote of total membership	City: 170,874 County: 399,743	Yes, Charter creates an Urban Services District and a General Services District	Yes, Charter drafted by Charter Commission

<sup>1</sup>Salary figure as of June 1, 1951.

<sup>2</sup>Mayor is also a member of the Board of Supervisors.

<sup>3</sup>Appropriations items vetoed may be repassed by a majority of the total membership of the Council.

# STATE AND FEDERAL INSTITUTIONS

## Introduction

House Concurrent Resolution No. 2 of the Forty-first Legislative Assembly directed the Legislative Council to study the feasibility of merging the Highway Patrolmen's Retirement Fund and the Teachers' Insurance and Retirement Fund with the State Employees' Retirement Fund. House Concurrent Resolution No. 7 of the Forty-first Legislative Assembly directed the Legislative Council to study the membership and responsibilities of all statutory boards and commissions, except those in the occupational and professional licensing area. House Concurrent Resolution No. 15 of the Forty-first Legislative Assembly directed the Legislative Council to study the feasibility of creating a single policy group for health, accident, and life insurance for state employees. House Concurrent Resolution No. 47 of the Forty-first Legislative Assembly directed the Legislative Council to study the desirability of coordinating the administration of certain health and consumer protection functions now being administered by separate state boards, departments, and agencies.

These studies were assigned to the Committee on State and Federal — Institutions, consisting of Representatives Gordon S. Aamoth, Chairman, Monty Burke, William A. Erickson, Ralph Hickie, Peter S. Hilleboe, C. Arnold Lillehaugen, Albert L. Rivinius, Earl Rundle, Wayne G. Sanstead, and Iver Solberg; and Senators Evan E. Lips, Herbert L. Meschke, Kenneth L. Morgan, Ernest M. Sands, and William A. Stafne.

In addition to the studies listed above, the committee was requested by the Chairman of the Legislative Council to investigate the facilities for the housing and feeding of prisoners at the State Farm. Over the course of the biennium, the committee held seven meetings with a portion of one of the meetings devoted to a field trip to view the State Farm properties firsthand. All the hearings were held in Bismarck.

The report of the Committee on State and Federal — Institutions was presented to the Legislative Council at its fall meeting at Camp Grafton, North Dakota. Except for the committee's recommendations concerning the State Farm, as will be specifically noted below, the report and accompanying legislation were adopted in their entirety by the Council.

## STUDY OF SINGLE POLICY INSURANCE GROUP

In order to determine the feasibility of creating a single policy insurance group for state employees, the committee began the study by surveying the current statutory authority by which group life insurance plans may currently be formulated for state employees, as provided principally in chapter 52-12 of the North Dakota Century Code. Basically, this chapter permits any department, board, or agency, of the State to contract with an insurance carrier or carriers for the furnishing of group hospitalization, medical care, and life insurance, provided a plan proposed for this purpose is approved by a majority of the employees of the department, board, or agency. Each such state entity is authorized to contribute \$5 per month to the credit of each participating employee from its payroll funds for this purpose. The remainder of the employee's insurance cost is paid by the employee and is deducted from his salary on a monthly basis. Employees may select coverage for their families if they so wish.

In exploring the specific programs offered to state employees, questionnaires were sent to the departments, boards, agencies, and institutions of the State requesting information as to their individual plan. Seventy-nine replies were received. A compilation of the results of the survey revealed that the 79 departments, boards, agencies, and institutions were, as of September 1969, employing 8,178 persons. In the hospital and medical insurance field, it was found that of the 79 state departments and institutions, 64 were obtaining coverage from North Dakota Blue Cross and Blue Shield, 12 were contracting with the Washington National Insurance Company, and 3 with the New York Life Insurance Co. Twenty-three of the state departments and institutions surveyed offered term life insurance to their employees through a myriad of companies, in amounts ranging from \$1,000 to \$1,500. Surprisingly, some variation was seen in the amount of agency contribution per employee, statutorily set at a maximum of \$5. The Civil Aeronautics Commission, the State Library Commission, the Public Service Commission, the State Fair Association, and the Teachers' Insurance and Retirement Fund Board make no contribution for enrolled employees, while the Poultry Improvement Board contributes \$7.50 monthly per employee, and the State Mill and Elevator contributes

\$26.94 monthly per employee. An evaluation of the results of the survey convinced the committee that a single policy group for insurance purposes which would unify the state departments and agencies and provide uniform benefits to all employees of the State would be a very desirable step.

The committee was fortunate in having the assistance of representatives of several insurance companies while conducting this study. These representatives attended most of the committee meetings and advised the committee in the areas of their expertise. Generally speaking, it is the belief of these consultants that the creation of a single policy insurance group for state employees would offer a number of advantages. At the present time, each department and agency is rated separately, and the premium amounts vary considerably between the different groups even though they might happen to be insured by the same carrier. One of the results of a uniform group policy approach would be the establishment of a uniform premium cost for state employees. Also, employees in all of the state departments and agencies would be receiving the same type and amount of benefit if a uniform group were established. Since such a group could take advantage of experience rating, there is every reason to believe that the cost of the insurance furnished would be considerably lower, since a larger group means a larger group discount. Lower administrative costs and better claim handling due to the centralization of administration are some of the other advantages that would accrue from the creation of a single policy insurance group.

One facet of the uniform group insurance study upon which considerable testimony was received was in regard to the amount of state contribution that should be recommended. It was pointed out that the present monthly contribution of \$5 per state employee contained in chapter 52-12 of the North Dakota Century Code was originally established in 1963. And, in 1963, this \$5 amount paid all but approximately 40 cents of the individual employee's health insurance coverage. Due to rising hospital and medical costs, it was reported that now only about one-third of the individual employee health insurance cost is paid by this \$5 contribution. Testimony was also received to the effect that in 1963 approximately 97 percent of all state employees were participants in group insurance plans offered by their department or agency, but the percentage of enrolled employees has markedly decreased since, presumably because of the diminished value of the state contribution. After considerable deliberation, the committee decided to recommend that the amount of the state

contribution be established at \$7.50, and this recommendation is a part of the bill described below. In proposing this amount, the committee found that the \$5 contribution adopted in 1963 is no longer adequate in view of the inflationary pressures suffered by our economy over the last few years.

### **Recommendations — Single Policy Insurance Group Study**

The Committee on State and Federal — Institutions has prepared and recommends the adoption of a bill which would create a uniform insurance group for state employees. The bill would permit any state employee hired with the intent that he would be employed for more than 20 hours per week for more than 5 months each year to become a member of the uniform group, if he so wishes. The employee's family may also be insured, at the election of the employee. Members of the Legislative Assembly, judges of the Supreme Court, elective state officers, and former employees who have become disabled would also be eligible for membership. The State Employees' Retirement Board is designated as the state agency to administer the uniform group plan. Bids would be received by the board for hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage. The life insurance portion of the coverage would be furnished in a minimum amount of \$1,000 term insurance per employee. Retired employees and employees eligible for deferred retirement benefits may continue as members of the group after the termination of their employment. A provision in the bill would assure terminating employees continuing coverage on an individual basis, if they so elect. Authority is given to the State Employees' Retirement Board to solicit and accept bids from insurance carriers. The cost of the insurance less the state contribution in the amount of \$7.50 would be withheld from the employee's salary by the employing agency. This amount plus the state contribution would then be forwarded to the State Employees' Retirement Board on a monthly basis. All premiums received by a carrier for insurance furnished to the uniform group would be exempt from the state premium tax.

The committee is of the belief that the recommended bill would serve to provide an important benefit for both the State and its employees. In its role as an employer it is apparent that the State must provide such benefits to its workers in order to effectively compete in the labor market. It is further the belief of the committee that the bill would result in a reduction in insurance costs for

state employees, better administration through centralization, and uniform benefits for all state employees regardless of the department or agency where they are employed. In regard to administrative costs, testimony received by the committee indicated the expense could be absorbed by the State Employees' Retirement Board through the administrative expense and benefit fund, relieving the general fund of any cost.

### **Study of Responsibilities and Membership of State Boards and Commissions**

The study of the responsibilities and membership of state boards and commissions, as directed by House Concurrent Resolution No. 7, first began with an assessment of the number of such boards and commissions now functioning within the State, and it was found that there are currently 85 entities under this classification. It must be noted that since the study was explicitly to be performed in the area of policymaking boards and commissions only, state agencies and departments were not included; hence the number is somewhat less than might be expected.

It is common knowledge that powers vested by the people in the legislative, executive, and judicial branches of government must, of necessity, be delegated to a lower level in the hierarchy in order that the necessary functions of government be performed on a responsive, systematic, and efficient basis. It is likewise no secret that these delegations of policymaking powers to the board and commission level do not always achieve these desired results. New boards and commissions are often originated when one which already exists could well handle the functions assigned to the newly established one. Occasionally, a board or commission is created which is at cross-purpose with one which is in existence, causing strife and friction between the two and ultimately resulting in a waste of energy and financial resources. All too often a board or commission established because of a very real need will become ineffectual and dormant when the function for which it was created ceases to exist, or diminishes in importance. The membership of a particular board or commission is occasionally not consistent with the functions and goals of that board or commission, when the education, background, and interests of the members are taken into consideration. Finally, often a certain board or commission which is composed of state officials, as many are, will demand so much of the members' time and energy as to become burdensome, and will result in a reduction of the quality and quantity of service to the State in the area of the members' principal responsibility.

In order to gain information in regard to which of the state boards and commissions should be eliminated, restructured or changed in their membership, a questionnaire was sent to 36 selected boards and commissions from the total of 85. The questionnaire asked for the names and qualifications of the board or commission members, the number of regular and special meetings held within the last year, the length of time spent in such meetings, the types of subjects considered, the amount of per diem and types of expenses which could be paid board or commission members, and the total per diem and expenses actually paid for the previous year. The results of the survey provided valuable information which was used by the committee in arriving at its recommendations.

### **Recommendations — Boards and Commissions Study**

In determining what recommendations if any, should be made in regard to an individual board or commission, the committee basically employed the following criteria:

1. Is it necessary that the function of the board or commission be performed?
2. Can the board or commission be eliminated and its functions assigned to another board, commission, department, or agency?
3. If the board or commission should be retained, should it be restructured in order to better perform its function?
4. Is the membership of the board or commission logical and proper in the light of its function and objectives?

In each case, after a tentative proposal was suggested, members of the affected boards and commissions were asked to appear before the committee and testify on the effect that the proposal would have. The committee spent many hours of its time in this fashion, collecting testimony from state officials and board and commission members. After giving appropriate weight to all the testimony that was received, and upon a careful consideration of the impact the various proposals would have in each instance on the affected boards and commissions and State Government in general, the committee has prepared and recommends the adoption of bills which would accomplish, with respect to the following boards and commissions, the results as set out:

Armory Supervisors, Board of .....	Eliminate — transfer functions to office of the Adjutant General	Investment Board, State .....	Add to the board a representative of the Board of Trustees of the Teachers' Insurance and Retirement Fund
Athletic Commission .....	Eliminate — transfer functions to the Secretary of State	Medical Center Loan Fund Board .....	Eliminate — transfer functions to the University of North Dakota under the control of the Board of Higher Education
Auditing Board .....	Change structure to that of an appeal board, transfer present functions to the Director of the Department of Accounts and Purchases and substitute the State Treasurer in his place as a member of the board	Mental Health Coordinating Committee .....	Eliminate
Bonding Fund Board .....	Eliminate — transfer functions to the Insurance Commissioner in conjunction with the Attorney General	Missouri Slope Agriculture and Fair Association .....	Eliminate
Civil Defense Advisory Council .....	Eliminate	Natural Resources Council .....	Eliminate
Criminal Identification and Apprehension, Board of Managers of Bureau of .....	Eliminate — transfer functions to the Attorney General's Office	Park Advisory Council, State .....	Eliminate
Crippled Children's Commission .....	Eliminate — transfer functions to the Public Welfare Board	Potato Council .....	Permit the Commissioner of Agriculture to become a voting member of the council
Egg Advisory Commission .....	Eliminate — transfer functions to the Poultry Improvement Board	Poultry Improvement Board .....	Designate Commissioner of Agriculture Chairman of the board and permit him to appoint the five non-ex officio members of the board
Emergency Commission .....	Substitute the State Treasurer for the Secretary of Agriculture as a member of the commission	Rabies Control Committee .....	Eliminate — transfer functions to the State Health Department
Highway Patrol Hearing Board .....	Eliminate — transfer functions to the Merit System Council	Reciprocity Commission .....	Eliminate — transfer functions to the State Highway Commissioner
Highway Traffic Advisory Committee .....	Eliminate — transfer functions to the Governor and the State Highway Commissioner	Safety Committee .....	Eliminate
		Soldiers' Home, Board of Trustees of .....	Eliminate — transfer functions to a newly created Administrative Committee on Veterans' Affairs

Trade Commission, North Dakota.....	Eliminate — transfer Trade Commission funds to the General Fund
Veterans' Affairs Advisory Committee.....	Eliminate — transfer functions to a newly created Administrative Committee on Veterans' Affairs
Veterans' Aid Commission.....	Eliminate — transfer functions to a newly created Administrative Committee on Veterans' Affairs
Yellowstone - Missouri - Fort Union Commission.....	Eliminate

Of those boards and commissions that were originally selected for study by the committee, there were a number for which no recommendations for elimination, changes in structure, or changes in membership were made. A listing of these boards and commissions is as follows:

Aeronautics Commission, North Dakota	Laboratories Commission, State
Air Pollution Control Advisory Council	Livestock Sanitary Board
Alcoholism, Commission on	Medical Center Advisory Council
Arts and Humanities, Council on	Public School Education, State Board of
Credit Union Board	Securities Review, Board of
Fair Association North Dakota State	Water Pollution Control Board
Game and Fish Advisory Board, State	Workmen's Compensation Bureau
Health Council, State	
Highway Corridor Board	

In concluding the discussion of this study, the committee wishes to emphasize that its recommendations were made only after the collection and evaluation of testimony from representatives of the affected board or commission, and only after due consideration of the effect of the recommendation in light of the objectives contemplated by House Concurrent Resolution No. 7. Accordingly, the committee believes that adoption of the recommendations will serve, on the whole, to bring more

efficiency and economy to the policymaking and managerial functions performed by the state boards and commissions.

### STUDY OF MERGER OF STATE RETIREMENT FUNDS

In accordance with the directive contained in House Concurrent Resolution No. 2, the Committee on State and Federal — Institutions investigated the feasibility of a merger of the State Employees' Retirement Fund with the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Retirement Fund. Before an accurate evaluation of the various advantages and disadvantages of such a merger could be made, the Committee found it necessary to actuarially appraise the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Retirement Fund in order to determine if the amount of assets over liabilities would be sufficient to effect a merger and protect vested interests in the funds. This portion of the study was performed by the firm of George V. Stennes and Associates, Consulting Actuaries, of Minneapolis, Minnesota. A discussion of the salient features and actuarial status of the two funds follows.

The Highway Patrolmen's Retirement Fund is a benefit formula-type of retirement fund. Contributions to the fund are currently established at the rate of 6 percent of the covered salary by the employee and 7.5 percent of the covered salary by the employer, with covered salary being defined as the first \$4,800 of annual salary. A participant in the fund becomes eligible for an optional retirement allowance at age 60 if he has contributed for 15 years to the fund, and for the regular retirement allowance at age 60 if he has contributed for 25 years to the fund. Upon retirement, the retiree is entitled to a monthly annuity calculated at one-half of his average monthly salary for the preceding 10-year period, with any salary amount over \$400 monthly being excluded from the computation. The optional retirement benefit is calculated in the same manner except it is ratably reduced by multiplication with the ratio of the number of years served divided by 25. If the period of service is less than 15 years, contributions are refunded and no benefit is paid. A disability benefit based on the retirement allowance is provided. Benefits for widows and orphans are incorporated into the plan. Regardless of whether death occurs before or after retirement, the deceased's widow is eligible for an annuity of \$150 per month and each dependent child is eligible for an annuity of \$10 per month, up to age 18. The total family benefit is limited to \$200 per month.

In the event that a participant terminates his employment prior to the time he qualifies for retirement benefits, he may receive a refund of his contributions with interest.

As of October 31, 1969, there were 79 active members in the Highway Patrolmen's Retirement Fund. Of an annual payroll in the amount of \$632,568, the covered salary amount was \$379,200. There were 9 retirees receiving annual benefits from the fund in the amount of \$13,293.48, 6 widows receiving \$7,434.48 annually, and 5 orphans receiving \$600 annually. There were 7 terminating employees who had elected to take a deferred annuity.

The actuarial valuation of the Highway Patrolmen's Retirement Fund was performed by using the entry age normal cost method. Under this procedure, the normal cost is determined based on the employee's age at hire, with this normal cost being defined as the annual deposit required to pay for the cost of each member's prospective benefit over a period from his date of hire to his date of retirement. The normal cost was determined to be \$39,343. The accrued liability of the fund, based on the normal cost, was calculated at \$803,490. When this sum was reduced by the amount of assets in the fund as of the date of valuation, \$609,885, the difference, known as the unfunded accrued liability, was shown to be \$193,605. With an assumption of a period of 30 years for the amortization of the unfunded accrued liability, payments of \$50,717 would be required annually to erase the liability at the end of the period. And, it was reported that an employee-employer contribution in the amount of 13.38 percent of the covered payroll would provide this sum annually. For purposes of the valuation, an interest assumption rate of 3.5 percent on the deficit was adopted. The interest on the deficit and the normal cost of benefits, which must be regarded as the annual minimum contribution to the fund if the deficit is not to be permitted to increase, was found to amount to 12.68 percent of the covered payroll. In summarizing the results of the valuation, the current rate of contribution amounts to 13.5 percent of the covered salary. To assure there will be no increase in the deficit, 12.68 percent of covered salary would be required as a contribution and a contribution equaling 13.38 percent of covered payroll would be necessary if the deficit in the fund were to be eliminated within a period of 30 years.

The Teachers' Insurance and Retirement Fund is, as is the Highway Patrolmen's Retirement Fund, a benefit formula-type of retirement system. Public school teachers and university and

college teachers are divided into two separate groups for some purposes of the retirement plan. Contributions for public school teachers are based on 3 percent of the annual covered salary, with the first \$7,500 of annual salary being defined as covered salary. Two percent of the annual covered salary is contributed by the employer. College and university teachers participating in the plan contribute 4 percent of their salary to a maximum of \$120 annually for the first 8 years of employment, 5 percent of salary to a maximum of \$180 annually for the second 8 years of employment, and 6 percent of salary to a maximum of \$200 thereafter. Each employer matches the contribution paid by the respective college or university teacher, except the amount of the contribution is limited to \$50 annually for a teacher within his first 8 years of employment, and \$120 annually thereafter. Both public school and higher education teachers are eligible for full retirement benefits after 25 years of service and attaining the age of 55. Reduced benefits are available after 10 years of service, again at age 55. The amount of monthly annuities for each class of teacher varies. Public school teachers are eligible for an annual annuity calculated at 2 percent of the salary upon which contributions have been paid with a monthly minimum of \$75 and a maximum of \$125. In addition, \$10.42 is added monthly to annuities between the minimum and the maximum for each year of service in excess of 25 years beyond which a retired person teaches. The monthly increment added to annuities over the maximum is \$6.25 for each additional year of service. Higher education teachers receive annuities under the same schedule, except that the minimum annuity is calculated at \$60 monthly and the maximum at \$100 monthly, plus \$5 and \$8.33 added per month to the maximum and minimum, respectively, for each year of service in excess of 25 years. Disability benefits are available for both classes of teachers after the completion of 15 years of teaching service. A death benefit before retirement, again the same in both categories, is included in the plan and amounts to a refund to the beneficiary of one-half of employee contributions prior to July 1, 1947, and all of such contributions after that date with interest at the rate used by the Bank of North Dakota for certificates of deposit. Refunds for termination of employment are permitted, with the amount returned equal to the amount of the death benefit for both classes of teachers except that interest is not given. If the member has at least 10 years of service, he may leave his contributions within the fund and elect to take a deferred annuity beginning at age 55 in an amount equal to the regular retirement benefit multiplied by the ratio of the years of service to 25.

The Teachers' Insurance and Retirement Fund, as of June 30, 1969, contained 1,306 college teachers and 7,347 public school teachers. As with the Highway Patrolmen's Retirement Fund, the actuarial evaluation of the Teachers' Insurance and Retirement Fund was performed by the entry age normal cost method. Here also, a level contribution was determined which would fund the cost of the member's benefit if the contribution were made into the fund from the time of his entry to the date of his retirement. As a result of the valuation the level contribution for the fund, or normal cost, as it is termed, was found to be \$1,229,408 annually. By deducting the assets in the fund, \$27,170,000, from the accrued liability, \$70,682,891, a difference of \$43,512,891 remains. This balance is the total unfunded accrued liability in the fund. The amortization period for the unfunded accrued liability, or deficit in this fund, was calculated for both a 30-year and 40-year period. If it were determined that the deficit would be retired over a 30-year period, it would require an annual payment, including the normal cost, of \$3,785,698. Amortization of the deficit over a 40-year period would require an annual payment, including the normal cost, of \$3,492,209. With an assumption of 4½ percent interest, an annual minimum payment of \$3,187,488 would be required to prevent an increase in the deficit. An estimate of the amount of contribution now being paid into the fund by both employers and employees shows that an annual payment of \$2,928,328 is being produced. This amount is considerably less than the figure shown for the minimum annual payment. On a percentage basis, however, an increase in the percent of contribution on the covered payroll for just public school teachers of only about 1.2 percent would bring the contribution up to the level required for 40-year funding, and an increase of about 1.7 percent would bring the contribution up to the 30-year funding level.

That portion of the actuarial study devoted to the feasibility of merging the three retirement funds pointed out some sizeable problems which would have to be surmounted if such a merger were to be effected. If the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Retirement Fund were to be merged with the State Employees' Retirement Fund, the assets in the Teachers' Fund plus the future contributions of members to the State Fund would not finance the benefits which would be expected. As of June 30, 1969, the assets of the Teachers' Fund were about \$27,170,000. The reserve for retired lives was about \$20,100,000. Since this reserve is based upon a 4½ percent interest assumption, annuity contracts for the retired teachers could be

purchased for about \$18,500,000. This would leave only about \$8,700,000 of remaining assets. Comparing this figure with approximately \$13,000,000 of employee contributions to June 30, 1969, it is apparent the fund would be unable to transfer assets equal to the employees' own contributions to say nothing of the State's contributions. In addition, teachers nearing retirement would be looking forward to retirement benefits which could not possibly be provided by the State Employees' Retirement System, even if contributions under the new system were added to the assets available for transfer.

On the other hand, the Highway Patrolmen's Fund is in a better position so far as the provision of benefits is concerned; however, there are also problems here. The Patrolmen's benefit schedule provides for retirement at age 60. And, while retirement at age 65 is usually considered normal, lower retirement ages for public safety employees are not uncommon because of the higher level of physical fitness required for this occupational group. But, while the provision is not unusual, a greater contribution is required to support early retirement. If the present level of contribution being made to the Highway Patrolmen's Fund were to be made to the State Employees' Retirement System, the retirement benefit at age 60 with 25 years of service would be about \$188 to \$198. These figures compare with the \$200 maximum annuity available under the present plan. The average salary at the time of the valuation was about \$8,000. If the contribution were to be based on full salary instead of the present \$4,800 limitation, the retirement benefit would be about \$313 to \$330.

While this schedule appears to be satisfactory, it concerns only the retirement benefit, and would not provide for the substantial disability benefit and survivors' benefit that is presently offered — the latter continued after retirement. Thus, while the reserve for retired lives and inactive members was \$385,000 as compared with assets of \$609,885 — leaving a difference of \$224,885 which would cover the sum of employee contributions less interest — this, unfortunately, would not finance the benefits provided under the present plan, even when future contributions are added.

#### **Recommendations — Merger of Retirement Funds**

As a result of these and other problems of a lesser consequence, the actuarial study recommended that no merger of the three retirement funds be effected unless further investigation is made in this area, since reliable cost estimates are not

available at the present time. Additionally, the following recommendations were made by the consultant:

1. The investment portfolios of the three retirement funds should be placed under one management.
2. All state funds, including temporary cash surpluses in the State Treasurer's accounts, should be placed under the management of a professional investment analyst who would be an employee of the State and who would be supervised and assisted by a board of investment experts.
3. The administration and recordkeeping functions should be placed under one management.
4. If the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Retirement Fund are to be maintained as separate funds in the future, the formulas should be amended so that they are more directly related to compensation and years of service.
5. Consideration should be given to the establishment of a benefit formula plan for all three of the retirement funds.
6. Further study should be undertaken with a view towards making firm recommendations to the 1973 Legislative Assembly.

No recommendations are being made by the committee. The committee agrees that on the basis of the information that has been developed as of this time, a merger as contemplated by the resolution is not a practical step. The committee is of the opinion that a large contribution has been made through an in-depth examination of the Teachers' Insurance and Retirement Fund and the Highway Patrolmen's Retirement Fund. A wealth of information as to the operation and solvency of the two funds has been amassed, which will provide a base to assist members of the Legislative Assembly to competently assess any proposal that might be introduced during the coming legislative session which would affect these retirement funds.

#### **STUDY OF CONSOLIDATION OF HEALTH AND CONSUMER PROTECTION ACTIVITIES**

As directed by House Concurrent Resolution No. 47, the Committee on State and Federal — Institutions examined the feasibility of coordinating

the administration of certain health and consumer activities which are presently performed by separate state boards, departments, and agencies. Originally lodged with the Committee on Government Administration, this resolution was reassigned to the Committee on State and Federal — Institutions during the biennium because of the latter committee's very similar investigation under House Concurrent Resolution No. 7.

The study was begun by determining which state agencies currently perform functions relating to health and consumer protection. When this was accomplished, the extent of the committee's investigation under House Concurrent Resolution No. 7 was reviewed to minimize any duplication of effort arising because of the similarity in scope of the two resolutions. Upon the completion of this review, the committee found that there is only one area where these functions are performed which had not been the subject of direct consideration by the committee. This area consisted of the health and consumer protection activities carried on by the State Health Department and the State Laboratories Department.

The committee gathered testimony concerning the division of these functions between the two departments. Also investigated was the feasibility of transferring the licensing function currently performed by the State Laboratories Department in regard to restaurants, hotels, boardinghouses, lodginghouses, motor courts and trailer courts to district boards of health in areas where health districts are functioning, to city boards of health in areas where city boards of health are functioning, and to the State Department of Health in areas where there is neither a functioning district or a city board of health.

#### **Recommendations — Consolidation of Health and Consumer Protection Activities**

As a result of the testimony received by the committee and the investigation of past Legislative Council studies that have been performed in this area, the committee has prepared and recommends the adoption of a bill which would transfer the licensing function presently performed by the State Laboratories Department to district and city boards of health and to the State Department of Health, as outlined above. The committee is convinced that there is considerable duplication in services between these two state agencies at the present time in this field; that the licensing function performed is a health function rather than one of consumer protection, and thus, is more properly placed in the State Department of Health;

and that some inconvenience and nuisance presently caused to those various business entities that are forced to submit to two inspections when one would suffice, would be averted.

### **STUDY OF STATE FARM**

In addition to those studies performed by the committee through the mandate of concurrent resolution, another area of inquiry was directed by the Chairman of the Legislative Council, that of an examination of the facility known as the State Farm.

The State Farm is a minimum security-type of penal facility located several miles south of Bismarck. The State Farm properties encompass approximately 800 acres. There are several buildings on the State Farm premises, consisting of the Farm Manager's living quarters, a dormitory for inmate use with a capacity of approximately 50 persons, and other outbuildings. Among the work programs carried on by the inmates assigned to the State Farm are gardening, farming, furniture refinishing and lumbering. The inmate population is usually about 30 persons, and there are presently 6 persons employed at the State Farm.

During the course of the study, the committee was given a tour of the State Farm premises. It was found that there are no counseling or study rooms available for inmate use, nor are there any recreational facilities. Further, most of the buildings are badly in need of renovation or repair. Kitchen facilities were found to be clearly inadequate. Testimony was received from the Director of Institutions and the Warden of the State Penitentiary to the effect that inmates who wish to avail themselves of the high school program offered by the Division of Supervised Correspondence must be assigned to the State Penitentiary. It was also reported that some State Farm inmates prefer to be incarcerated at the Penitentiary because of the recreational and counseling facilities located there.

In addition to testimony gathered from the Director of Institutions and the Warden of the State Penitentiary, a special committee, consisting of two District Judges and two Judges of County Courts of Increased Jurisdiction, was appointed by the Judicial Council to meet with the Committee on State and Federal — Institutions on this subject. Basically, this committee was concerned with the preservation of the State Farm for the sentencing

of misdemeanants and urged that there be no mingling of inmates of the State Farm with behind-the-wall Penitentiary inmates. The Judicial Council Committee also seemed to favor an upgrading of the State Farm facilities, and asked that administrative efforts on behalf of the Farm be improved.

### **Recommendations — State Farm**

In light of the lack of vocational, educational, recreational, and counseling programs provided at the State Farm, and because of the expense that would be involved in upgrading the present facility, the committee recommended the adoption of a bill which would direct the discontinuance of inmate housing and feeding on the State Farm premises. The Director of Institutions and the Warden of the State Penitentiary have both indicated their approval of the committee recommendation. Operationally speaking, they have reported that if the bill is enacted into law, State Farm inmates will be housed in the present trustee living quarters at the State Penitentiary. These quarters, as well as all work assignments, will be outside of the Penitentiary walls. Penitentiary work releasees and educational releasees would be moved from the trustee living quarters where they are currently assigned, to the Crime Bureau Building, which is also outside the Penitentiary walls. In recommending this bill, the committee was of the belief that State Farm inmates will greatly benefit from the opportunity to participate in the programs and facilities offered at the Penitentiary. Also, it was believed that there would be a considerable saving in the cost of inmate maintenance, in view of the expense that must be incurred if the State Farm is to function in the future as it has in the past.

At the fall meeting of the Legislative Council, at the request of the State Judicial Council, the Council permitted Judge Kirk Smith, County Court of Increased Jurisdiction for Grand Forks County, to testify on behalf of the Judicial Council in regard to the committee's recommendations for the State Farm. Judge Smith conveyed the feelings of the members of the Judicial Council, who were opposed to the recommendations. As a consequence, the Legislative Council, by motion, voted to adopt the committee's report with the exception of the recommendations concerning the State Farm. Thus, the committee recommendations regarding the State Farm do not constitute the recommendations of the Legislative Council.

# TRANSPORTATION

Senate Concurrent Resolution No. 51 of the Forty-first Legislative Assembly directed the Legislative Council, in cooperation with the Motor Vehicle Registrar, the Highway Patrol, and the Highway Department, to study the feasibility of creating a department of motor vehicles to handle all state functions related to motor vehicles and their administration.

House Concurrent Resolution No. 17 directed the Legislative Council to make a study of present and alternative methods of providing state assistance to counties and cities for the purpose of road and street construction.

These studies were assigned to the Legislative Council's interim Committee on Transportation consisting of Senators Richard E. Forkner, Chairman, Francis J. Butler, Lester Larson, and George Rait; and Representatives Carl H. Boustead, Arne Boyum, William DeKrey, Kenneth Erickson, Henry Ganser, Donald Giffey, Glen Goodman, I. O. Hensrud, and Emil E. Schaffer.

The report of the Committee on Transportation was submitted to the full Legislative Council at the Council's biennial meeting held at Camp Grafton. The Legislative Council adopted the committee report as follows:

## Department of Motor Vehicles

### Background

The resolution to establish a motor vehicle department has been considered several times in North Dakota in the past. The study resolution was based upon the assumption that a combined department headed by one administrator would provide a more efficient agency than the combination of agencies that presently deal with motor vehicle related functions, as well as remove some of the confusion among citizens who must deal with a number of agencies in motor vehicle matters.

The purpose for such consolidation is to provide greater use of common statistical information, increased coordination, and greater efficiency in all areas including administration and the interchange of personnel.

The committee reviewed the Uniform Vehicle Code which is designed and advanced as a comprehensive guide or standard to be used by the States

in drafting state motor vehicle and traffic laws, and provides for a central department known as a "department of motor vehicles", to handle all functions related to motor vehicle administration. The Uniform Vehicle Code specifies that there will be divisions within the department for registration, drivers' licenses, and safety and patrol, with such additional divisions as the Highway Commissioner might prescribe. Powers granted to the department by the Uniform Vehicle Code are stated in very broad terms and include generally all things necessary to the administration of motor vehicle laws.

A survey of the organizational structures in several other States indicates that the recent trend has been toward a centralized department handling motor vehicle related functions, and at the present time, 12 of the States appear to have completely centralized all functions relating to motor vehicles.

### Committee Action

The committee was unable to reach any conclusion on a complete reorganization through the formation of a central motor vehicle department and decided to concentrate only on the Truck Regulatory Division of the State Highway Department and the Highway Patrol.

The Truck Regulatory Division is responsible for the permanent scales on the principal highways throughout the State and portable scales at shifting locations for the purpose of enforcing weight restriction laws. In addition, the Division is active in enforcing the registration and ton-mile tax laws.

The Legislative Council staff, from information provided by the departments involved, traced the activities of the Truck Regulatory Division and the Highway Patrol for a six-day period in the year 1969. This tracing was plotted on six large maps which readily showed the routes in which the Truck Regulatory and the Highway Patrol duplicate their patrolling functions. It was concluded that such duplication in the patrolling of the Truck Regulatory Division and the Highway Patrol costs the State of North Dakota approximately \$34,000 a year. It is the consensus of the committee that if the two agencies were consolidated, the resulting savings could be expended for additional men and equipment which would increase the overall law enforcement program for the State of North Dakota.

While the committee found evidence that the cooperation between the Highway Patrol and the Truck Regulatory Division is generally good, it could not find justification for the continuance of the two organizations as separate entities. The committee believes that the 14 enforcement vehicles presently operated by the Truck Regulatory Division of the State Highway Department could just as well be enforcing all motor vehicle laws. By the same token, all state highway patrolmen could give equal attention to weight and taxation laws. Thus, the committee has prepared and recommends approval of a bill which would transfer the field enforcement activities and the field enforcement equipment of the Truck Regulatory Division from the State Highway Department to the Highway Patrol. The authority to set load limitations and issue overweight and oversized permits, being largely a matter of engineering, would remain with the Highway Department, with only field enforcement activities transferred.

To ensure that the transfer of field enforcement activities is accomplished with a minimum of hardship upon present employees of the Truck Regulatory Division, such employees are to be given preference for appointment as highway patrolmen. The bill draft, which would affect approximately 14 Truck Regulatory patrolmen, requires the Superintendent of the Highway Patrol to waive age and physical requirements if the employee is otherwise qualified as a patrolman. Those who fail to qualify despite such waivers are guaranteed preference by the bill draft for employment by the Highway Department in other capacities. Employees of the Truck Regulatory Division who are over 40 years of age at the time of transfer will be covered by federal Social Security and the Public Employees Retirement Program as state employees are presently covered. Those under 40 years of age, upon appointment to the Highway Patrol, shall have an option between Social Security and the Highway Patrolmen's Retirement System; thus, the actuarial soundness of the Patrolmen's Retirement System will be maintained.

The committee is of the opinion that the transfer of the weight control functions from the Highway Department to the Highway Patrol will, as originally stated in the 1959 Legislative Research Committee report:

“. . . provide better enforcement of all laws concerned. By having one larger force with overall enforcement authority a single agency could stress the duty that is most pressing at any one time and turn to other duties as the need arises. In other words, it would provide greater flexibility and better en-

forcement at peak periods in the various fields of enforcement.”

### Highway Tax Distribution Fund

The purpose of House Concurrent Resolution No. 17 is to determine if there is any abuse of state allocated road and street funds, and if so, by whom and to what extent.

More specifically, the study was narrowed by request from Governor Guy to the Chairman of the Legislative Council, Representative Bryce Streibel, asking the Committee on Transportation to conduct an inquiry into the state highway tax distribution fund and the county road and bridge funds.

The present formula for the distribution of moneys received from the tax on gasoline, motor fuels, etc., is allocated in the following manner: The State Highway Department receives 63 percent of the moneys of the highway tax distribution fund. The counties are allocated the remainder, 37 percent, on the basis of the number of motor vehicles registered in each county. However, of the 37 percent received by the counties, 27 percent of it must be allocated to the cities within that county on the basis of population, if the county received at least as much money as it did under the 1965 formula. If the county share does not at least equal its 1965 share, then the difference is made up from the municipalities' share.

The committee discussed some of the so-called inequities of the distribution formula; however, it was decided by the committee that before any study of the distribution formula could be undertaken, there first should be a study of the functions of the various road systems to determine the needs of the counties. The Highway Department reported that such a needs study would be carried out within the next year and this study could be the basis of changing the formula if the Forty-third Legislative Assembly so desired. The committee decided to wait until the needs study is completed before looking at any inequities in the allocation of the revenues of the highway tax distribution fund.

The committee decided to review the revenue allocated to the political subdivisions as to whether or not it is being spent on road and street construction as required by Article 56 of the North Dakota Constitution which states:

“Revenue for gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, except reve-

nue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and **used solely** for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways." (Emphasis added.)

The Legislative Council staff was requested to conduct a survey of the highway tax distribution fund to determine how much money is received by the different political subdivisions and where that money is being spent. A memorandum prepared by the staff showed that the moneys received from the highway tax distribution fund for use in road and street construction and maintenance is very difficult to trace unless a special fund is set up to receive the money. It was pointed out that out of a total of 345 cities under 5,000 population which receive money from the highway tax distribution fund, 256 of the cities placed their highway tax distribution fund in the general fund, and 89 cities placed their highway tax distribution fund in a special street fund. Of the 256 cities that placed their highway tax distribution fund in the city general fund, 165 cities expended less from their general fund for street purposes than the

amount they received from highway taxes. Thus, if in any year a city puts the receipts from the highway tax distribution fund into the general fund and expends less for road and street construction than the money that was allocated to it, it is probable that the highway tax distribution funds are being used in violation of Article 56 of the North Dakota Constitution.

It was also noted that five counties have made transfers from the county road and bridge funds to other funds which also seems to be in violation of Article 56 of the North Dakota Constitution.

Another problem considered by the committee is the failure of some counties to pay to the cities the moneys they are allocated from the state highway tax distribution fund. At the time of the committee review, the counties still retained possession of approximately \$1.4 million belonging to the cities. In the committee's opinion, it would be much more efficient for the State to pay such funds directly to the cities and bypass the extra handling by the counties, thus ensuring all funds to reach their designated destination.

Therefore, the committee has prepared and recommends approval of a bill whereby the highway tax distribution funds are required to be set up in a separate and distinct fund in the counties and municipalities, and also, that the highway tax distribution funds be sent directly from the State to the municipalities.

# Explanation of Legislative Council Bills and Resolutions

## SENATE BILLS

**Senate Bill No. 2037 — Land Commissioner.** This bill clarifies the State Land Commissioner's authority to charge fees for certain services and his authority to set and establish fees in amounts equal to the cost of services provided. (Committee on Budget)

**Senate Bill No. 2038 — Financial Institutions Examination Fees.** This bill increases the minimum fees charged by the Department of Banking and Financial Institutions from \$200 to \$500 for bank examinations, and from \$50 to \$100 for credit union examinations. The maximum fee of \$3,000 for bank examinations is removed. (Committee on Budget)

**Senate Bill No. 2039 — Improved Accounting Practices.** This bill requires state agencies, departments, and institutions which license, inspect, or regulate business activities or products and charge fees for such services to prepare annual reports giving information about the cost of providing each service and the revenues collected for such services. (Committee on Budget)

**Senate Bill No. 2040 — Oleomargarine License.** This bill eliminates the license for the sale of oleomargarine because it does not relate to services provided or serve a regulatory purpose. (Committee on Budget)

**Senate Bill No. 2041 — Laboratory Department Fees.** This bill changes the following fees charged by the State Laboratories Department so that the amount of the fee will equal the cost of the service provided: the egg dealers' license fee, the fee for inspection of insecticides and fungicides, the fee for inspection of fertilizers, the license fee for restaurants and boardinghouses, and the license fees for motor courts and trailer courts. (Committee on Budget)

**Senate Bill No. 2042 — Office of Higher Education Computer Services.** This bill calls for establishing a Higher Education Computer Services office under the Board of Higher Education. All electronic data processing at institutions under the board's control would be provided, supervised, and regulated by this office. An appropriation of \$798,533 from the general fund is made for the

operation of the office and the installation and maintenance of terminals at state colleges during the 1971-1973 biennium. This appropriation will be in addition to moneys appropriated for data processing in the operating budgets of those institutions which have already established data processing centers. (Committee on Data Processing)

**Senate Bill No. 2043 — Compensation of School Board Members.** This bill permits school board members to be reimbursed for travel expenses while on official board business. The travel allowance is now limited to payment for going to and from school board meetings. (Committee on Education)

**Senate Bill No. 2044 — School Board Majority Vote.** This bill says a quorum at school board meetings shall be a majority of members present, rather than a majority of those voting. Now, if some members present abstain, business may be conducted by less than a majority of the members present. (Committee on Education)

**Senate Bill No. 2045 — Definition of Property.** This bill redefines real property to include, basically, only the land itself and buildings, including systems for the heating, air conditioning, ventilating, sanitation, lighting, and plumbing of buildings, but not to include items such as machinery or equipment used for trade or manufacture. (Committee on Finance and Taxation)

**Senate Bill No. 2046 — One Hundred Percent Assessment of Property.** This bill requires property assessment at market value and reduction of statutory mill levies to one-fourth their former amounts. The bill also reduces limitations on bonded indebtedness by approximately two-thirds. (Committee on Finance and Taxation)

**Senate Bill No. 2047 — Marginal Oil Well Exemption.** This bill exempts from the gross production tax oil produced by marginal and near marginal oil wells, unless such wells are in a unitized pool. (Committee on Finance and Taxation)

**Senate Bill No. 2048 — Special Income Tax Study Commission.** This bill creates a special in-

come tax study commission to study income tax laws and explore alternative methods of computing income tax liability. (Committee on Finance and Taxation)

**Senate Bill No. 2049 — Sales Tax Exemption for Banks, Trust Companies, and Building and Loan Associations.** This bill removes the sales and use tax exemptions for banks, trust companies, and building and loan associations. (Committee on Finance and Taxation)

**Senate Bill No. 2050 — Notice of Application for Industrial Development Tax Exemptions.** This bill requires applicants for industrial development tax exemptions to publish two notices of such application in the official newspaper of the municipality prior to the time action is taken on the application. (Committee on Finance and Taxation)

**Senate Bill No. 2051 — Change in Value or New Location Requiring Reapplication for Industrial Development Tax Exemption.** This bill provides that, if the value of property which has been exempted was granted by more than ten percent, the project operator must reapply to receive an exemption on the added value. If a project operator moves the business to a new location within the State, he must reapply to retain the property tax exemption. (Committee on Finance and Taxation)

**Senate Bill No. 2052 — Discretion of State Board of Equalization in Accepting Reapplications for Tax Exemptions.** This bill provides that if additional facts and circumstances are presented to the State Board of Equalization, the board will have discretion to accept reapplications for tax exemptions for industrial development if the applicant first negotiates with the municipality and publishes notice of such reapplication. (Committee on Finance and Taxation)

**Senate Bill No. 2053 — Leaseholds Under Municipal Industrial Development Act to be Classified as Personal Property for Five Years.** This bill provides that the leasehold granted by a municipality under the Municipal Industrial Development Act will be classified as personal property for five years. (Committee on Finance and Taxation)

**Senate Bill No. 2054 — Tax Exemptions for Expansions to Existing Industries.** This bill provides that expansions to existing industries shall be eligible for the same tax exemptions as new industries. (Committee on Finance and Taxation)

**Senate Bill No. 2055 — Multicounty Welfare Districts — Mandatory.** This bill provides that County Welfare Boards not meeting standards set by the State Public Welfare Board will be re-

quired to meet such standards or enter into a multicounty welfare district. The governing board of a multicounty welfare district shall be in lieu of County Welfare Boards in the participating counties. The board shall consist of 7, 9, or 11 members. Financing shall be in accordance with chapter 54-40 of the North Dakota Century Code, relating to the joint exercise of governmental powers and a plan prepared by the Public Welfare Board. (Committee on Government Administration)

**Senate Bill No. 2056 — Multicounty Welfare Districts — Voluntary.** This bill authorizes counties to enter into multicounty welfare districts for the joint administration of welfare services. A planned multicounty welfare district must receive approval from the State Public Welfare Board before consolidation proceedings may begin. The governing board of a multicounty welfare district shall be in lieu of County Welfare Boards in the counties joining such district. The board shall consist of 7, 9, or 11 members. The financing of district activities shall be in accordance with laws relating to the joint exercise of governmental powers and a plan prepared by the Public Welfare Board. (Committee on Government Administration)

**Senate Bill No. 2057 — Health Care Facilities.** This bill requires that, to be eligible to receive payments for the care and treatment of welfare recipients, a health care facility must be certified by the State Health Department in consultation with the State Public Welfare Board before it is constructed or substantially expanded. Eligibility requirements are based on a number of indicators of the need for the facility. (Committee on Government Administration)

**Senate Bill No. 2058 — Appointment, Ages, Duties, and Terms of Public Welfare Board Members.** This bill requires State Public Welfare Board members be appointed by the Governor with the Senate's consent rather than by the Governor, Attorney General, and the Commissioner of Agriculture as at present. No member would serve more than one 6-year term or be appointed if he would be over 70 at the completion of his term. The powers and duties of the Public Welfare Board and its regional offices are clarified. (Committee on Government Administration)

**Senate Bill No. 2059 — Appointment, Ages, and Terms of County Welfare Board Members.** This bill says a County Welfare Board shall consist of five members appointed by a committee composed of the Chairman of the County Commission, the State's Attorney, and the County Judge, with the advice and consent of the State Public Welfare

Board. One board member must be a county commissioner. No one could serve on the board past the age of 70, and members would be limited to two consecutive three-year terms. (Committee on Government Administration)

**Senate Bill No. 2060 — Transfer of Property To Become Eligible for Welfare.** Prohibitions against the transfer of property for less than adequate consideration to become eligible for welfare aid are inserted into laws dealing with county general assistance. A person would be ineligible for aid if property was so transferred, and it would be a fraud and a misdemeanor to knowingly participate or assist in such a transfer. (Committee on Government Administration)

**Senate Bill No. 2061 — County Boards of Special Education.** This bill makes it mandatory that each county form a Special Education Board, even though the county has not passed a three-mill special education levy. (Committee on Government Administration)

**Senate Bill No. 2062 — Transfer of Industrial School.** This bill transfers control of the State Industrial School from the Director of Institutions to the State Public Welfare Board. (Committee on Government Administration)

**Senate Bill No. 2063 — Interest Rate Ceilings on Bonds, Warrants, and Certificates of Indebtedness of Political Subdivisions.** This bill increases the statutory interest rate ceilings on bonds, warrants, and certificates of indebtedness of the political subdivisions to eight percent, except when there is competitive bidding, in which case there would be no interest rate ceilings. The bill also provides for competitive bidding on all bond issues over \$100,000. (Committee on Industry and Business)

**Senate Bill No. 2064 — Mandatory Liability Insurance.** This bill requires the State and its political subdivisions to carry liability insurance for areas of common risk (public buildings, motor vehicles, and highways during construction), and waives governmental immunity up to the minimum limits of \$100,000 per person and \$300,000 per accident for bodily injury, and \$100,000 for property damage. This bill would go into effect January 1, 1972. (Committee on Judiciary)

**Senate Bill No. 2065 — Full-time State's Attorneys.** This bill requires the State's Attorneys in those counties whose population exceeds 35,000 to be full-time employees prohibited from private law practice. The Assistant State's Attorneys shall also be full time. (Committee on Judiciary)

**Senate Bill No. 2066 — Repeal of Immunity.** This bill repeals section 16-20-10 of the North Dakota Century Code which has been interpreted by a court as granting immunity both to those who testify before a grand jury concerning corrupt political practices and to persons who are never called to testify. (Committee on Judiciary)

**Senate Bill No. 2067 — Verification of Initiative and Referendum Petitions.** This bill directs the Secretary of State to mail a questionnaire to a certain percentage of the signers of initiative or referendum petitions to determine if they actually signed it, and if they were qualified to do so. The affidavit attached to each copy of the petition must be signed by the person who actually circulated the petition. (Committee on Legislative Procedure and Arrangements)

**Senate Bill No. 2068 — Out-of-State Incarceration of Convicts.** This bill authorizes the Director of Institutions to contract with other States or the Federal Government for the incarceration of North Dakota convicts. North Dakota would retain jurisdiction over prisoners incarcerated out-of-State, and the Director could not contract with an institution which did not offer facilities and programs equal to or better than the programs offered at the State Penitentiary. (Committee on Model Laws and Intergovernmental Cooperation)

**Senate Bill No. 2069 — Interstate Rendition of Accused Persons.** This bill authorizes local courts to order the return of a person demanded by the court of another State for violation of the terms of the person's release from custody by the demanding court. The bill provides for a hearing in North Dakota prior to returning the demanded person. (Committee on Model Laws and Intergovernmental Cooperation)

**Senate Bill No. 2070 — Paternity Blood Tests.** This bill authorizes the taking of blood tests of the parties to a paternity suit, and regulates the introduction of the results into evidence. (Committee on Model Laws and Intergovernmental Cooperation)

**Senate Bill No. 2071 — Labeling Hazardous Substances.** This bill amends the present hazardous substance labeling law to create a new category known as a "banned hazardous substance". A banned hazardous substance is an item, including toys, which despite cautionary labeling is so dangerous to humans that it should be withdrawn from the market. The State Laboratories Department enforces the Act, and can order banned haz-

ardous substances withdrawn from intrastate commerce. (Committee on Model Laws and Intergovernmental Cooperation)

**Senate Bill No. 2072 — Aeronautics Law.** This bill removes the strict liability of the owner of private aircraft for accidents involving his aircraft, and makes it a misdemeanor to tamper with another person's plane, or to operate an aircraft under the influence of drugs or alcohol. (Committee on Model Laws and Intergovernmental Cooperation)

**Senate Bill No. 2073 — County-City Consolidated Government.** This bill provides another optional form of county government under section 170 of the Constitution. County government would be consolidated with one or more city governments. Executive authority is vested in either an elected county-city mayor, or an appointed county-city manager. Legislative authority is vested in a nine-man county-city council. (Political Subdivisions)

**Senate Bill No. 2074 — Grant-in-Aid for County Governmental Improvement.** This bill appropriates \$50,000 to the Legislative Council for use in providing a grant-in-aid to a county or counties willing to consolidate with another county, or to change its governmental form, or to do both, and to implement internal administrative improvements. (Committee on Political Subdivisions)

**Senate Bill No. 2075 — Monthly and Annual County Financial Statement.** This bill requires the County Auditor to prepare a monthly financial statement, and the State Auditor to prepare an annual consolidated county financial statement. (Committee on Political Subdivisions)

**Senate Bill No. 2076 — Joint Governmental Cooperation.** This bill amends section 54-40-08 to delete language relating specifically to cooperative construction or remodeling of libraries, so that the section will deal generally with intergovernmental cooperation. The specific language concerning libraries is inserted in section 40-38-11. (Committee on Political Subdivisions)

**Senate Bill No. 2077 — Board of Armory Supervisors.** The bill eliminates the Board of Armory Supervisors and transfers its functions to the Adjutant General. (Committee on State and Federal — Institutions)

**Senate Bill No. 2078 — Athletic Commission.** This bill eliminates the State Athletic Commission and transfers its licensing of boxing, sparring, and wrestling exhibitions to the Secretary of State. (Committee on State and Federal — Institutions)

**Senate Bill No. 2079 — Civil Defense Advisory Council.** This bill eliminates the Civil Defense Advisory Council. (Committee on State and Federal — Institutions)

**Senate Bill No. 2080 — Crippled Children's Commission.** This bill eliminates the Crippled Children's Commission and transfers its duties to the State Public Welfare Board. (Committee on State and Federal — Institutions)

**Senate Bill No. 2081 — State Highway Patrol Hearing Board.** This bill eliminates the Highway Patrol Hearing Board and transfers its functions to the Merit System Council. The Highway Patrol Superintendent could appoint an assistant and patrolmen without gubernatorial approval. Disciplinary actions would be appealed to the Merit System Council. (Committee on State and Federal — Institutions)

**Senate Bill No. 2082 — Highway Traffic Advisory Committee.** This bill eliminates the Highway Traffic Advisory Committee. Emergency powers concerning road and bridge construction, maintenance, and condemnation would be transferred to the State Highway Commissioner, while emergency powers concerning transportation of persons or property for national defense would be transferred to the Governor. The Highway Commissioner would negotiate with the Federal Government for damages to any public road caused by a contractor, officer, or agency of the Federal Government. (Committee on State and Federal — Institutions)

**Senate Bill No. 2083 — Medical Center Loan Fund Board.** This bill eliminates the Medical Center Loan Fund Board and transfers its duties to the University of North Dakota. (Committee on State and Federal — Institutions)

**Senate Bill No. 2084 — Mental Health Coordinating Committee.** This bill eliminates the Mental Health Coordinating Committee. (Committee on State and Federal — Institutions)

**Senate Bill No. 2085 — Natural Resources Council.** This bill eliminates the Natural Resources Council. (Committee on State and Federal — Institutions)

**Senate Bill No. 2086 — State Park Advisory Council.** This bill eliminates the State Park Advisory Council. (Committee on State and Federal — Institutions)

**Senate Bill No. 2087 — Rabies Control Committee.** This bill eliminates the Rabies Control Committee and transfers its duties to the State Health Department. (Committee on State and Federal — Institutions)

**Senate Bill No. 2088 — Reciprocity Commission.** This bill eliminates the Reciprocity Commission and transfers its duties to the State Highway Commissioner and the State Tax Commissioner. (Committee on State and Federal — Institutions)

**Senate Bill No. 2089 — Administrative Committee on Veterans' Affairs.** This bill creates an Administrative Committee on Veterans' Affairs of 4 ex officio nonvoting members and 12 voting members. Voting members would be nominated by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the Veterans of World War I, and appointed by the Governor for three-year terms. The committee would be responsible for the organization, policy, and general administration of all veterans' affairs in the State. A five-member subcommittee would supervise the Soldiers' Home, and a seven-member subcommittee would supervise the Department of Veterans' Affairs. The Commandant of the Soldiers' Home and the Commissioner of the Department of Veterans' Affairs would be appointed by the Administrative Committee on Veterans' Affairs for two-year terms. Committee members would not be paid for their official duties, but voting members could be reimbursed for travel expenses, meals, and lodging. The Veterans' Aid Commission, the Veterans' Affairs Advisory Committee, and the Board of Trustees of the Soldiers' Home are eliminated by the bill. (Committee on State and Federal — Institutions)

**Senate Bill No. 2090 — Yellowstone-Missouri-Fort Union Commission.** This bill eliminates the Yellowstone - Missouri - Fort Union Commission. (Committee on State and Federal — Institutions)

**Senate Bill No. 2091 — Highway Tax Distribution Fund.** This bill requires a separate account for all moneys received by the counties and municipalities from the Highway Tax Distribution Fund and sends the moneys directly from the State to the cities, bypassing the counties. (Committee on Transportation)

**Senate Bill No. 2092 — Transfer of Enforcement Portion of Truck Regulatory Division.** This bill transfers the enforcement portion of the Truck Regulatory Division of the Highway Department to the Highway Patrol and consolidates the duties of the two departments. (Committee on Transportation)

**Senate Bill No. 2093 — Educational Finance Structure Revision.** This bill requires that each district have deducted from its county equalization fund payment, a sum equal to what would be raised by a 34-mill levy in a high school district, or a 22-mill levy in an elementary district. The state per-pupil Foundation Aid payment would be increased to \$440 for the first year of the biennium, and \$460 for the second year. Schools not meeting the minimum curriculum or teacher qualifications by the second year would have per-pupil payments reduced to \$400. Personal property payback moneys earmarked for school districts would be paid through the Foundation Aid Program rather than by the current formula. An appropriation of \$29,400,000 for the biennium is included. (Special Committee on Educational Finance)

**Senate Bill No. 2094 — Five-Mill General Fund Levy.** This bill permits high school districts an additional five-mill general fund levy by resolution of the school board when the district is unable to meet its current financial obligations. The levy would be in addition to the present general fund levy limitation. (Special Committee on Educational Finance)

**Senate Resolution No. 1 — Joint Meeting of Employment Committees During Organizational Session.** This resolution calls on the Senate Employment Committee to meet jointly with the House Committee during the Organizational Session to formulate joint policies regarding the hiring, supervision, and discharge of legislative employees. The Legislative Council is directed to receive employee applications prior to the 1972 Organizational Session so that a listing of potential employees will be available for use by the Employment Committees. (Committee on Legislative Procedure and Arrangements)

**Senate Concurrent Resolution No. 4001 — Board of Higher Education to Conduct Certain Studies.** This resolution urges the State Board of Higher Education and the president and administration of each college and university to continue and enlarge studies and efforts to prevent unnecessary course duplication and requests an evaluation and updating of previous studies of instructional programs, space utilization, and teaching loads and hours. Additionally, the resolution commends the past efforts in these areas. (Committee on Education)

**Senate Concurrent Resolution No. 4002 — Improve Administrative Procedures of State Public Welfare Board.** This resolution directs the State Public Welfare Board to make administrative changes the Legislative Council recommends from

the Touche Ross Report. The resolution asks the Public Welfare Board to report quarterly to the Legislative Council during the next biennium on action taken on these recommendations. (Committee on Government Administration)

**Senate Concurrent Resolution No. 4003 — Area Mental Retardation Coordinator.** This resolution directs the State Public Welfare Board to place a mental retardation coordinator in one of its eight Area Social Service Centers in the State as a pilot project, and asks that \$40,000 in state and federal funds be used for this two-year project. (Committee on Government Administration)

**Senate Concurrent Resolution No. 4004 — Constitutional Amendment on Initiative, Referendum, and Recall Petitions.** This resolution proposes a constitutional amendment directing the Secretary of State to check the authenticity of signatures to petitions and to pass upon their sufficiency within 35 days of their receipt. Review of the Secretary

of State's decision is placed in the Burleigh County District Court rather than the Supreme Court, with right of final appeal to the Supreme Court. The two-thirds vote requirement to amend or repeal initiated or referred measures is limited to a period of five years after original enactment. (Committee on Legislative Procedure and Arrangements)

**Senate Concurrent Resolution No. 4005 — Use of Ellendale Branch-UND Fire Insurance Moneys.** This resolution requests: the State Board of Higher Education to place Ellendale Branch-UND fire insurance moneys in a special fund to be applied, when the enrollment warrants, to new classroom facilities; that the institution continue as a University of North Dakota branch; that appropriate vocational and technical training be implemented in conjunction with the State Board of Vocational Education; and that less tuition be charged than at other state colleges. (Special Committee on Ellendale Branch-UND)

## HOUSE BILLS

**House Bill No. 1038 — Native Fuels.** This bill repeals sections 48-05-02 and 48-05-04 of the North Dakota Century Code which require state institutions to use native fuels. (Committee on Budget)

**House Bill No. 1039 — Free Testing of Grain Samples.** This bill discontinues the practice of the State Seed Department providing free testing of grain samples. (Committee on Budget)

**House Bill No. 1040 — Brand Books.** This bill increases brand book fees charged by the Department of Agriculture from \$2.50 to \$5 per book. (Committee on Budget)

**House Bill No. 1041 — Milk and Cream Testers' License Fees.** This bill changes the milk and cream testers' license fees charged by the Dairy Department from \$2 for an initial fee and \$1 for a renewal fee to an annual fee of \$5. The penalty is increased from \$1 to \$5. (Committee on Budget)

**House Bill No. 1042 — Revenue Bond Facilities.** This bill requires each institution under the Board of Higher Education to maintain records of revenues received and expenses incurred in the operation of each revenue producing building or other revenue producing campus improvement. Where expenses are incurred in the operation of such facilities, such expenses shall be payable from the gross revenues of the project whenever possible. (Committee on Budget)

**House Bill No. 1043 — Central Microfilm Unit.** This bill creates a central microfilm unit under the Secretary of State to microfilm records for state departments and agencies. Each office using the service would pay for the actual costs of the microfilming, and the money would be placed in a special revolving fund. (Committee on Data Processing)

**House Bill No. 1044 — Strengthening Records Management.** This bill gives the Secretary of State more authority in administering the records management statutes and provides for the disposal of records after six years if they have no further value. (Committee on Data Processing)

**House Bill No. 1045 — Elementary and Secondary Education Revision.** Basically, this bill reconciles conflicts, eliminates surplus language, and

revises and rearranges chapters 15-20, 15-34, 15-40, and 15-53 of the North Dakota Century Code by repealing them and reenacting them as chapters 15-20.1, 15-34.1, 15-34.2, 15-40.1, 15-40.2, and 15-53.1. This procedural, housekeeping bill deals with vocational education and vocational rehabilitation, compulsory attendance, transportation, state school aid, transfer of students, nonresident tuition, and reorganization, annexation, and involuntary dissolution, as well as with other individual education sections. (Committee on Education)

**House Bill No. 1046 — Release Time for Religious Instruction.** This bill simplifies and clarifies the current release time for religious instruction statute by permitting public school students to attend religious instructional activities for no more than one hour per week, provided there is a request to do so from the students' parents or guardians. (Committee on Education)

**House Bill No. 1047 — Medical Center Advisory Council.** Section 15-52-03 of the North Dakota Century Code says first the Governor shall appoint **two** members of the seven-member Medical Center Advisory Council, then later refers to **three** members appointed by the Governor. This bill resolves the conflict by reducing the latter reference to **two** appointees. (Committee on Education)

**House Bill No. 1048 — Requirement for Notice and Form of Ballot for Excess Mill Levy Elections.** This bill provides for the disclosure of additional information to voters in an excess levy election. At present, if the district is operating under an excess levy, the voter is unable to ascertain, either from the published election notice or from the ballot, the excess mill levy percentage or the amount of tax in dollars. (Committee on Education)

**House Bill No. 1049 — Income Tax Refund Reserve.** This bill creates an income tax refund reserve as a special fund in the State Treasury from which to make income tax refunds. (Committee on Finance and Taxation)

**House Bill No. 1050 — Agricultural Statistics.** This bill repeals laws on the gathering of agricultural statistics by local assessors and the transmittal of those statistics to the Commissioner of Agriculture. (Committee on Finance and Taxation)

**House Bill No. 1051 — Agricultural Products Exemption.** This bill repeals the sales tax exemption on agricultural products when sold in exchange for similar agricultural products. (Committee on Finance and Taxation)

**House Bill No. 1052 — Sales Tax Exemption on Newspapers.** This bill repeals the sales tax exemption on newspapers and provides that the basis for the tax on newspapers distributed by paperboys would be the selling price to the paperboy. (Committee on Finance and Taxation)

**House Bill No. 1053 — Sales Tax Exemption on Food Purchased from College Cafeterias.** This bill removes the sales tax exemption on food purchased from college and university cafeterias and dining rooms, including fraternity and sorority houses. (Committee on Finance and Taxation)

**House Bill No. 1054 — Property Tax Exemption on Promotional Nonprofit Corporations.** This bill removes the property tax exemption on property owned by nonprofit corporations organized to promote athletic and educational needs and uses at educational institutions unless such property is used for athletic or educational purposes. (Committee on Finance and Taxation)

**House Bill No. 1055 — Alumni Building Tax Exemption.** This bill removes the exemption from real property taxes on the Alumni Building at the University of North Dakota. (Committee on Finance and Taxation)

**House Bill No. 1056 — Nonprofit Medical Service Corporation Tax Exemption.** This bill removes the exemption on property owned by nonprofit medical service corporations. (Committee on Finance and Taxation)

**House Bill No. 1057 — Definition of a Farm for Tax Exemption Purposes.** This bill amends the statutory presumption of the size of a farm from 5 to 10 acres and requires that not less than 50 percent of the total gross annual income from all sources of the persons in the household must be derived from the farmland. (Committee on Finance and Taxation)

**House Bill No. 1058 — Social Service Board.** This bill changes the name of the Public Welfare Board of North Dakota to the Social Service Board of North Dakota to more accurately reflect the activities and responsibilities of the board. (Committee on Government Administration)

**House Bill No. 1059 — Medical Assistance to the Aged.** This bill deletes language no longer appli-

cable to medical assistance to the aged since such persons are now covered under medicaid. (Committee on Government Administration)

**House Bill No. 1060 — One-Year State Residency Requirement for Welfare.** This bill repeals the State's one-year residency requirement for welfare aid. The United States Supreme Court has declared such requirement unconstitutional. (Committee on Government Administration)

**House Bill No. 1061 — Composition of State Board of Examiners for Nursing Home Administrators.** To comply with federal regulations, this bill alters the board's composition so that nursing home administrators are not in the majority. (Committee on Government Administration)

**House Bill No. 1062 — Transfer of Vocational Rehabilitation.** This bill transfers control of the State Division of Vocational Rehabilitation from the State Board of Public School Education to the State Public Welfare Board. (Committee on Government Administration)

**House Bill No. 1063 — Industrial Building Mortgage Program.** This bill creates an industrial building mortgage program under the Bank of North Dakota. The program would guarantee loans made by private financial institutions on industrial buildings. The bill transfers \$1 million from the Bank's profits to finance the program. (Committee on Industry and Business)

**House Bill No. 1064 — Citizenship Requirements for Medical Doctors.** This bill removes the citizenship requirements for the licensing of physicians. (Committee on Industry and Business)

**House Bill No. 1065 — Funding of the Unsatisfied Judgment Fund.** This bill provides an additional method of funding the Unsatisfied Judgment Fund by assessing persons \$50 who cannot show financial responsibility or insurance of \$20,000 per accident, \$10,000 per person for bodily injury, and \$5,000 for property damage to the Motor Vehicle Registrar when applying for license plates. (Committee on Judiciary)

**House Bill No. 1066 — Suspension of Driver's License.** This bill gives the Highway Commissioner the discretion whether or not to suspend an uninsured motorist's driver's license when he is in an accident if that motorist can get the minimum amount of insurance and if it appears he was not negligent or responsible for the accident. (Committee on Judiciary)

**House Bill No. 1067 — Return of Keys to Capitol Locks.** This bill authorizes the withholding of the final paycheck of a Capitol employee who fails to return a key issued to him, or to pay a fee in lieu of return. (Committee on Legislative Procedure and Arrangements)

**House Bill No. 1068 — Session Laws and Journal Printing Deadlines.** This bill specifies deadlines for the printing and binding of the Journals of both Houses and the Session Laws. The Journals are to be ready within 60 days after copy is delivered to the printer, and the Session Laws within 90 days after adjournment of the Legislative Assembly. (Committee on Legislative Procedure and Arrangements)

**House Bill No. 1069 — Tri-State Water Compact Repeal.** This bill repeals the Tri-State Water Compact contained in chapter 61-17 of the North Dakota Century Code. It is no longer necessary in light of creation of the Souris-Red-Rainy River Basins Commission. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1070 — Auto Liability Insurance Cancellation.** This bill limits the reasons for cancellation of private automobile liability policies to nonpayment of premium, or loss of registration or driver's license by someone insured under the policy. Upon the insured's request, the insurer must give the reasons for either cancellation or nonrenewal. Nonrenewal cannot be based solely on age, race, residence, color, creed, sex, national origin, ancestry, or occupation. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1071 — Temporary Stopping and Searching of Suspects.** This bill replaces the present "stop and frisk" law with a Model Act. It provides that, after stating his identity and attempting to allay his suspicions, a peace officer may search a person whom the officer believes to be armed, and who his experience indicates may commit a crime. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1072 — Recognition of Foreign Acknowledgments.** This bill lists the officials who may take acknowledgments to documents in a foreign jurisdiction when the document is to be filed in North Dakota and is based on a Uniform Act promulgated by the National Conference of Commissioners on Uniform State Laws. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1073 — Service of Civil Process on United States.** This bill sets out the method of

serving civil process on the United States in a suit brought in a state court. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1074 — Filing of Record of Pistol Sale.** This bill amends existing law to require pistol sales records to be filed with the Superintendent of Criminal Identification instead of with the Secretary of State. The bill is designed to make the statute conform to actual practice. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1075 — Inspection of Hermetically Sealed Seed Containers.** This bill provides that hermetically sealed seed containers be labeled as such, and that they do not have to be re-inspected prior to sale for a period of 36 months from the date of last inspection. (Committee on Model Laws and Intergovernmental Cooperation)

**House Bill No. 1076 — County Fiscal Year.** This bill changes the county fiscal year to correspond to the calendar year. County budgeting would still be done in July, but the first budget prepared under this bill would be for an 18-month period. Thereafter, budgets would be prepared for yearly periods which essentially match the periods during which revenue is received. (Committee on Political Subdivisions)

**House Bill No. 1077 — County Commissioners' Salaries.** This bill provides that county commissioners shall receive an annual salary as set by resolution of the Board of County Commissioners within the present maximum limits. Commissioners would only receive travel expense allowance for travel on official business outside the county. (Committee on Political Subdivisions)

**House Bill No. 1078 — Permissive Central Filing.** This bill permits the central filing of documents held by the Register of Deeds, the Clerk of Court, and the County Judge upon resolution of the Board of County Commissioners. (Committee on Political Subdivisions)

**House Bill No. 1079 — Centralized Supply Purchasing.** This bill allows political subdivisions to participate in supply contracts held by the Department of Accounts and Purchases. The department would charge the subdivision for administrative costs resulting from its participation. (Committee on Political Subdivisions)

**House Bill No. 1080 — Investment of Political Subdivisions' Funds.** This bill authorizes political subdivisions to invest in certificates of deposit issued by responsible financial institutions. (Committee on Political Subdivisions)

**House Bill No. 1081 — Auditing Board.** This bill changes the nature of the Auditing Board to that of an appeal board, and transfers its present duties to the Director of Accounts and Purchases. The bill also substitutes the State Treasurer for the Director of Accounts and Purchases as a member of the board. (Committee on State and Federal — Institutions)

**House Bill No. 1082 — Bonding Fund Board.** This bill eliminates the Bonding Fund Board and transfers its functions to the Insurance Commissioner. Claims against the fund would be approved by the Insurance Commissioner with the approval of the Attorney General. (Committee on State and Federal — Institutions)

**House Bill No. 1083 — Board of Managers of the Bureau of Criminal Identification and Apprehension.** This bill eliminates the Board of Managers of the Bureau of Criminal Identification and Apprehension. The board's present duties would be performed by the Attorney General. (Committee on State and Federal — Institutions)

**House Bill No. 1084 — Egg Advisory Board.** This bill eliminates the Egg Advisory Board and transfers its duties to the Poultry Improvement Board. (Committee on State and Federal — Institutions)

**House Bill No. 1085 — Emergency Commission.** This bill substitutes the State Treasurer for the Commissioner of Agriculture on the Emergency Commission. (Committee on State and Federal — Institutions)

**House Bill No. 1086 — State Investment Board.** This bill adds a representative of the Board of Trustees of the Teachers' Insurance and Retirement Fund to the State Investment Board. (Committee on State and Federal — Institutions)

**House Bill No. 1087 — Missouri Slope Agriculture and Fair Association.** This bill eliminates the Missouri Slope Agriculture and Fair Association. (Committee on State and Federal — Institutions)

**House Bill No. 1088 — Potato Council.** This bill permits the Commissioner of Agriculture, now Chairman of the Potato Council, to be a voting member of the Council. (Committee on State and Federal — Institutions)

**House Bill No. 1089 — Poultry Improvement Board.** This bill designates the Commissioner of Agriculture as Chairman of the Poultry Improvement Board. The number of appointive board

members is decreased from six to five, with appointments made by the Commissioner of Agriculture rather than the Governor. A special meeting may be called by the Chairman upon the request of any three board members. (Committee on State and Federal — Institutions)

**House Bill No. 1090 — Safety Committee.** This bill eliminates the Safety Committee. (Committee on State and Federal — Institutions)

**House Bill No. 1091 — North Dakota Trade Commission.** This bill eliminates the North Dakota Trade Commission. Commission duties with the Unfair Trade Practices Law would be repealed, and the Attorney General and State's Attorneys would retain authority to prevent and restrain violations under the Unfair Trade Practices Act. (Committee on State and Federal — Institutions)

**House Bill No. 1092 — Transfer of Certain Licensing Functions from the State Laboratories Department to the State Health Department.** This bill transfers the licensing and regulation of restaurants, hotels, boardinghouses, lodginghouses, motor courts, and trailer courts, now done by the State Laboratories Department, to district health boards where they are functioning, to city health boards where they are functioning, or to the State Health Department where there is neither. Drinking water standards would be established by the State Health Department rather than by the United States Public Health Service. (Committee on State and Federal — Institutions)

**House Bill No. 1093 — Uniform Group Insurance Program.** This bill creates a uniform insurance group for state employees, legislators, Supreme Court Judges, elected state officers, and disabled permanent employees receiving compensation from the North Dakota Workmen's Compensation Fund. The group would furnish term life insurance benefits in a minimum amount of \$1,000 and hospital and medical benefits to its members. The State Employees' Retirement Board is designated as the group's administrative agency. Each department, board, or agency would contribute \$7.50 for each of its employees enrolled in the group. (Committee on State and Federal — Institutions)

**House Resolution No. 1 — Joint Meeting of Employment Committees During Organizational Session.** This resolution calls on the House Employment Committee to meet jointly with the Senate Committee during the Organizational Session to formulate joint policies regarding the hiring, supervision, and discharge of legislative employees.

The Legislative Council is directed to receive employee applications prior to the 1972 Organizational Session in order to have a listing of potential employees available for the Employment Committees to use. (Committee on Legislative Procedure and Arrangements)

**House Concurrent Resolution No. 3001 — Issuance of Revenue Bonds.** This resolution advises the Board of Higher Education to exercise caution before authorizing the issuance of additional bonds for the construction of revenue producing buildings and other campus improvements. (Committee on Budget)

**House Concurrent Resolution No. 3002 — Aircraft Pool.** This resolution directs the Highway Department to establish an aircraft pool in cooperation with the Game and Fish Department and the Aeronautics Commission to furnish light aircraft transportation to state officers and employees whose departments do not own aircraft. (Committee on Budget)

**House Concurrent Resolution No. 3003 — Department of Social Services.** This resolution calls

for the Legislative Council to develop a plan during the 1971-73 biennium for a state department to supervise and coordinate the activities of the Public Welfare Board, the State Health Department, the Division of Vocational Rehabilitation, and such other related state departments and institutions which the Legislative Council may recommend for inclusion in the plan. (Committee on Government Administration)

**House Concurrent Resolution No. 3004 — Home Rule for Counties.** This resolution proposes a constitutional amendment allowing counties to adopt home rule government. A home rule county would have all power not denied it by either the State or Federal Constitutions. (Committee on Political Subdivisions)

**House Concurrent Resolution No. 3005 — Home Rule for Counties.** This resolution proposes constitutional amendments authorizing the legislature to provide for county home rule. The powers and duties of a home rule county would be established by state law. (Committee on Political Subdivisions)